

July 2016

Markham Secondary Suites

Preliminary Recommendations

Draft for discussion purposes only

City of Markham

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Draft for discussion purposes only

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1. Introduction

This report addresses zoning for secondary suites as part of the Markham New Comprehensive Zoning By-law Project. The intent of the New Comprehensive Zoning By-law Project is to replace Markham's existing 46 "parent" zoning by-laws with one new comprehensive zoning by-law for all of Markham. The first two phases of this project have been completed. Phase 1 involved the preparation of 20 discussion papers exploring options on a number of issues which were presented to the public at a series of open houses in the Fall of 2015. A summary of the discussion papers and feedback from the open houses was contained in the Zoning Issues Analysis Report which was endorsed in principle by Markham's Development Services Committee on March 29, 2016.

Phase 2 of the project involved the preparation of the Strategic Directions Report which provides a series of recommendations flowing from the phase 1 discussion papers to assist with the drafting of the new comprehensive zoning by-law, to occur in phase 3. The phase 2 report was presented at an open house on May 2, 2016 and endorsed in principle at the Development Services Committee on June 14, 2016. It is expected that work on phase 3 will be initiated in the Fall of 2016.

This report on secondary suites is part of phase 3a of the project. At the phase 1 open house held December 8, 2015 some members of Council indicated that zoning issues pertaining to secondary suites, rooming houses and short term accommodation should be accelerated ahead of the phase 3 work and completed by the end of this year. The Development Services Committee directed that staff move ahead with a review of potential new zoning and licensing regulations for secondary suites, rooming houses and short term accommodations (phase 3a of the project) at its meeting on March 1, 2016.

A considerable amount of time, effort and discussion has already been dedicated to the issue of secondary suites by Markham staff and Council. A review of this history is provided in section 3. Section 3 also contains a summary of amendments to the Planning Act made by the Province in 2012 that require all municipalities to permit secondary suites and summarizes the policy context contained in the York Region Official Plan, Markham's new Official Plan and Markham's existing zoning by-laws.

Section 3 summarizes Building and Fire Code requirements for secondary suites. Other Ontario municipal zoning by-laws which have recently been amended, or are in the process of being amended, to allow secondary suites in compliance with the 2012 amendments to the Planning Act are summarized in section 3 of this report. Section 5 discusses issues regarding secondary suites and section 6 reviews the benefits of allowing secondary suites and why this represents good planning. Section 7 provides some preliminary recommendations relating to amendments to Markham's zoning by-laws, the registration by-law for houses with two units, the housing standards by-law and a communication/public education campaign. Next steps are reviewed in section 8.

2. Summary

A secondary suite is a common name for a basement apartment, an accessory apartment or another form of a secondary residential unit which is located in a detached house, semi-detached house or row house.

Section 11.2 of the Official Plan defines a secondary suite as follows:

Secondary suite means a second residential unit in a detached house, semi-detached house or row house that consists of one or more rooms designed, occupied or intended for use, including occupancy, by one or more persons as an independent and separate residence in which a facility for cooking, sleeping facilities and sanitary facilities are provided for the exclusive use of such person or persons.

Markham last considered a by-law to approve secondary suites in residential zones in 2009. The by-law was deferred indefinitely by Council in May 2009.

Since then the Province has amended the Planning Act to address secondary suites. Section 16(3) of the Planning Act states that “an official plan shall contain policies that authorize the use of a second residential unit by authorizing the use of two residential units in a detached house, semi-detached house or rowhouse...”

Section 35.1 (1) states that “ the council of each local municipality shall ensure that the by-laws passed under section 34 (zoning by-laws) give effect to the policies described in section 16 (3) “.

Markham’s new Official Plan contains policies authorizing the use of second residential units. According to Section 4.1.2.6 of the new Official Plan, it is the policy of Council to support the diversification of housing tenure by providing for the establishment of secondary suites within existing and new permitted dwellings subject to appropriate zoning, development criteria and standards. Policies in Chapter 8, Land Use, expand on this policy by providing for secondary suites in Residential, Mixed Use, Greenway and Countryside land use designations.

Secondary suites are generally not permitted in Markham, except for those that were legally in existence prior to November 16, 1995 and in certain areas of Markham Centre (By-law 2004-196), Cornell and Cathedraltown (By-law 177-96). Those that were in existence prior to November 16, 1995 are permitted by provincial legislation (Section 76 of the Planning Act). In Markham, dwelling units containing permitted secondary suites must be registered as a two unit dwelling with the Fire and Emergency Services Department and must fully comply with the Fire Code, Building Code, Zoning By-law and Property Standards By-law in order to be registered. To date, approximately 715 secondary suites have been legally registered in Markham. It is estimated that there are thousands of secondary suites in Markham that are not permitted under the current zoning by-laws and whose owners therefore cannot apply for a building permit to ensure compliance with the Building Code and Fire Code.

Zoning by-law amendments to permit secondary suites in detached semi-detached and row houses are necessary to comply with Section 35 (1) 1 of the Planning Act. Such amendments would also make it possible for all owners of existing and future secondary suites to apply for building permits and comply with Building and Fire Codes.

3. Legislative and Policy Context

3.1 Previous Markham Initiatives Regarding Secondary Suites

The City of Markham has dedicated considerable effort towards implementing zoning permissions for secondary suites. Below is a chronology of the review and work completed by the City on secondary suites:

June 1999 - the Markham Task Force on Affordable Housing was established. The Task Force undertook a broad review of affordable housing issues in Markham and identified, amongst other things, that more affordable housing is needed in Markham. The Task Force recommended (July 2000) that “the Town of Markham develop strategies to promote the development of secondary suites that include the appropriate zoning by-laws that permit them and financial incentives to assist in upgrading facilities to meet safety and other requirements”.

June 2001 - Markham retained consulting firm PricewaterhouseCoopers to assist Council and staff in implementing a number of recommendations provided by the Task Force on Affordable Housing, which included the removal of restrictions on secondary suites and legalizing them in Markham.

June 2002 – the Development Services Committee (DSC) directed staff “to prepare an appropriate secondary suites strategy and implementing by-law that permits and legalizes accessory apartments in select residential communities with required standards”¹.

March 2003 – DSC received staff presentation on four strategy options and requested an in depth analysis of each option.

May 2003 – Council directed staff to pursue Option #1: No new zoning provisions for secondary suites and enhance current procedures (related to “grandfathered” units).

March 2004 – DSC endorsed 8 (eight) recommended procedural enhancements as a base condition for the preferred strategy Option #1.

November 2004 – Council deferred implementation of recommended procedures pending audit of inspection and registration figures.

February 2005 – Council approved recommended procedures.

November 2005 – June 2006 – Public Consultation and Council approval of Driveway By-law (By-law 2006-96).

May 2007 – DSC updated on current strategy for secondary suites.

June 2007 – DSC established a Subcommittee to review the appropriateness of current strategy and whether a new strategy, that applies wider permission for secondary suites across the City, should be considered given the introduction of new provincial legislation and policies, as well as new municipal procedural requirements for registration of “grandfathered” units.

¹ Town of Markham. Report to Development Services Committee. Subcommittee on Secondary suites Recommendations. 5 February 2008. Appendix ‘A’ – Detailed Review of Secondary suites and Strategy Options.

February 2008 – DSC subcommittee recommended a new strategy for secondary suites which included:

- a. The introduction of City-wide zoning permissions for secondary suites, subject to certain development and property standards;
- b. The requirement for registration and registration renewal (every 3 years or upon change in property ownership) of any house with a secondary suite to ensure compliance with all applicable codes;
- c. Development of a comprehensive education program (following enactment of the City wide zoning permission) to communicate changes to Markham's policy on secondary suites and support implementation of the strategy, including an incentive program to encourage voluntary registration of a secondary suite; and
- d. The establishment of an 18 month monitoring program to monitor the implementation of the strategy and report on any further changes required to the strategy components, including among other things, whether interior property standards should be introduced, and whether the need and clear authority for licensing secondary suites has been established.

The development standards which the 2008 Council Subcommittee recommended be incorporated into the zoning by-law amendments included the following:

- a requirement that both the principal dwelling unit and the secondary dwelling unit must be wholly contained within a single and semi-detached dwelling;
- no more than two dwelling units be located on the same lot;
- a limit on the maximum floor area of the secondary dwelling unit to no more than 45% of the floor area of the single or semi-detached dwelling;
- the area of the secondary dwelling unit is not less than 35m²;
- no more than one dwelling entrance is contained within any main wall facing a streetline; and
- the entrance to either the principal or secondary unit is not contained within the garage door.

The effect of the proposed zoning by-law amendment was intended to increase the life safety of residents in houses with secondary suites and increase landlord accountability for complying with building and fire safety codes and zoning standards.

March 2009 - An interdepartmental working group of City staff further recommended an action plan to implement the new proposed Strategy for Secondary Suites which included:

- a. A draft zoning by-law to permit secondary suites City-wide subject to specific development standards;
- b. An amendment to the City's By-law for Registration of Two-Unit Residential Occupancies (By-law 308-9) to:

- Require re-inspection and registration renewal (every three years);
 - As a condition of renewal, require that either the occupier consent to the re-inspection of the premises by the City to determine continued compliance with the standards in place prior to registration or the registrant submit proof satisfactory to the City that the property continues to comply with all applicable standards;
 - Revoke any registration where the property is not in compliance with all relevant standards as set out in the Ontario Building Code and Fire Code, as well as compliance with all zoning and property standards; and
 - That all applicants or registrants be provided with the right to a hearing in the event that a registration or renewal is refused or revoked.
- c. The City's Property Standards By-law 248-1999 be amended to incorporate additional Fire Code provisions as they relate to the inspection of secondary suites in existing dwellings;
- d. A comprehensive public education program as outlined in the strategy be developed; and
- e. An 18 month monitoring program be established (from the day of By-law enactment)

April/May 2009 – Staff presented to DSC the proposed new action plan for implementation of a new strategy for secondary suites on April 28, 2009. The proposed new strategy and action plan were referred to the May 12, 2009 Council meeting where Council directed that staff continue with the current enforcement strategy respecting illegal secondary suites and that staff take additional steps to educate residents on Markham's current regulations regarding secondary suites. Council further directed that no further action be taken by staff with respect to secondary suites².

3.2 Provincial Legislation and Policy

In 2012 the Province amended the Planning Act regarding secondary suites. These amendments are reproduced below.

Section 16(3): Second unit policies

(3) Without limiting what an official plan is required to or may contain under subsection (1) or (2), an official plan shall contain policies that authorize the use of a second residential unit by authorizing,

(a) the use of two residential units in a detached house, semi-detached house or rowhouse if no building or structure ancillary to the detached house, semi detached house or rowhouse contains a residential unit; and

(b) the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse if the detached house, semi-detached house or rowhouse contains a single residential unit.

