



CORPORATION OF THE TOWN OF NEWMARKET

BY-LAW NUMBER 2013-13

A BY-LAW FOR THE REGISTRATION OF ACCESSORY DWELLING UNITS.

WHEREAS section 8 and 11 of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, provides that municipalities may pass by-laws respecting matters including but not limited to, the health, safety and well-being of persons; the economic, social and environmental well-being of the municipality; and the protection of persons and property;

AND WHEREAS the Council of the Corporation of the Town of Newmarket deems it necessary to pass a by-law requiring the registration of accessory dwelling units;

AND WHEREAS the Council of the Town of Newmarket deems it advisable to pass such a by-law;

THEREFORE BE IT ENACTED by the Council of the Corporation of the Town of Newmarket as follows:

1. DEFINITIONS:

- (a) "Appeals Committee" means a Committee comprised of no less than three persons that have been appointed from time to time by Council for the purpose of hearing appeals regarding revocations pursuant to this by-law.
- (b) "dwelling unit" means a room or group of rooms to be used by one family that functions as a single independent housekeeping unit in which cooking facilities, living quarters, sleeping facilities and sanitary facilities are provided for the exclusive use of those residing within the unit only, and with a private entrance from outside the building or from a common hallway or stairway inside.
- (c) "Inspector" means a Building Inspector, a By-law Enforcement Officer or a Fire Prevention Inspector appointed by the Corporation.
- (d) "material change" means any change or alteration to the unit that would require a building permit under the Ontario Building Code.
- (e) "Owner" means the registered owner of the property or a person authorized, in writing, to act as agent for the registered owner.
- (f) "Registrar" means the Clerk of the Corporation of the Town of Newmarket.
- (g) "two unit house" means a detached house or a semi-detached house which contains two dwelling units.

2. PROHIBITION:

No person shall operate or permit the occupancy of more than one residential dwelling unit in a two-unit house unless the two-unit house is registered as required by this by-law.

3. REGISTRATION:

- (a) Every person who operates or permits the occupancy of more than one residential dwelling unit in a two-unit house shall register the two-unit house with the Registrar as required by this by-law. Once it has been registered, the two-unit house shall remain registered unless the registration is revoked.

- (b) Upon registration of a two-unit house, the Town shall provide the Owner with an “N” plate to indicate that the house is a two-unit house registered in accordance with this by-law, and the Owner shall display the “N” plate on the exterior of the two-unit house in the same manner as the numerals forming the municipal address.
- (c) All two-unit houses lawfully constructed and registered under By-law 2003-127 as of the date of the enactment of this by-law shall be provided by the Town with an “N” plate to indicate that the house is a two-unit house registered in accordance with this by-law, and the Owner shall display the “N” plate on the exterior of the two-unit house in the same manner as the numerals forming the municipal address.
- (d) Upon registration of the two-unit house, the Town shall assign a municipal address to indicate that the house is a two-unit house registered in accordance with this by-law, and the owner shall display the municipal address provided by the Town on the exterior of the house in the same manner as the numerals forming the existing municipal address.
- (e) All two-unit houses lawfully constructed and registered under By-law 2003-127 as of the date of the enactment of this by-law shall be provided by the Town with a municipal address to indicate that the house is a two-unit house registered in accordance with this by-law, and the Owner shall display the municipal address on the exterior of the two-unit house in the same manner as the numerals forming the existing municipal address.
- (f) Requirements of registration:
 - (i) Each dwelling unit in a two-unit house shall be inspected by an Inspector to ensure that it complies with all relevant standards set out in (a) the Ontario Building Code, (b) the Ontario Fire Code, (c) the Town’s Zoning By-law 2010-40, as amended, (d) the Town’s Property Standards By-law 1999-34, as amended and, (e) the Ontario Electrical Code. In the event a dwelling unit has previously been inspected, only material changes completed after the initial inspection will be inspected.
 - (ii) Notwithstanding 3(f)(i), inspections by an Inspector for purposes of compliance with the Ontario Fire Code shall only be required for dwelling units in a two-unit house constructed prior to November 16, 1995.
 - (iii) The Registrar must be satisfied that, in the 12 months prior to the application for registration, there have been no outstanding orders, notices or charges under Property Standards By-law 1999-34, as amended, or Zoning By-law 2010-40, as amended, against the registered owner of the two-unit house or against the property where the two-unit house is located. Notwithstanding this provision, the Registrar may register any two-unit house upon the applicant demonstrating that any order, notice or charge under Property Standards By-law 1999-34 or Zoning By-law 2010-40 has been complied with. In all such cases, the applicant must meet all other requirements for registration as set out in this by-law.
 - (iv) The Owner shall pay a non-refundable registration fee, as set out in the Town’s Fees and Charges By-law, as amended.
 - (v) The Owner shall submit a completed application form provided by the Town.