Section 17(24.1): No appeal re second unit policies

(24.1) Despite subsection (24), there is no appeal in respect of the policies described in subsection

16(3), including, for greater certainty, any requirements or standards that are part of such policies. 2011, c. 6, Sched. 2, s. 3(1).

Section 34(19.1) No appeal re second unit policies

(19.1) Despite subsection (19), there is no appeal in respect of a by-law that gives effect to the policies described in subsection 16(3), including, for greater certainty, no appeal in respect of any requirement or standard in such a by-law. 2011, c. 6, Sched. 2, s. 5.

Section 35.1 (1): By-laws to give effect to second unit policies

Section 35.1(1) The council of each local municipality shall ensure that the by-laws passed under section 34 give effect to the policies described in subsection 16(3). 2011, c. 6, Sched. 2, s. 6.

The effect of these legislative changes is to require municipalities to pass zoning by-laws to permit two residential units in a single detached house, semi-detached house or row house, either within the building or in an ancillary structure.

While the Act requires municipalities to permit secondary suites, it recognizes that there may be inherent constraints within certain areas in a community which make these areas inappropriate for secondary suites such as special policy areas within the floodplain or areas with inadequate servicing. Municipalities are responsible for considering such constraints when developing or reviewing their policies for secondary suites.

These amendments to the Planning Act were introduced through Bill 140: the Strong Communities Through Affordable Housing Act, which identified affordable housing as a matter of provincial interest with secondary suites playing a key role in the provision affordable housing. Included in the legislative changes is a requirement that municipalities bring their planning documents into conformity with the legislation as part of their five-year official plan review, or in advance of the official plan review.

Municipalities are responsible for determining appropriate development standards for secondary suites, including minimum unit size and parking requirements. In addition secondary suites must comply with all other applicable municipal by-laws and requirements, including the Building Code, the Fire Code, and property standards by-laws. Existing secondary suites that do not meet applicable zoning by-laws are not grandfathered and must conform to the new standards.

3.3 Previous Provincial Initiatives

Residents' Rights Act, 1994

Provincial legislation regarding secondary suites has changed significantly over time. In 1994, the Province passed Bill 120: the Residents' Rights Act, which required municipalities to permit secondary suites as-of-right in detached, semi-detached and townhouse dwellings located in residential areas. To be considered legal, secondary suites were required to meet applicable building, fire and health and safety standards. The intent of the Residents' Rights Act was to create more opportunities for the creation of new *secondary suites* in houses and to provide for the legalization of existing units.

Ontario Regulation 384/94

In addition to Bill 120, the Province introduced transition policies under Ontario Regulation 384/94. Under Ontario Regulation 384/94, no municipal planning document could prohibit exterior alterations required for installation of a second unit, require a minimum floor size or floor area for the units, or require the property on which the two unit house is located to have more than two parking spaces, among other provisions³. Building owners were still required to ensure the secondary suite meets applicable building, fire and health and safety standards.

Land Use Planning and Protection Act, 1996

In 1996, the then provincial government passed Bill 20: the Land Use Planning and Protection Act, which restored municipal zoning authority to determine whether and where secondary suites are permitted and what standards should apply. Bill 20 grandfathered all secondary suites that had been permitted as a result of Bill 120 and were in use or occupied on November 16, 1995⁴.

The transition policies for grandfathering secondary suites as a result of Bill 20 are outlined in Section 76 of the Planning Act. Section 76 establishes that Ontario Regulation 384/94 – Apartments in Houses continues to apply to secondary suites that were used or occupied on or before November 16, 1995. The same applies if a building permit had been issued to allow construction or occupation of a secondary suite on or before February 29, 1996, when Bill 20 was passed. Grandfathering makes a house permanently entitled to have (or build) a secondary suite.

3.4 Region of York

The Regional Official Plan⁵ (ROP) was approved by the Ministry of Municipal Affairs and Housing in September 2010. *Secondary Suites* are addressed in Section 3.5.22 which requires local municipalities to adopt official plan policies and zoning by-law provisions that authorize secondary suites as follows:

- a. The use of two residential units in a house if no ancillary building or structure contains a residential unit; and
- b. The use of a residential unit in a building or structure ancillary to a house if the house contains a single residential unit.

³ Town of Markham. Recommended Town Procedures for Inspecting and Registering Two Unit Houses. Report to Mayor and Members of Council. Prepared by Murray Boyce for the Interdepartmental Working Group on Secondary Suites. November 8, 2004.

⁴ Town of Markham. Report to Development Services Committee. Subcommittee on Secondary suites Recommendations. 5 February 2008. Appendix 'A' – Detailed Review of Secondary suites and Strategy Options.

⁵ York Region Official Plan Package. The Modified York Region Official Plan – 2010. June 20, 2013 Office Consolidation. Ontario Municipal Board File PL101128.

3.5 Markham Official Plan

The new Official Plan was adopted by City Council in 2013 and was approved, in large part, by York Region in June 2014. Certain policies of the Official Plan remain under appeal to the Ontario Municipal Board.

Chapter 4 of the Official Plan, part of which is under appeal, outlines housing objectives to increase the diversity of housing type and tenure, and affordable housing options to contribute to the livability of neighbourhoods and the quality of life for residents and to ensure a stable workforce.

Section 4.1.2.6, which is in force, supports the diversification of the housing stock by tenure by providing for the establishment of secondary suites within existing and new permitted dwelling types in accordance with Section 3.5.22 of the Regional Official Plan and subject to appropriate zoning, development criteria and standards.

Chapter 8 outlines Residential, Mixed Use, Greenway and Countryside land use designations which provide for secondary suites as well as specific use policies in Section 8.13.8 that must be considered in amending the zoning by-law to permit the establishment of a secondary suite. The provisions relating to secondary suites in Residential designations and section 8.13.8 are in force. Among other things, Council shall be satisfied that an appropriate set of development standards are provided for in the zoning by-law including:

- a. The building type in which the secondary suite is contained;
- b. The percentage of the floor area of the building type devoted to the *secondary suite*;
- c. The number of dwelling units permitted on the same lot;
- d. The size of the *secondary suites*;
- e. The applicable parking standards; and
- f. The external appearance of the main dwelling.

3.6 Markham Zoning By-laws

Secondary suites are generally not permitted in Markham under existing zoning by-laws, except in specific areas (i.e., Markham Centre), or where a secondary suite existed on November 16, 1995 and is recognized (grandfathered) as a permitted use under provincial legislation. Markham currently requires that houses containing a permitted secondary suite (as of November 16, 1995) be registered with the City and comply with the building code, fire code, zoning by-law and property standards by-law.

Zoning By-law 2004-196: Markham Centre

Zoning By-law 2004-196 - Markham Centre permits secondary suites in zones MC-03, MC-04, and MC-D5⁶. Secondary suites are referred to as Accessory Dwellings and are defined as follows:

DWELLING, ACCESSORY: Means a separate and complete dwelling unit that may or may not have an independent entrance that is located within a single, semi-detached, multiple or townhouse dwelling.

The by-law does not require or permit additional parking spaces for secondary suites. Section 4.14.2: Parking Space Requirements - Residential Uses outlines that “no parking spaces are required and no parking spaces are permitted” in association with Accessory Dwelling Units⁷.

No additional references are made to secondary suites in the Markham Centre zoning by-law.

Zoning By-law 177-96: the New Urban Area By-law

By-law 177-96 contains provisions for accessory dwelling units in Cornell, Cathedraltown and the West Cathedral Community as follows:

- Accessory dwelling units are permitted as an additional use in Cornell under Sections 7.190, 7.237, 7.241, 7.432. A maximum of one accessory dwelling unit located above a private garage is permitted. It must be accessory to a single detached, semi-detached or townhouse dwelling⁸.
- An accessory dwelling unit (not located in the main building) is permitted in association with lane-based single detached dwellings in Cathedraltown under Section 7.196.
- An accessory dwelling unit (not located in the main building) is permitted in association with lane-based semi-detached and townhouse dwellings in the West Cathedral Community under Sections 7.197 and 7.198.

The by-law also contains provisions for accessory dwelling units as an additional permitted use associated with a detached private garage under Section 7.5.3. A maximum of one accessory dwelling unit, associated with a single detached unit and not located in the main building is permitted.

In the absence of City-wide zoning regulations, the City has been supporting the creation of secondary units, as provided for in the Official Plan, through applications to the Committee of Adjustment. Through this process, each individual site is reviewed for its suitability to support an additional residential unit, taking into consideration a variety of planning matters including neighbourhood compatibility, building type, size of unit, parking standards and external appearance of the building. Thus far, the Committee has approved twelve (12) applications for secondary suites, over the course of the last 8 months (from June 2015 to June 2016) as summarized in the chart below.

⁶ In zone MC-04, accessory dwelling units are only permitted if a place of worship is not established on the lands; and in zone MC-05, they are only permitted if a public school is not established on the lands.

⁷ Sections 4.14.1 and 4.14.2 of the by-law prohibit the provision of additional parking spaces for certain uses. The provision of additional parking spaces may be permitted subject to the lifting of an appropriate Holding provision dealing with parking (as set out in Section 2.6 of the By-law).

⁸ With the exception of lands denoted by the symbol *432 on Schedule A of the by-law. As indicated under Section 7.432, the only uses permitted on these lands are Townhouse dwelling units and one accessory dwelling unit.

Year	File#	Address	Staff Recommendation	Decision	Date Approved
2016	A/52/16	12 Sir Pellias Terrace	Approval	Approved	25-May-16
	A/53/16	101 Laird Drive	Approval	Approved	25-May-16
	A/41/16	86 Peter St.	Approval	Approved	11-May-16
	A/42/16	81 Barrington Cres.	Approval	Denied	11-May-16
	A/45/16	34 Mead Terrace	Deferral	Deferred	11-May-16
	A/39/16	40 West Borough St.	Approval	Approved	20-Apr-16
	A/33/16	169 Willowbrook Road	Approval	Approved	6-Apr-16
2015	A/163/15	165 Coppard Avenue	Approval	Approved	20-Jan-16
	A/165/15	19 Shieldmark Crescent	Approval	Approved	20-Jan-16
	A/107/15	47 Macklin Street	Approval	Approved	19-Aug-16
	A/27/15	28 John Street	Approval	Approved	25-Mar-15
	A/13/15	9 Albert Street	Approval	Approved	25-Feb-15

3.7. Building and Fire Codes

All legally existing and all future legal secondary suites must comply with the Building and Fire Codes.

The Building Code Act 1992

The Building Code Act (BCA) governs the construction, renovation, demolition and change of use of buildings. The Building Code (2012)⁹ is a regulation made under the BCA that sets minimum standards for construction to minimize the risk to the health and safety of the occupants of a building. Municipalities (among other principal authorities¹⁰) are responsible for enforcing the BCA and Building Code. Within the context of secondary suites the Building Code includes requirements governing:

- Entrances — Generally, a secondary suite must have a separate entry door. This door may open to a vestibule shared with the rest of the house or may lead directly outside. An existing side or back door can often be used as the apartment entrance.
- Fire safety — Each wall, floor or ceiling separating the secondary suite from the rest of the house must provide adequate fire and sound resistance. Other requirements include smoke alarms, carbon monoxide detectors and a fire exit.
- Height and natural light — If the secondary unit is in the basement, it must have adequate natural lighting and ventilation, as well as enough headroom.
- Smoke and Carbon Monoxide Detection — the secondary suite is required to be provide with early warning and detection through smoke and carbon monoxide alarms.

⁹ The new 2012 Building Code amends the 2006 Building Code. It came into force on January 1, 2014, however some energy efficiency provisions came into effect on January 1, 2015 and others will come into effect in 2017; and certain changes related to on-site sewage systems will take effect on December 31, 2016.

¹⁰ Including the Crown, Councils, Counties, Boards of Health, Planning Boards and Conservation Authorities.

Although not required by the Building Code, owners are required to obtain:

- Electrical Permit — all electrical work associated with secondary suites requires an Electrical Safety Authority (ESA) permit, installation by a licensed electrician and sign off from ESA. Wiring is typically installed without a permit and not by a licensed electrician.
- Licensed Gas Fitter — for installation of gas appliances such as stoves and water heaters. Improper installations can lead to CO leaks and risk of explosion or fire.

Building and occupant safety are paramount in the Building Code. To prevent tragedy caused by fire, structural collapse and general deterioration of structures, enforcement of the building code generally involves a review prior to permit issuance, and inspections during construction, to ensure compliance with regulated standards.

Fire Protection and Prevention Act, 1997

Fire safety in Ontario is governed by the Fire Protection and Prevention Act, under which the Ontario Fire Code is issued. The most recent version of the Ontario Fire Code came into effect in May, 2007, setting out minimum requirements related to fire safety in existing buildings and their surrounding properties. Except where otherwise specified, the property owner has the responsibility of complying with the Fire Code.

The requirements that secondary suites must follow regarding entrances and fire safety are similar to the Building code as described above.

In Markham, dwelling units containing permitted secondary suites that were permitted and in existence prior to November 16, 1995 by the Planning Act must be registered as a two unit dwelling with the Fire and Emergency Services Department. These secondary suites must fully comply with the Fire Code, Building Code, Zoning By-law and Property Standards By-law in order to be registered. Prior to registering a secondary suite, a building permit or change of use permit is required. Accessory apartments permitted in Cornell, Cathedraltown and in Markham Centre do not need to be registered, but must comply with all requirements of the Building and Fire Codes.

Currently, the City has approximately 715 registered secondary suites. A map with locations of registered suites is provided in Appendix 4 of this report. As of 2008 there were an estimated 2,500 secondary suites in Markham that were not registered. Today the number is estimated to be significantly higher. Secondary suites that are not registered may not comply with the minimum level of life safety required under the Fire Code and Building Code.

4 Secondary Suites in Ontario Municipal Zoning By-laws

As a result of the Planning Act amendments in 2012, a number of municipalities in Ontario have recently implemented, or are currently in the process of implementing, zoning regulations for secondary suites including the following municipalities in the Greater Toronto Area and Hamilton:

Toronto, Hamilton

York: Aurora, East Gwillimbury, Georgina, Newmarket, Whitchurch-Stouffville, Vaughan (approved by Council, but not enacted)

Halton: Burlington, Halton Hills, Milton, Oakville

Peel: Brampton, Caledon, Mississauga

Durham: Ajax, Brock, Clarington, Oshawa, Pickering, Scugog, Whitby

In permitting secondary suites through zoning by-laws, Ontario municipalities have included standards and regulations to ensure that properties containing secondary suites respect existing residential areas. Most are similar or the same as the standards which were included in Markham's 2008 draft by-law. These are summarized below.

4.1 Location

The Planning Act requires municipalities to identify appropriate areas for second units within both existing and new development areas. The detailed review of secondary suites conducted in 2008 concluded that secondary suites should be permitted city-wide in single and semi-detached dwellings in existing and new development, in urban and rural/rural residential areas. This option was perceived as the most equitable and beneficial in terms of promoting the safety of residents, promoting the achievement of planning goals, and resulting in the most efficient use of staff resources. The review also highlighted that seven out of eight municipalities surveyed at the time adopted a similar approach.

Among the municipal experiences reviewed here, secondary suites are permitted in all or most residential zones across the municipality.

	Markham: Draft By-law, 2008	London: Amendment to By-law Z.-1, 2014	Vaughan: Amendment to By-law 1-88, 2014	Barrie: Proposed Amendment to By-law 2009-141, 2015	Oakville: By-law 2014-014 (currently in OMB appeal period)	Kingston: 2013 By-law (Pilot Phase in effect)	Toronto: Amendment to By-law 569-2013
Areas where secondary suites are permitted	Any zone city-wide.	Any zone city-wide.	All Residential zones city-wide.	Permitted in specific Residential zones. Not permitted in the Georgian College Neighbourhood Study boundary area.	All Residential zones city-wide. The by-law also contains provisions for accessory units in Commercial zones.	All Residential zones city-wide.	Permitted city-wide in all Residential and Commercial and Institutional zones.

Kingston initially opted for the implementation of a pilot study area where secondary suites are permitted as-of-right. Secondary suites proposed outside of the Pilot Study Area were to be permitted through site specific zoning by-law amendments (in accordance with the Official Plan) for the duration of the pilot study. Initially, the original pilot study area proposed to permit secondary suites within all new green-field developments, only in areas of the City regulated by the Kingston Township Zoning By-law 76-26. The area was eventually expanded to include all areas regulated by Kingston Township Zoning By-law 76-26 and Pittsburgh Township Zoning By-law 32-74. Locations excluded from this expanded area included areas of the city where potential servicing capacity considerations existed. The final approved pilot study area includes green-field development lands and established neighbourhoods in Kingston's west-end¹¹.

In November of 2014, after 21 months of implementing the pilot initiative, Kingston evaluated its approach and observed an average uptake of 20 secondary suites per year, which is consistent with the experience of other municipalities. According to a staff report, the overall results of the pilot initiative suggest that Kingston should continue broadening the geographic locations where secondary suites are permitted as-of-right¹². The report concludes that although initially there tends to be strong opposition to secondary suites, as time goes by and neighbourhoods become more comfortable with the modest number of units added, there is a tendency for opinions to change and community support to increase.

¹¹ City of Kingston. Second Residential Unit Research Report. Prepared by FoTenn Consultants Inc. March 2012.

¹² City of Kingston. Information Report to Council. Secondary Suites Program – Implementation Update Report. Report Number 14-339. November 18, 2014.

4.2 Building or Dwelling Type

All municipalities that have recently proposed or passed zoning by-laws to permit secondary suites in single-detached and semi-detached houses permit secondary suites in townhouses as well, except for Oakville as summarized below:

	Markham: Draft Zoning By-law, 2008 (not in force)	London: Amendment to By-law Z.-1, 2014	Vaughan: Amendment to By-law 1-88, 2014	Barrie: Amendment to By-law 2009-141, 2015	Oakville: By- law 2014-014 (currently in OMB appeal period)	Kingston: 2013 By-law (Pilot Phase in effect)	Toronto: Amendment to By-law 569-2013
Building or dwelling type where secondary suites are permitted	As-of-right in single or semi-detached. The two units must be contained within the same building.	As-of-right in single, semi-detached and street townhouse.	Permitted within and accessory to a single, semi-detached or street townhouse unit.	As-of-right in single detached dwellings in Residential Single Detached zones (R1, R2, R3 and R4); in semi-detached in Residential Multiple First Density (RM1) zones; and in multiple residential in Residential Multiple Second Density (RM2) and Residential Multiple Townhouse (RM-TH) zones.	As-of-right in detached and semi-detached.	As-of-right in single, semi-detached, or row house dwelling	As-of-right in single and semi-detached; and in townhouses in the Residential ® zone.

The detailed review of secondary suites conducted by the City of Markham in 2008 considered permitting secondary suites in townhouses provided they can meet applicable safety and development standards. The report recommended introducing the townhouse permission as part of the comprehensive Official Plan Review, given that this approach would require an amendment to the former Official Plan.

The townhouse permission is now required under the Planning Act. Markham's Official Plan does not pose restrictions in terms of introducing or extending secondary suites to townhouses. The Official Plan also provides for secondary suites as an accessory unit in the form of a coach house located above a garage, where appropriate.

4.3 Number and Dimension of Permitted Units

Municipalities set restrictions on the number of secondary suites allowed on the same lot, as well as on the dimensions of secondary suites, to limit overdevelopment and ensure that the main residential unit continues to be the principal use on the lot. Among the cases reviewed here, all municipalities allow a maximum of one secondary dwelling unit per lot with the exception of the City of Toronto, which allows more than one secondary suite in specific cases in residential zones.

Some variation exists in terms of the dimension of secondary suites. Not all municipalities establish a minimum floor area requirement. Among those that do, the City of London has the lowest requirement (25 m²). The City of Toronto's requirements vary. In certain cases the minimum floor area is 42 m² and in others 55 m² or 65 m². All municipalities establish a maximum floor area restriction on secondary suites. In general, this restriction ranges from 40-45% of the floor area of the principal residential unit. In the City of London, the secondary unit should not be larger than 40% of the combined total floor area of the primary and secondary units. In Oakville, it must be the lesser of 40% of the main dwelling's total floor area or 75m². Toronto requires that the secondary unit simply be less than the interior floor area of the main dwelling unit.

	Markham: Draft By-law, 2008 (not in force)	London: Amendment to By-law Z.- 1, 2014	Vaughan: Amendment to By-law 1-88, 2014	Barrie: Amendment to By-law 2009-141, 2015	Oakville: By- law 2014-014 (currently in OMB appeal period)	Kingston: 2013 By-law (Pilot Phase in effect)	Toronto: Amendment to By-law 569-2013
Number of units permitted per lot	No more than 2 dwelling units on the same lot.	Max. 1 secondary unit per lot; in the case of a condominium, max. 1 second unit per condominium unit.	Max. 1 secondary suite per lot.	Max. 1 accessory dwelling unit per lot.	Max. 1 accessory unit per lot.	Max. 1 second residential unit per lot.	Max. 1 secondary suite. In the Residential zone, a residential building originally built as a detached or semi- detached house may be converted to have more than one secondary suite.
Min. GFA	35m2	25m2	35m2	Not specified	Not specified	Not specified	In the Residential – u2 (maximum of 2 dwelling units) zone: 55m2 or 42m2 (if in an attic). Note: building's interior floor area must be greater than 460m2. In the Residential Zone: 65m2.