4. REFUSAL AND REVOCATION:
 - (a) The Registrar may refuse to register any two-unit house that does not meet the requirements set out in this by-law.
 - (b) The onus of proving that each dwelling unit in a two-unit house meets the requirements set out in this by-law is on the Owner of the two-unit house.
 - (c) The Registrar may revoke the registration of any two-unit house at any time after registration, where registration was granted on the basis of mistake or on the basis of false or misleading information.
5. NOTICE OF INTENT TO REVOKE REGISTRATION DUE TO NON-COMPLIANCE:
 - (a) The registrar shall give notice of intent to revoke the registration of a two-unit house where the registration was granted on the basis of mistake or on the basis of false or misleading information as outlined in this by-law.
 - (b) Such notice shall provide a brief written explanation of the reason for the intent to revoke registration.
 - (c) Such notice shall be served personally on the Owner of the two-unit house or by registered mail to the Owner of the two-unit house at the address of the two-unit house and/or the address supplied on the application for registration, in which case it shall be deemed to have been given on the 5th day after it is mailed.
 - (d) Upon receipt of the notice of intent to revoke registration the owner shall have a period of no more than sixty (60) days to submit true and/or corrected information to comply with the requirements of the registration as outlined in this by-law.
6. NOTIFICATION OF REVOCATION:
 - (a) Where the Registrar revokes the registration of a residential two-unit house, he/she shall notify the Owner of the two-unit house of such revocation, and provide a brief written explanation of the reason for the revocation.
 - (b) Such notice shall be served personally on the Owner of the two-unit house or by registered mail to the Owner of the two-unit house at the address of the two-unit house and/or the address supplied on the application for registration, in which case it shall be deemed to have been given on the 5th day after it is mailed.
 - (c) The notice shall inform the Owner that he/she is entitled to a hearing before the Appeals Committee, if he/she delivers, within five (5) days after the date of service of the written notice, a written request for a hearing before the Appeals Committee.
 - (d) A copy of such notice shall be sent by registered mail to each occupant of the two-unit house at the address of the two-unit house.
7. HEARING:
 - (a) On receipt of a written request for a hearing from an Owner, the Appeals Committee shall convene a meeting and shall give the Owner ten days written notice thereof.
 - (b) The Owner shall have the right to make submissions in support of his/her registration or retention of his/her registration at such hearing and when the Owner who has been given written notice of the hearing, does not attend at the proper time and place, the Appeals Committee may proceed with the hearing in his/her absence and the Owner shall not be entitled to any further notice of the proceedings. Furthermore, the Owner shall not be entitled to a further hearing on the matter and the decision of the Appeals Committee shall be final.

8. REGISTRAR:

- (a) The Clerk is appointed as Registrar for the purposes of this by-law and has the responsibility of maintaining a register of two-unit houses.
- (b) The Registrar may designate such persons as are necessary to administer this by-law.

9. INSPECTIONS AND POWER OF ENTRY:

- (a) No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law.
- (b) An Inspector may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
 - (i) this By-law;
 - (ii) a condition of a Site Alteration Permit issued under this By-law;
 - (iii) an order of the Town made under this By-law; or
 - (iv) an order made under s. 431 of the *Municipal Act, 2001*, as amended.
- (c) For the purposes of conducting an inspection pursuant to s. 9 of this By-law, an Inspector may, in accordance with the provisions in s. 436 of the *Municipal Act, 2001*, as amended:
 - (i) require the production for inspection of documents or things relevant to the inspection;
 - (ii) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (iii) require information from any person concerning a matter related to the inspection; and
 - (iv) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- (d) An Inspector may undertake an inspection pursuant to an order issued under section 438 of the *Municipal Act, 2001*.
- (e) The Town's power of entry may be exercised by: (a) an employee, officer or agent of the Town (b) a member of a police force having jurisdiction, or (c) any person acting under the direction of a member of a police force having jurisdiction.

10. ORDER TO DISCONTINUE:

- (a) Where an Inspector is satisfied that a contravention of this By-law has occurred, the Inspector may make an order requiring the person who contravened this By-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity.
- (b) An order to discontinue shall set out:
 - (i) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - (ii) the date by which there must be compliance with the order.

- (c) Any person who contravenes an order to discontinue is guilty of an offence.
- (d) The order shall be served personally on the Owner of the two-unit house or by registered mail to the Owner of the two-unit house at the address of the two-unit house and/or the address supplied on the application for registration, in which case it shall be deemed to have been given on the 5th day after it is mailed.

11. OFFENCE:

- (a) Every person who contravenes a provision of this By-law, including an Order issued under this By-law, is guilty of an offence and, upon conviction, is liable to a fine as provided for in the *Provincial Offences Act*.
- (b) If there is a contravention of any provision of this By-law, and the contravention has not been corrected, the contravention of the provision shall be designated as a continuing offence for each day or part of a day that the contravention remains uncorrected.
- (c) If an order has been issued under this By-law, and the order has not been complied with, the contravention of the order shall be designated as a continuing offence for each day or part of a day that the order is not complied with.
- (d) For purposes of this By-law, if there is an offence respecting two or more acts or omissions, each of which separately constitutes an offence and is a contravention of the same provision of this By-law, then the offence is designated as a multiple offence.
- (e) For purposes of this By-law, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered for the same offence at an earlier date.

12. PENALTY:

- (a) Every person who is guilty of an offence under this By-law on conviction is liable to the following penalties:
 - (i) Upon a first conviction, the minimum fine shall be \$350.00 and the maximum fine shall be \$100,000.00;
 - (ii) Upon a second or any subsequent conviction, the minimum fine shall be \$500.00 and the maximum fine shall be \$100,000.00.
 - (iii) Upon conviction for a continuing offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00 for each day or part of a day that the offence continues;
 - (iv) Upon conviction for a multiple offence, for each offence included in the multiple offences, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00.

13. EXCEPTION:

- (a) All two-unit houses lawfully constructed and registered under Town of Newmarket By-law 2003-127 as of the date of the enactment of this by-law shall not be required to re-register said two-unit houses as required by this by-law;

14. AND THAT if any provision of this By-law is declared invalid, void or unenforceable by a Court of competent jurisdiction, the invalidity shall not affect other provisions or application of this By-law which can be given effect without the invalid provision and to this end, the provisions of this By-law are severable;

15. AND THAT By-laws 2003-127, 2003-106, 2004-5, 2007-37, and 2007-63 are hereby repealed.

ENACTED THIS 15TH DAY OF APRIL 2013.

Tony Van Bynen, Mayor

Andrew Brouwer, Town Clerk