	Markham: Draft By-law, 2008 (not in force)	London: Amendment to By-law Z.- 1, 2014	Vaughan: Amendment to By-law 1-88, 2014	Barrie: Amendment to By-law 2009-141, 2015	Oakville: By- law 2014-014 (currently in OMB appeal period)	Kingston: 2013 By-law (Pilot Phase in effect)	Toronto: Amendment to By-law 569-2013
Max. GFA	Floor area of secondary unit must be no greater than 45% of the main dwelling's floor area.	No larger than 40% of the combined total floor area of the primary and secondary units.	No greater than 45% of gross floor area of main unit.	No greater than 40% of gross floor area of main unit.	Lesser of 40% or total floor area or 75m ² .	No greater than 40% of the area of the principal unit	Must be less than the interior floor area of the dwelling unit.

Some zoning by-laws refer to specific parameters for calculating the gross floor area requirements. The City of London, for example, specifies that the gross floor area of accessory structures should not be included in the area requirements for secondary suites.

4.4 Parking Standards

Many municipalities have introduced parking standards for dwellings with secondary suites, which require accommodation of parking on site. Toronto (in some zones), Oakville and London require 1 additional parking space for the secondary suite. In certain cases, no parking is required, such as in the R Zone in the City of Toronto. Vaughan requires a total of 3 parking spaces when the dwelling has a secondary suite.

	Markham: Draft By-law, 2008	London: Amendment to By-law Z.-1, 2014	Vaughan: Amendment to By-law 1-88, 2014	Barrie: Amendment to By-law 2009-141, 2015	Oakville: By-law 2014-014 (currently in OMB appeal period)	Kingston: 2013 By-law (Pilot Phase in effect)	Toronto: Amendment to By-law 569-2013
Parking Requirements	No parking spaces required for a secondary unit.	Maximum of 1 parking space required per secondary unit.	Minimum of 3 parking spaces in total. A private detached or attached garage may be converted into a secondary unit if the lot can accommodate a minimum of 3 parking spaces.	1 parking space required per dwelling unit.	1 additional parking space required for the secondary unit.	One off-street parking space shall be provided for the second unit in addition to parking requirement for the main unit. Parking may be tandem/stacked. Additional driveways are not permitted except in the case of corner lots.	1 parking space per secondary unit. Where 2 spaces are required for the property, 1 can be used for secondary unit. Tandem parking is permitted. Parking space may be in the front yard. No parking required for secondary units in the R Zone.

Under Markham's 2008 Draft By-law for Secondary Suites, no additional parking spaces would be required for the secondary suite.

4.5 External Appearance of the Main Dwelling

Zoning by-laws generally place restrictions on modifications to the exterior of the dwelling so that there is no additional or substantial alteration to the dwelling's appearance from the street. This is done as an effort to ensure that the existing neighbourhood character is maintained when new secondary suites are built. Examples of requirements are outlined below:

	Markham: Draft By-law, 2008	London: Amendment to By-law Z.- 1, 2014	Vaughan: Amendment to By-law 1-88, 2014	Barrie: By- law 2015-056 (Amendment to By-law 2009-141)	Oakville: By- law 2014-014 (currently in OMB appeal period)	Kingston: 2013 By-law (Pilot Phase in effect)	Toronto: Amendment to By-law 569-2013
External Appear- ance	No more than one dwelling entrance may be contained within any main wall facing a streetline. The entrance to the main or secondary dwelling may not be within the garage door.	Exterior alterations permitted to interior side or rear yards; not permitted to the front or exterior side yard elevations of a primary dwelling to provide for entrance to the secondary dwelling unit.	New entrances not permitted on the façade facing a public road or in front of the main entrance of adjacent building. Entrance shall be separate from the main entrance either in the exterior or from a common indoor vestibule. Entrance must be accessible via a paved walkway or driveway.	Entrance to each unit by means of an exterior door or common shared entrance. Front façade of main dwelling shall not be altered. Access to the accessory unit shall be located in side or rear yards from an exterior door or from an entrance that is shared to both dwelling units. Front façade of main dwelling shall not contain a separate entrance to the accessory dwelling unit.	Entrance must be oriented toward the flankage, interior side or rear lot line.	Separate access required for second unit. Exterior entrance to the second unit on a front building elevation is prohibited except if there is a common vestibule shared with the main unit. No alteration is permitted to the front elevation except to add windows, dormers, an entrance porch, or a balcony.	The main wall or roof that faces a street should not be altered, unless for the addition of a porch, basement extension under a porch, balcony or dormer up to 2.3 m ² (the floor area of all dormers must not exceed 9.3 m ²)

In general, provisions are similar and require that no significant alterations be done to the front façade of the building (i.e. the additional entrance/door cannot be visible through the front and the entrance to the secondary suite can only be through the side or rear of the building).

5 Issues

5.1 Safety

The most important issue with legalizing secondary suites is safety. Currently owners of secondary suites that are not permitted in the City cannot apply for a building permit. Making secondary suites a permitted use in residential and mixed use zones would allow owners to legally apply for building permits and ensure that all Building and Fire Code safety issues were addressed. This would protect tenants by ensuring that they are living in units that meet safety standards.

Although secondary suites do not comply with zoning by-laws in most parts of Markham unless they were legally in existence prior to November 16, 1995, by-law enforcement officers can only gain access to inspect units once there is a complaint filed and they have reasonable grounds to suspect that there is a secondary suite on the premises. Fire inspectors have more leeway in gaining access to units to ensure compliance with the Fire Code, but cannot share their findings with by-law enforcement officers.

Secondary suites exist in Markham because there is demand for these units. In some cases they help homeowners with mortgage payments making homeownership more affordable. Additionally, legalizing secondary suites would provide a safe source of affordable rental housing for many people.

Not legalizing secondary suites, particularly in light of the 2012 amendments to the Planning Act, would ignore the existence of thousands of these units in Markham and may potentially jeopardize the lives of inhabitants if Fire Code violations result in deaths.

5.2 Impact on Services

The principle determinant of service use is the number of people living in an area. Municipal and regional services, such as water and sewage, are sized to accommodate estimates of future population made at the time the services are introduced. Similarly schools, libraries and recreational facilities are provided on the basis of expected population. These estimates are based on a combination of the expected number of households and on the average number of persons in a household.

Average household sizes have been declining in Markham since 1991, when they were at 3.5 persons per household (PPH) but by 2006 had been reduced to 3.4 PPH. The Region of York's 2041 Population and Employment Forecasts released in November 2015 shows a continuing decline for the average household size in 2011 to 3.31 and a further decline every 5 years thereafter to a low of 3.04 PPH in 2041. This means that the population in existing neighbourhoods, where little additional development is expected, will decline. The population living in secondary suites tends to represent even lower household sizes and fewer school-aged children than single household dwellings, and may partially offset the decline in population that is happening otherwise and will not add an additional burden on existing services. It could, on the other hand support, continued full, efficient use of infrastructure and community services.

While schools in newer communities are still approaching peak enrolment as new units become occupied, some established communities are experiencing a decline in enrolment. As with other services, secondary suites may generate some additional pupils to offset the decline in enrolment in these neighbourhoods.

5.3 Parking

The impact of secondary suites on the availability of on-street parking is a common concern to residents. This issue has been widely investigated and evidence exists that secondary suites generally do not generate increased demand for on-street parking¹³.

Under Markham's 2008 Draft By-law for Secondary Suites, no additional parking spaces were required for a secondary suite. This approach resulted from a review of the Parking Standards By-law requirement (as amended in 2006) for 2 parking spaces to be provided per dwelling unit, plus one additional space for accessory dwellings. The review concluded that requiring a total of 3 parking spaces would be excessive, and may negatively impact the appearance of the streetscape. The recommended approach was that no additional spaces be required for secondary suites. It was expected that this approach would result in a self-regulating system where landlords who use the two parking spaces would only be able to rent a secondary suite to tenants who do not own a car.

Dwellings containing a secondary suite will need to comply with the driveway width standards of Markham's Extended Driveway By-law. The Driveway By-law prohibits parking in a front or exterior yard except on a driveway leading to a garage as described below.

The maximum driveway width is equal to the greater of:

- i. the garage door width plus 2.0 metres, provided:
 - a. in the case of a lot with a frontage of less than 10.1 metres, a minimum 25 % soft landscaping is provided in the front or exterior yard in which the driveway is located; and
 - b. in the case of a lot with a frontage 10.1 metres or greater, a minimum 40 % soft landscaping is provided in the front or exterior side yard in which the driveway is located;or
- ii. up to 6.1 metres, provided a minimum 40 % soft landscaping is provided in the front or exterior side yard in which the driveway is located.

Finally, an additional parking approach that Markham may want to consider when dealing with secondary suites is the use of a permit system for on-street parking. Through the permit system, parking can be controlled while providing a source of revenue for the City¹⁴.

5.4 Neighbourhood Character

Although a concern has been raised in the past by some residents about the potential negative impact of secondary suites on neighbourhood character, there is no documented evidence that secondary suites have such an impact. Studies, such as the review in Kingston of its pilot project, have shown no negative impacts. As discussed above, secondary suites are legally

13 City of Kingston. Second Residential Unit Research Report. Prepared by FoTenn Consultants Inc. March 2012.

14 City of Mississauga. Corporate Report to Chair and Members of Planning and Development Committee. Housing Choices: Second Units Implementation Strategy. November 13, 2012.

permitted in residential zones in many municipalities in Ontario, including most municipalities in York Region. Not one of these municipalities has documented negative impacts on neighbourhood character. In addition, Markham also already has thousands of existing permitted and not permitted secondary suites which have generated few complaints and little concern, with no visible impact on neighbourhood character.

The most frequent cited types of impacts on neighbourhood character that have raised concerns deal specifically with parking, appearance of low rise residential buildings and absentee landlords. Each of these will be discussed in turn.

As discussed in section 5.3 above, Markham already has by-laws in place to control parking impact in neighbourhoods. These by-laws would continue to be enforced with or without zoning approval for secondary suites. Markham's Extended Driveway Parking By-law restricts parking on driveways to locations in front of a garage. Prohibitions and controls on street parking apply as well. These are the types of by-laws and controls that are required to address neighbourhood parking issues. The existence of secondary suites will not affect this one way or another.

Section 4.5 of this report explores how other Ontario municipal zoning by-laws address the impact of secondary suites on the external appearance of a residential building, by requiring that the entrance to a secondary suite is not from the front of the house. If a similar provision were to be included in Markham's zoning by-law, there would be no change to the external appearance from the street of a building with a secondary suite.

The real concern with absentee landlords owning secondary suites is often related to fears that the property will be poorly maintained. There are other existing by-laws already in place to address these concerns, in particular the housing standards by-law which addresses external maintenance of the property. Furthermore, absentee landlords can already rent out entire houses in Markham neighbourhoods. It is not possible to control absentee ownership through zoning. Whether houses, including houses with secondary suites, are owned by absentee landlords or not they are all subject to the same standards and must comply with all of Markham's by-laws regarding upkeep and maintenance.

6 The Benefits of Secondary Suites

Amending zoning by-laws to permit legal secondary suites in all residential zones in Markham represents good planning. Not only does it comply with the 2012 changes to the Planning Act, but it provides the opportunity for owners of secondary suites to meet fire and safety standards by applying for Building Permits and registering their second unit. Past experience has shown that there are no impacts on residential neighbourhoods from legalizing secondary suites, particularly if appropriate standards are included.

There are also a number of other positive benefits.

Secondary suites provide flexibility to address ongoing demographic changes in a neighbourhood within the existing housing stock without altering the physical appearance of buildings or the neighbourhood. Significant demographic shifts within Markham's neighbourhoods over the past few years include smaller households and an aging population. Other phenomena include adult children living with their parents longer and in some cases intergenerational extended families living together. Permitting secondary suites would allow for flexibility to respond to these types of changes in existing buildings on an as need basis and for houses to seamlessly revert back to their original status if that is what is needed or preferred at some future point.

In addition to providing flexibility within the housing stock to respond to change, secondary suites also contribute to the stock of affordable housing without the need for subsidy. Clearly there is a sizable demand for secondary suites or they would not exist. Partially this represents a demand for rental housing which is in short supply in Markham compared to other municipalities and partially it reflects a demand for housing smaller households. Secondary suites fill this void with no neighbourhood impact, particularly compared to apartment buildings.

Legal, properly maintained secondary suites provide excellent housing opportunities for small households such as seniors and young adults who do not have the means to own a house, but prefer to live in familiar neighbourhoods or wish to be close to family, friends or their workplace.

Not only do secondary suites contribute to the stock of affordable rental housing, but they also provide income for homeowners to help with mortgage payments and flexibility to offset other ownership and maintenance costs. With the cost of owning a house increasing beyond the reach of most households, these types of arrangements make homeownership more affordable to a wider population.

Having a secondary suite can provide homeowners with a sense of security by having another person(s) living in the home and keeping an eye on things when they are away. This may be true for all homeowners, but is particularly helpful to some seniors who may wish to continue to live in their house for as long as possible, either alone or as part of a couple.

With projections that average household size will continue to decline, community services and facilities, including schools in existing neighbourhoods, may be used less efficiently over time. Secondary suites may help to offset these impacts by contributing to the ongoing "sustainability" of the existing housing stock and delivery of services in Markham.

7 Preliminary Recommendations

7.1 Proposed By-law

The proposed by-law for extending the permission for secondary suites in Markham is provided in the Appendix 1 to this report. The by-law maintains the conditions for a secondary suite included in the deferred 2009 draft by-law. These conditions were developed by the Council Subcommittee on Secondary Suites in 2008 and, based on consultations with members of Council in June 2016, still seem relevant today. The conditions are set out below.

One accessory dwelling unit is permitted in a detached house, semi-detached house or row house in any zone provided:

- a. both the principal dwelling unit and the secondary dwelling unit are wholly contained within the same detached, semi-detached or row house dwelling,
- b. there are no more than two dwelling units on the same lot;
- c. the secondary dwelling unit has a floor area of no less than 35m²;
- d. no more than one dwelling entrance is contained within any main wall facing a streetline;
- e. the entrance to either the principal or secondary dwelling unit is not contained within the garage door; and,
- f. all other provisions of Markham's zoning By-laws are complied with.

There are two changes from the 2009 proposed by-law in the current version of the by-law. One is to add a row house to the type of building in which a secondary suite would be permitted. This change is being recommended to comply with Planning Act requirement that secondary suites be permitted in row houses, as well as detached and semi-detached houses. The second is to remove the condition, which was originally included in the 2009 by-law, that the secondary suite occupy no more than 45 percent of the floor area. Since the floor area of a secondary unit, as defined in the by-law, will be less than that of the principal dwelling unit, and since this means that it will occupy less than 50 percent of the floor area, the provision that it occupy less than 45 percent of the floor area is minor and seems redundant. In addition, this type of restriction is difficult to measure and enforce.

7.2 Registration and Licensing of Secondary Units

As mentioned previously in this report, legally existing secondary suites prior to November 16, 1995, must be registered as a two unit dwelling with the Fire and Emergency Services Department under the City's Registration By-law (308-97). The registration by-law applies only to units that were legally in existence prior to November 16, 1995. This by-law will need to be amended in order to apply to secondary suites that would become legal should a zoning by-law amendment extending the permission for secondary suites be approved. At the same time, it may be advisable to amend the by-law further to require renewal of registration once every five years to ensure continued compliance with all applicable codes and standards. Council may also wish to consider waiving registration and inspection fees for a limited period of time once the zoning by-law amendments are approved in order to encourage registration of secondary suites. This period could coincide with a public information campaign about

the importance of complying with safety requirements and the need to register a secondary suite, which is discussed below.

A separate report is being prepared regarding the question of licensing rental accommodation in Markham. It is interesting to note that Mississauga recently decided to abandon its licensing program for secondary suites in order to encourage owners to register secondary suites with the municipality and comply with Fire and Building Code requirements. The main issue with licensing of secondary suites is that it could significantly increase the workload of City staff while acting as a disincentive for owners to come forward and register their units, due to increased costs and additional requirements. The benefits may be achievable without requiring licensing, if registration of secondary suites is to be renewed every five years under an amended Registration By-law and if complaints can be addressed through inspections under a potential amended Property Standards By-law, which would apply interior property standards, as discussed below. A proposed Registration By-law is provided in Appendix 2 of this report.

7.3 Interior Property Standards By-law

There was a considerable amount of discussion by staff and Council members in 2008-2009 about the pros and cons of amending the City's Property Standards By-law to add interior property standards. The City currently regulates external property standards under By-law 248-1999, but relies on an arrangement with the Ministry of Municipal Affairs and Housing for enforcement of interior property standards. Most municipalities in the GTHA, including York Region municipalities, regulate interior property standards which are applied largely to rental accommodation, including secondary suites. These by-laws provide municipalities with the power to inspect premises to review compliance with maintenance and state of good repair standards based on complaints.

In a presentation from the Fall of 2007, the City Clerk at the time listed the advantages of including interior property standards in the by-law as:

- allowing the municipality to repair deficient properties and charge the cost back to the owner;
- allowing staff to address absentee landlords who are not maintaining their properties;
- allowing staff to address potential future maintenance issues with existing aging rental units which have not as yet posed a problem but may be at risk in the future;
- proactively maintaining the stock of clean and safe rental housing in Markham;
- ensuring that utilities and adequate heating are provided;
- ensuring proper maintenance of kitchen and bath facilities, including plumbing and water;
- ensuring passageways are clear;
- ensuring garbage is removed; and
- ensuring that there is no overcrowding.

The cons were listed as:

- possible increased enforcement costs to the municipality;
- few complaints received referred to Ministry of Municipal Affairs and Housing for inspection in Markham (only two over the past three years);
- by-law enforcement officers continue to have no right of entry without invitation.

The Province has recently introduced Bill 204 which has now passed first reading in the Legislature. The Bill will require all municipalities in Ontario to conduct their own internal housing standards inspections by July 1, 2018. This means that Markham will need to amend its Property Standards By-law to include interior property standards. This should be done soon, and can be timed to coincide with changes to zoning amendments regarding secondary suites. Because of the low number of inspections conducted by the Province on behalf of the City in the past, there is likely to be very little financial impact of this change to the City.

7.4 Public Communication/Education

The components of an education and communication strategy were addressed in 2008-2009 when this issue was last before Council. Once again, it would seem to make sense to initiate a public education and communication strategy should the by-law to permit secondary suites be approved. The communication strategy would:

- provide accurate information and education about the new secondary suite by-law changes and procedures;
- explain all relevant codes and programs relating to secondary suites;
- explain the benefits of registration for owners and tenants;
- provide a streamlined and easy to understand process for registration of secondary suites; and
- promote life safety and encourage compliance.

The communication program could include media announcements, information posted on Markham's web site, and an information brochure as well as material included in newsletters, tax bills, and postings in community centres and libraries.

8 Next Steps

It is recommended that a public open house be held in September 2016 to obtain public input on the preliminary recommendations in this report including:

- the proposed by-law to amend Markham's zoning by-laws to permit secondary suites in detached, semi-detached and row houses in compliance with Section 35.1 (1) of the Planning Act (a draft by-law is contained in Appendix 1 of this report);
- amendments to the City's Registration By-law for Two Unit Occupancies to address registration requirements for new secondary suites, including registration renewal every five years, should the new zoning by-law amendments referred to above be approved;
- amendments to the City's Property Standards By-law to include interior property standards as discussed in this report; and
- a public education/communication campaign regarding the by-law changes and procedures for secondary suites to emphasize the importance of complying with measures regarding life safety .

A final report recommending by-law amendments will be presented to Development Services Committee and a statutory public meeting in the Fall of 2016.

Draft for discussion purposes only

Draft for discussion purposes only

Appendix 1: Proposed Amendment to Markham Zoning By-laws

Appendix 2: Proposed By-law For Registration Of Secondary Dwelling Units

Appendix 3: General Facts About Secondary Suites

Appendix 4: Existing Registered Secondary Suites

Draft for discussion purposes only

Appendix 1: Proposed Amendment to Markham Zoning By-laws

BY-LAW 2016-_____

A By-law to amend By-laws 1229, 1442, 1507,1767,1914,2053,2150, 2237, 2284-8, 2402, 2489, 2551, 2571, 2612, 11-72,122-72,77-73, 83-73, 84-73, 119-73, 151-75,88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79,91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94 and 177-96, as amended

WHEREAS the City of Markham is empowered to pass By-laws pursuant to the Planning Act R.S.O. 1990 c. P 13.

AND WHEREAS By-laws 1229, 1442, 1507, 1767, 1914, 2053, 2150, 2237, 2284-68, 2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79, 91-79, 118-79,134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94 and 177-96 as amended, are intended to provide for the orderly development of land in the City of Markham;

AND WHEREAS the City of Markham wishes to ensure that By-laws 1229, 1442,1507,1767,1914,2053,2150,2237,2284-68, 2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79, 91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81,108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94 and 177-96 as amended, permit a secondary dwelling unit within detached, semi detached and row houses within the City, provided certain conditions are met;

AND WHEREAS Council held a public meeting on _____ for the purposes of obtaining public input;

THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM HEREBY ENACTS AS FOLLOWS:

1.0 By-laws 1229, 1442, 1507, 1767, 1914, 2053, 2150, 2237, 2284-68,2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73,119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78,72-79,91-79, 118-79, 134-79, 153-80, 165-80,72-81,90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82,47-85, 304-87, 19-94 and177-96, as amended are hereby further amended as follows:

1.1 For the purpose of this by-law only, the following definitions shall apply:

“Detached house” means a single residential structure containing no more than two dwelling units.

“Floor Area” means the aggregate of the areas of each floor of a dwelling unit above or below established grade, measured between the exterior faces of the exterior walls, but not including the floor area of a private garage.

“Garage Door” means the door of a private garage that permits a motor vehicle to access a private garage from the outside.

“Main Wall” means the exterior front, side and/or rear wall of a building and all structural components essential to the support of a fully enclosed space.

“Principal Dwelling Unit” means a dwelling unit that has a floor area that is greater than the floor area of the other unit in the same building.

“Row house” means a residential structure which is one of a group of three or more horizontally attached residential structures and is separated vertically from one or two of the other structures by common walls which do not provide for internal access from the living space in one structure to another.

“Semi-detached house” means a residential structure which is one of two horizontally attached residential structures and is separated vertically from the other residential structure by a common wall which does not provide internal access from the

living space in one structure to the other.

“Secondary Dwelling Unit” means a dwelling unit that has a floor area that is less than the floor area of the other unit in the same building.

“Streetline” means the boundary between a public street and a lot.

1.2 Notwithstanding any other provisions contained within the aforementioned by-laws, and subject to the provisions of this by-law, one *secondary dwelling unit* is permitted in a *detached house, semi-detached house or row house* in any Zone provided:

- a) both the *principal dwelling unit* and the *secondary dwelling unit* are wholly contained within the same *detached house, semi-detached house or row house*;
- b) there are no more than two dwelling units in the same *detached house, semi-detached house or row house*;
- c) there are no more than two dwelling units on the same *lot*;
- d) the *secondary dwelling unit* has a *floor area* of no less than 35m²;
- e) no more than one dwelling entrance is contained within any *main wall* facing a *streetline*,
- g) the entrance to either the *principal or secondary dwelling unit* is not contained within the *garage door*; and,
- h) all other provisions of By-laws 1229, 1442, 1507, 1767, 1914, 2053, 2150, 2237, 2284-68, 2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79, 91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94 and 177-96, as amended are complied with, unless specifically modified or amended by this By-law,.

1.3 Notwithstanding any other provisions contained within the

aforementioned by-laws, and By-law 28-97, and subject to the provisions of this by-law, no parking spaces are required for a *secondary dwelling unit*.

2.0 Nothing in this By-law shall serve to relieve any person from any obligation to comply with the requirements of any other By-law of the City of Markham or any other requirement of the Region of York, the Province of Ontario or the Government of Canada that may affect the use of lands, buildings or structures in the municipality.

READ A FIRST AND SECOND TIME THIS ____ DAY OF _____, 2016.

READ A THIRD TIME AND PASSED THIS ____ DAY OF _____, 2016.

KIMBERLY KITTERINGHAM

CITY CLERK

FRANK SCARPIITI, MAYOR

Appendix 2: Proposed By-law For Registration Of Secondary Dwelling Units

2016-_____

WHEREAS Section 16(3) of the Planning Act, S.O., 1990, c. P.13, as amended, requires municipalities to implement official plan policies authorizing the use of secondary dwelling units;

WHEREAS Section 35.1(1) of the Planning Act, S.O., 1990, c. P.13, as amended, requires that by-laws passed under section 34 give effect to the policies described in subsection 16(3) of that Act;

WHEREAS the City of Markham has added policies under Section 4.1.2.6 of the City of Markham Official Plan in order to comply with these Planning Act requirements;

WHEREAS the City of Markham has amended the area zoning by-laws by By-law 2016-_____ in order to comply with these Planning Act requirements;

WHEREAS Section 8(1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that the powers of a municipality under any Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

WHEREAS Section 11(2) (6) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorizes municipalities to pass by-laws respecting the health, safety and well-being of persons and the protection of persons and property;

The Council of The Corporation of the City of Markham considers it important to enact a by-law to require the registration of secondary dwelling units in detached houses, semi-detached houses, and row houses in the City of Markham in order to protect persons, property and the health, safety and well-being of Markham residents;

NOW THEREFORE the Council of The Corporation of the City of Markham ENACTS as follows:

1. DEFINITIONS

For the purpose of this By-law only, the following definitions shall apply:

“Chief Fire Official” means the Municipal Fire Chief or a member or members of the fire department designated by the Municipal Fire Chief or a person appointed by the Fire Marshal under Division C of subsection 1.1.1. of Ontario Regulation 213/07 - The Ontario Fire Code, as amended.

“Detached house” means a single residential structure which contains no more than two *dwelling units*.

“Dwelling Unit” means a unit which consists of a self-contained set of rooms located in a building or structure; is used as a residential premise; contains kitchen and bathroom facilities that are intended for the use of the unit only; is used as a single housekeeping unit, which includes a unit in which no occupant has exclusive possession of any part of the unit; and has a means of egress to the outside of the building or structure in which it is located, which may be a means of egress through another residential unit.

“Floor Area” mean the aggregate of the areas of each floor of a *dwelling unit* above or below established grade, measured between the exterior faces of the exterior walls, but not including the floor area of a private garage.

“Owner” means a person who is the registered owner, authorized in writing to act as agent for the registered owner, or managing or receiving the rent of a building or structure that is a *detached house*, *semi-detached house*, or *row house* that contains both a *principal dwelling unit* and *secondary dwelling unit*.

“Principal Dwelling Unit” means a *dwelling unit* that has a *floor area* that is greater than the *floor area* of the other unit in the same building.”

“Secondary Dwelling Unit” means a *dwelling unit* that has a *floor area* that is less than the *floor area* of the other unit in the same building.”

“Registrar” means the *Chief Fire Official* or his or her designate.

“Row house” means a residential structure which is one of a group of three or more horizontally attached residential structures and is separated vertically from one or two of the other structures by common walls which do not provide for internal access from the living space in one structure to another.

“Semi-detached house” means a residential structure which is one of two horizontally attached residential structures and is separated vertically from the other residential structure by a common wall which does not provide for internal access from the living space in one structure to the other.

2. APPLICATION

This by-law applies to a *detached house*, *semi-detached house* or *row house*, containing two *dwelling units* where permitted by Section 35.1 (1) of the Planning Act R.S.O. 1990 c. P 13, as amended.

3. PROHIBITION

No person shall occupy or permit the occupancy of more than one *dwelling unit* in a *detached house*, *semi-detached house* or *row house* unless the building or structure is registered as required by this By-law.

4. REGISTRATION

Every person who intends to occupy or permit the occupancy of more than one *dwelling unit* in a

detached house, semi-detached house, or row house shall ensure that the building or structure is registered for a *secondary dwelling unit* as required by this By-law.

Registration and Registration Renewal:

(1) every *dwelling unit* in a *detached house, semi-detached house, or row house* involving a *secondary dwelling unit* shall be inspected to ensure that it complies with all relevant standards determined to be applicable, as set out in the Ontario Building Code; Ontario Fire Code; Fire Protection & Prevention Act; applicable Zoning By-law; and Property Standards By-law, all as amended from time to time;

(2) every *dwelling unit* in a *detached house, semi-detached house, or row house* involving a *secondary dwelling unit* shall be subject to a registration renewal every five (5) years from the date of the last registration date under this By-law;

(3) every *dwelling unit* in a *detached house, semi-detached house, or row house* involving a *secondary dwelling unit* may be subject to investigations by and comments or recommendations from the municipal or provincial department or agencies as the *Registrar* deems necessary prior to the time of registration renewal;

(4) the *owner* shall ensure that every *dwelling unit* in a *detached house, semi-detached house, or row house* involving a *secondary dwelling unit* complies with all relevant standards, as set out in subsection 4(1) of this By-law;

(5) the *owner* shall pay a non-refundable registration fee together with the applicable inspection fees, and registration renewal fees, as set out in Schedule A to this By-law;

(6) every *dwelling unit* in a *detached house, semi-detached house, or row house* involving a *secondary dwelling unit* that exists prior to the date of the passing of this By-law and is legally permitted under the applicable Zoning By-law and registered under City of Markham By-law 308-97 shall not be required to be registered under this By-law until such time as this By-law replaces and repeals By-law 308-97. The *owner* of such *secondary dwelling units* shall not be subject to registration fees, but shall be subject to registration renewal fees and applicable inspection fees, as set out in Schedule A to this By-law;

(7) every *dwelling unit* in a *detached house, semi-detached house, or row house* involving a *secondary dwelling unit* that exists prior to the date of the passing of this By-law and is legally permitted under the applicable Zoning By-law, but is not registered under City of Markham By-law 308-97, shall be required to be registered under this By-law at such time as this By-law replaces and repeals By-law 308-97. The *owner* of such *secondary dwelling units* shall be subject to registration fees together with the applicable inspection fees, and registration renewal fees, as set out in Schedule A to this By-law.

5. REFUSAL AND REVOCATION

The *Registrar* may refuse to register, or register renewal, any *secondary dwelling unit* which does not meet the requirements set out in this By-law.

The *Registrar* may revoke the registration, or registration renewal, of any *secondary dwelling unit* which, at any time after registration, ceases to meet the requirements set out in this By-law and the Ontario Fire

Code as amended.

The onus of proving that a *secondary dwelling unit* meets the requirements set out in this By-law is on the *owner* of the building or structure.

6. NOTIFICATION OF REVOCATION

(1) Where the *Registrar* revokes the registration, or registration renewal, of a *secondary dwelling unit*, he/she shall notify the owner of the building or structure of such revocation, and provide a brief explanation of the reason for the revocation.

(2) Notice may be sent by regular mail to the address of the building or structure, or the address of the *owner* of the building or structure.

7. OFFENCE

Every person who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act.

8. REPLACE AND REPEAL OF PREVIOUS BY-LAW

(1) This By-law shall replace City of Markham By-law 308-97 upon its adoption by Council of the City of Markham.

(2) By-law 308-97 shall be repealed and replaced by this By-law.

READ A FIRST AND SECOND TIME THIS ____ DAY OF _____, 2016.

READ A THIRD TIME AND PASSED THIS ____ DAY OF _____, 2016.

KIMBERLY KITTERINGHAM

FRANK SCARPITTI, MAYOR

SCHEDULE 'A' TO BY-LAW 2016-_____

Draft for discussion purposes only

Appendix 3: General Facts About Secondary Suites

What is a secondary suite?

A secondary suite is a common name for a basement apartment, an accessory apartment or another form of secondary residential unit in a house that contains no more than one other unit.

A secondary suite:

- consists of a self contained set of rooms that can be used as an independent unit;
- contains kitchen and bathroom facilities designated for the exclusive use of the unit;
- has a means of access that may be separate or shared with the other unit; and
- can be installed on any floor of a house.

A secondary suite is a single self contained (with a locked door) additional unit to a house and is not considered part of a rooming, boarding or lodging house, where multiple households share kitchen and bathroom facilities.

To be considered legal, a secondary suite must be permitted in the City's zoning by-law and inspected and registered under the City's Registration By-law.

What are the benefits of secondary suites?

Secondary suites:

- provide flexibility to address demographics changes in the neighbourhood within the existing housing stock without altering the physical appearance of the neighbourhood;
- provide rental housing opportunities for small households including young adults, seniors, etc.;
- provide homeowner with a greater sense of security by having another person living in the home;
- provide income to homeowners and flexibility to offset ownership and maintenance costs;
- have less physical and visual impact on neighbourhoods than apartment buildings; and
- contribute to the "sustainability" of the existing housing stock and service delivery in Markham.

What authority does the City have in controlling or regulating secondary suites?

The Planning Act states that municipalities shall authorize the use of secondary suites in detached, semi-detached and row houses through their zoning by-laws.

The City has authority to:

- limit secondary suites in Special Policy Areas (areas identified by the TRCA as subject to flooding) and where servicing is inadequate;
- establish development standards such as minimum unit size, parking standards, external appearance of main dwelling, etc.;
- enforce the Building and Fire Codes and Property Standards By-law Requirements; and
- establish inspection and registration requirements (ie. a Registration By-law for secondary suites can increase landlord accountability for compliance with Codes and By-laws).

Where are secondary suites currently permitted in Markham?

The new Markham Official Plan provides for secondary suites in detached, semi-detached and row houses.

Houses with secondary suites are generally not permitted under Markham's existing zoning by-laws except:

- in Markham Centre and as accessory units in Cornell and Cathedral Town; or
- if a secondary suite existed on November 16, 1995 and is recognized (grandfathered) as a permitted use under provincial legislation.

How many secondary suites can a homeowner add to house?

Where legally permitted in Markham, a homeowner is only allowed to add-one secondary suite to a detached, semi-detached or row house.

What are the standards that secondary suites have to meet?

In general, new secondary suites must comply with the Ontario Building Code, and existing secondary suites must comply with the Ontario Fire Code. Both new and existing secondary suites must comply with the City's zoning and property standards.

Does the Landlord and Tenant Act apply to secondary suites?

Yes, secondary suites are covered by the Landlord and Tenant Act, except in cases where no rent is charged (e.g. a unit is occupied by a family member).

Is there currently a requirement to register a secondary suite in Markham?

In Markham, legally permitted secondary suites must be inspected and registered with the City and comply with building and fire safety codes and zoning and property standards. Inspection and registration may result from a request from the landlord/owner or tenant or as a result of a complaint from tenants, neighbours, etc. Fire Services determine if a secondary suite is permitted by zoning and then initiate inspection of both units in the house for a fee of \$300. When a house with a secondary suite fully complies with the Fire Code, Building Code, and the Zoning By-law and Property Standards By-law, it can be registered with the City for a fee of \$150.

What are the benefits of legalizing a secondary suite?

The best reason to legalize a secondary suite is to reduce landlord/owner liability. The liability can be reduced if the homeowner:

- ensures that both units in the house meet all required fire, building and housing standards;
- makes their insurance provider aware of the secondary suite and enhances the insurance coverage; and
- ensures the mortgage holder is informed about the secondary suite.

Taking these steps will also eliminate the worry of neighbours or an unhappy tenant filing a complaint with the City that the suite is illegal. A legal and safe secondary suite is likely to improve a landlord/homeowner's relationship with tenants, neighbours and the City. By having a secondary suite inspected and registered with the City the landlord/owner will know that all requirements have been met to ensure a safe healthy home for themselves and their tenants

What are the risks to a landlord/homeowner of an illegal or unsafe secondary suite?

Increased Liability: The onus is on a homeowner to meet established standards for a secondary suite. If anything should happen, such as a fire, the homeowner may be found liable due to the failure to meet legal requirements.

Loss of Insurance Coverage: Having a rental unit in a house represents a material change to the property. Non-disclosure of this change of use may make insurance coverage null and void.

Limited recovery of damage: An insurance policy is not typically responsible for rebuilding costs related to meeting current established standards. The insurance company may only be required to cover

the costs of fixing your home back to the state that existed at the time the policy commenced prior to any damage.

Prosecution: Owners who do not meet the Building and Fire Code and City zoning and property standards are breaking the law. They run the risk of being charged and may face fines with a maximum penalty of \$50,000 and/or a year of imprisonment on each count.

Financing: Income from an illegal basement apartment may not be considered when applying for a mortgage loan.

Tenants: A landlord is obliged to maintain a secondary suite in good operating order and you must follow all fire safety laws. Tenants may apply for rent reduction where the unit fails to meet the prescribed municipal health, safety, maintenance and property standards.

Tenant Insurance: A homeowner's policy will not cover property illegally rented to a tenant.

Can municipalities license a secondary suite in a house?

Licensing of secondary suites is possible, although the licensing by-law is generally intended to capture business operations and a secondary suite is not commonly considered to be a business. Recently the City of Mississauga, which had previously required licenses for houses with secondary suites that were not owned occupied, has changed its approach to not require licenses for secondary suites, but to rely on its Registration By-law instead. This is the approach that currently exists for legal secondary suites in Markham and is being considered for the future as well.

Are municipalities able to require owner occupancy of one of the units in a house with a secondary suite?

The provincial Planning Act does not give municipalities the power to restrict secondary suites to cases where the owner lives on the premises. An owner-occupancy requirement would be unworkable in practice. However, if Markham were to consider introducing a licensing by-law, as an incentive for the owner to occupy one of the units in a house with a secondary suite, the City could choose to not apply the licensing requirement to owner occupied houses with secondary suites.

Why is the City considering zoning permission for secondary suites in detached, semi-detached and row houses? What are the benefits of a wider zoning permission for secondary suites?

- Changes to the Planning Act in 2012 require Ontario municipalities to authorize the use of secondary suites in detached, semi-detached and row houses.
- Legalizing secondary suites maximizes the opportunity for improving the life safety of owners and tenants, and their neighbours.

- Legalizing secondary suites increases the accountability of landlords for compliance with regulations.
- It provides greater flexibility for the existing and future housing stock and community infrastructure to respond to changes in demographics and lifestyle.
- It can increase housing choice.
- It acknowledges that secondary suites are presently found across Markham and ensures that proper fire safety is complied with across the municipality.

What is the proposed new strategy for permitting secondary suites throughout Markham?

The key strategy components are:

- a secondary suites zoning by-law
- amendments to the City's Registration and Property Standards By-laws
- a comprehensive public education/communication program

What is the proposed zoning permission for secondary suites in Markham?

The new strategy for secondary suites proposes City-wide zoning permission for secondary suites in detached, semi-detached and row houses, subject to specified standards, including:

- the secondary suite must be secondary to the principal unit
- the secondary suite must meet a minimum gross floor area requirement
- the secondary suite shall be inconspicuous from the street or change the appearance of the dwelling or the character of the neighbourhood

What are the driveway and parking standards that would apply to secondary suites?

The City's driveway and parking standards are a key component of the proposed strategy. A house with a secondary suite must comply with the driveway width standards of the City's Extended Driveway By-law and the Parking Space requirements of the City's Parking Standards By-law.

The Driveway By-law prohibits parking in a front or exterior yard except on a driveway leading to a garage. The maximum driveway width is equal to the greater of:

- the garage door width plus 2.0 metres, provided:
 - » in the case of a lot with a lot frontage less than 10.1 metres, a minimum 25% soft landscaping is provided in the front or exterior yard in which the driveway is located; and
 - » in the case of a lot with a lot frontage 10.1 metres or greater, a minimum 40% soft

landscaping is provided in the front or exterior side yard in which the driveway is located;
or

- up to 6.1 metres, provided a minimum 40% soft landscaping is provided in the front or exterior side yard in which the driveway is located.

Why amend the City's Property Standards By-law?

The City currently does not regulate internal property standards but instead has an arrangement with the Ministry of Municipal Affairs and Housing to complete internal property standards inspection. Amending the City's Property Standards By-law to incorporate new internal property standards will allow City staff to better regulate property standards as they relate to secondary suites and in particular, the activities of absentee landlords.

Why amend the City's Registration By-law for Secondary suites?

There is a concern that once a house with a secondary suite is inspected and registered with the City, building and fire safety codes and zoning and property standards may not continue to be upheld, particularly if there are absentee landlords or new owners unaware of the registration requirements.

The opportunity for improving life safety of residents in houses with secondary suites is maximized and the accountability of landlords for compliance with building and fire safety codes is increased by amending the City's Registration By-law to:

- require re-inspection and registration renewal (every 3 years or upon change in property ownership); and
- revoke any registration where the property is not in compliance with the registration by-law.

What are the benefits of a public education/communications program on secondary suites?

A public education program will increase public knowledge of secondary suites by:

- educating residents about secondary suites and the benefits of registration
- providing information on how to register a secondary suite and comply with building and fire safety codes and zoning and property standards
- promoting the method for registering secondary suites (including a one year incentive program that would waive fees for a landlord/homeowner who voluntarily requests inspection and registration of a house with a secondary suite)
- promote life safety and encourage compliance

The public education/communication program may include media announcements of legislative

changes, public information posted on the Markham website, a public information brochure and promotion of public information via newsletters, homeowner information packages, postings in community centres and libraries to ensure the highest and most equitable level of customer service to Markham residents.

What opportunities are there for the public to provide comment on the proposed new strategy for secondary suites?

There are several opportunities for public input on Markham's proposed new strategy for secondary suites:

- attend an open house/presentation and participate in the discussion or fill out a comment sheet
- logon on to the Markham website and submit your comment electronically
- attend a future Development Service Committee Public Meeting and provide a deputation or written submission

Will zoning permission for secondary suites change the concept of single family neighbourhoods?

The Ontario Planning Act specifies that municipalities may not distinguish between related and unrelated persons in a zoning by-law. Attempts to enact such restrictions have resulted in Court decisions that identify these measures as "oppressive and unreasonable". Zoning by-laws are intended to regulate the use of a building, not its occupants.

The evolving demographics of Canadian society reflect an ever-widening range of household preferences, and choices in how they organize their living arrangements. Many new forms of dwellings have emerged to respond to new housing needs and preferences, including the use of existing dwellings to accommodate different household arrangements. Secondary suites are one such response. The decision by many property owners to introduce a secondary suite into an existing dwelling is a reality, notwithstanding zoning provisions to the contrary.

The choice to introduce a secondary suite into an existing dwelling will continue to be the owner's decision, not the result of whether the suite is permitted or not. Hence, if the majority of property owners in a neighbourhood do not wish to introduce secondary suites into their existing dwellings, then the majority of houses in that neighbourhood will not have a secondary suite, regardless of whether they are permitted or not.

Will the Introduction of zoning to permit secondary suites result in a sudden influx of additional residents that will overwhelm neighbourhoods?

Where municipalities have permitted secondary suites as-of-right in low rise residential neighbourhoods they have not experienced a deluge of secondary suite requests or experienced any significant problems in any given neighbourhood. The City did not experience any significant problems when secondary suites were permitted as-of-right throughout the Province from 1994 to 1996.

Many people who want, or need to, build a secondary suite have already created the suite whether it is legal or not. Where secondary suites are not permitted by zoning, many secondary suites have gone unreported, most blending into the physical appearance of neighbourhoods. In view of this fact, it is not expected that new zoning provisions to permit secondary suites will result in a sudden increase in secondary suites, but rather an incremental increase in existing suites being inspected and registered so that those that can be made safe and some new suites being created slowly over time. Zoning to permit secondary suites neither creates market demand nor dictates timing of homeowner decisions to introduce secondary suites.

Will the introduction of zoning to permit secondary suites have a negative Impact on neighbourhoods?

Low density residential neighbourhoods in Markham are generally designed to accommodate a mix of dwelling types in order to achieve the desired low density character. Experience in other municipalities has shown there is no noticeable change to services or the physical appearance to neighbourhoods before and after a secondary suite by-law has been introduced. Even a small increase in dwelling units attributed to secondary suites would not impact services or alter the built form of existing dwellings in low rise residential neighbourhoods.

Depending on the demographics and life cycle of Markham neighbourhoods, the population in a neighbourhood is not expected to noticeably increase as a result of secondary suites in comparison to increases attributed to the addition of new housing stock. A dwelling with a secondary suite tends to have less people than house form single unit dwellings since the households in secondary suites tend to be smaller (seniors, young adults, singles, single parent families, etc.).

The average number of persons per unit in Markham has been declining over time and will continue to decline. Additional residents in secondary suites could offset such a decline.

Why should secondary suites be allowed in neighbourhoods, which do not appear to have any secondary suites?

The Planning Act does not provide a means of distinguishing between neighbourhoods for permission of secondary suites. There is no planning rationale to restrict secondary suites permissions to particular neighbourhoods and not others.

A record of existing legal secondary suites identified and registered within the City generally indicates that secondary suites are located in most if not all neighbourhoods across the City. It is likely that secondary suites will continue to be present in Markham whether or not they are permitted in the zoning by-law. The City has greater control regarding secondary suites, especially for safety purposes, if they are permitted City-wide. Introducing a new zoning permission only in certain neighbourhoods would result in an inequitable treatment of residents across Markham and reduce the City's ability to regulate the condition of unsafe illegal secondary suites.

Will secondary suites increase the demand for on-street parking and front yard parking resulting in parking congestion and negative effects on the streetscape and character of the neighbourhood?

Illegal on-street parking and front yard parking on illegally extended parking pads are common problems in many neighbourhoods and are a function of the manner in which communities respond to development standards and/or property standards rather than characteristics of secondary suites.

Any policy to permit secondary suites must not contribute to neighbourhood parking problems. To ensure the secondary suite is inconspicuous from the street and does not change the character of the dwelling or the neighbourhood, the proposed zoning by-law amendment to permit secondary suites would require no additional parking for the secondary suite, however, all parking would have to be provided consistent with the City's Parking By-Law. With new driveway standards in place, the appearance of homes with or without secondary suites will be comparable.

Will secondary suites result in changes to the exterior of dwelling units and changes to the physical appearance of neighbourhoods?

No. To ensure a secondary suite is inconspicuous from the street and doesn't change the character of the dwelling or the neighbourhood, the proposed zoning by-law amendment to permit secondary suites would require that only one dwelling unit in the building may have a door(s) in a wall facing the street.

Will secondary suites lead to a decline in property standards as result of absentee landlords, the transient nature of tenants, and reduced property maintenance?

The Planning Act provides the City with the authority to regulate land use (ie. the type and number of dwelling units permitted), but not tenure (ie. whether the residents of the dwelling units own or rent). Landlord/tenant issues are outside of the jurisdiction of the City and are governed by the Provincial Landlord and Tenant Act and the Rental Control Act. There is no evidence to suggest that secondary suites will result in an increase in landlord/tenant issues. To date the City has received very few complaints relating to existing legal secondary suites.

Any policy to permit secondary suites must uphold the property standards of the City's Property Standards By-law. A decline in property standards can result from a lack of owner/occupant responsibilities respecting repair (unit facilities), maintenance (landscaping), and cleanliness (ie. garbage storage) etc. and the failure to comply with City property standards. For this reason, secondary suites should only be permitted where there is full compliance with the City's property standards. Zoning to permit secondary suites may increase the accountability of the landlord to comply with development standards.

Will secondary suites have an impact on neighbourhood property values?

Altering a dwelling to create a legal suite will impact the market value of the dwelling in a manner similar to that of adding a finished basement. There is little difference in the value of a dwelling with a finished basement and one with a basement finished as a secondary suite. There are no records of property value assessments declining as a result of secondary suites.

The assessed value of a house is based on its market value under Current Value Assessment (CVA). According to the Municipal Property Assessment Corporation (MPAC), an increase of less than 5% in property value is not usually reflected in the assessed value under CVA until the next cycle of reassessment. A typical secondary suite would not meet this threshold since it increases the value of a home by less than 5% depending on the neighbourhood.

Where the increase in total property value is greater than 5%, MPAC will increase the assessed value of the house for taxation purposes in the following year. Improvements are tracked through building permits and the reassessment process. Assessment of residential class properties takes account of improvements, but does not include a consideration of how the improved space is used or rental income.

Why not control the number of persons who can occupy a dwelling with a secondary suite?

There is no legal basis for a municipality to justify placing an upper limit in the zoning by-law on the number of persons who may occupy a residential dwelling. The Building Code Act, 1992 grants authority to municipalities to enact by-laws for the purpose of enforcing municipal property standards, however these by-laws are subject to the same condition as zoning by-laws, that they not distinguish between persons who are related and those who are unrelated (section 15.1). The regulations state that a residential dwelling unit shall have sanitary and other facilities, but no restrictions on the number of persons that may use them, or limitations of the amount of floor area that may be adequately serviced by these facilities.

Will secondary suites place a burden on parks, day care facilities and schools?

Adding a legal secondary suite does not mean doubling the number of people, the principal determinant of service use. The number of persons per unit varies broadly and is not directly proportional to the

existence of a secondary suite. Secondary suites tend to have fewer pre-school and school-age children living in them than single household dwellings.

Residents of secondary suites may, in part, offset the normal decline in average household sizes as the demographics of the City's population changes over time. Maintaining neighbourhood populations ensures full use of the housing stock, supporting infrastructure and community services.

The phenomenon of multiple families per dwelling unit is one which the School Board is aware of in certain areas throughout the Region. If additional students are generated above the average yield, the impact can be a positive one if available pupil places exist at the local school. This can be particularly helpful in older, established communities where the local school is experiencing some decline in enrolment. Where newer communities are still approaching peak enrolment, pupil yield from secondary suites would have to be carefully monitored to determine impact on local schools.

The School Board undertakes its own review of pupils by housing type across the Region, particularly when changes impact the number of families per unit. This information is crucial to ensure that the appropriate school accommodation is in place should it be required. If the Markham proceeds with a secondary suite policy, the School Board will continue its monitoring process to identify changes in student yields.

As a house with a secondary suite may have only marginally more people than single unit dwellings, there will not be an undue burden on the neighbourhood park system. With respect to recreation programs, the programs occur in locations across the City and are community rather than neighbourhood oriented (ie. the current model is to build large scale, community wide, multi purpose recreation centres). Therefore, increases in population regardless of whether it occurs from new development, intensification, secondary suites, etc. will determine the demand for the for new or expanded facilities or additional program offerings at current locations. Secondary suites, in of themselves, will result in little impact on recreation programs.

Will secondary suites “pay their way” In terms of municipal taxes?

Improvements to a house are tracked through building permits and the reassessment process. Adding a legal secondary suite may result in a modest increase in a dwelling's market value, which is the basis for assessing property taxes.

Once the improvements are identified through the reassessment process there would be a corresponding increase in taxes.

Will Development Charges apply to secondary suites?

Development Charges are not applicable to improvements to existing dwellings. For newly constructed dwellings, the City applies a development charge on main dwelling unit based on the lot size/house size but there is no development charge on additional secondary units.

Will every secondary suite be inspected to ensure fire safe accommodation is provided?

In Markham there is a Registration By-law for secondary suites that requires that all two-unit residential dwellings must be inspected to ensure compliance with all relevant standards as set out in the Ontario Building Code and Fire Code.

Secondary suites permitted through zoning require a building permit, which automatically triggers compliance with Building Code and Fire Code regulations. Introducing new zoning provisions to permit secondary suites will increase the likelihood that existing secondary suites will be inspected and included in the City's registry of fire safe accommodation.

Once a dwelling with a secondary suite is inspected and registered with the City, will building and safety codes and zoning and property standards continue to be upheld, particularly if there are absentee landlords or new owners unaware of the registration requirements?

By amending the City's Registration By-law to:

- require re-inspection and registration renewal (every three years or upon change in property ownership)
- revoke any registration where the property is not in compliance

The opportunity for improving life safety of residents in houses with secondary suites is maximized and the accountability of landlords for compliance with building and fire safety codes is increased.

How will the City ensure the secondary suite is large enough for human habitation?

The proposed zoning by-law amendment to add permissions for secondary suites and standards would require that the secondary suite must be at least 35m².

Room and space requirements are set out in the Ontario Building Code. These dimensions and areas would apply to new construction or to conversions.

Section 9.5.8.1 .(1) of the Ontario Building Code permits an area of 13.5 m² where a living room, dining room, bedroom and kitchen are combined into one space. This would reflect a typical bachelor apartment arrangement. The proposed zoning by-law amendment to permit secondary suites would require more than double the size that the Ontario Building Code would permit.

Should occupants of basement apartments be concerned about heightened exposure to radon gas?

No. Markham has not been identified as a problem area for radon soil gas in the Province. Although detectable in most soil, Markham is not in a region where radon, or other soil gases, is present in concentrations known to affect human health. Normal rates of natural or mechanical ventilation are typically sufficient to maintain healthy indoor environments.

Draft for discussion purposes only

Appendix 4 - Existing Registered Secondary Suites

City of Markham Registered Second Suites

