

By-law 2017-14

A By-law of the City of Greater Sudbury for the Registration of Secondary Dwelling Units in the City of Greater Sudbury

Whereas subsection 16(3) of the *Planning Act*, R.S.O. 1990, c. P.13 as amended, requires municipalities to implement official plan policies authorizing the use of second residential units and subsection 35.1(1) requires that by-laws passed under section 34 give effect to the policies described in subsection 16(3) of the *Planning Act*;

And Whereas the City of Greater Sudbury has amended its Official Plan and its comprehensive Zoning BY-law 2010-100Z in order to comply with these requirements of the *Planning Act*;

And Whereas subsection 8(1) of the *Municipal Act 2001*, S.O. 2001, c. 25 provides that the powers of a municipality under the Act or any other act shall be interpreted broadly so as to confer broad authority on the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

And Whereas subsection 10(2)6 of the *Municipal Act 2001*, S.O. 2001, c. 25 authorizes a municipality to pass by-laws respecting the health, safety and well-being of persons and the protection of persons and property;

And Whereas the Council of the City of Greater Sudbury deems it desirable to enact a by-law to require the registration of secondary dwelling units in the City of Greater Sudbury in order to protect persons, property and the health, safety and well-being of its residents;

Now therefore the Council of the City of Greater Sudbury hereby enacts as follows:

Part 1 Terminology / General

Terminology

1. For the purposes of this By-law:

"By-law" means this By-law as it may be amended from time to time. The recitals to and the schedules attached to this By-law are considered integral parts of it;

"CBO" means the person appointed by the City as its Chief Building Official pursuant to the *Building Code Act*, 1992, S.O. 1992, c. 23 and includes his or her authorized designate;

“City” means the municipal corporation of the City of Greater Sudbury or the geographic area of the City of Greater Sudbury as the context requires;

“Municipal By-law Enforcement Officer” includes the CBO, any Municipal By-law Enforcement Officer appointed by Council for the enforcement of this By-law and a duly sworn member of the Greater Sudbury Police Service;

“Person” includes an individual, a sole proprietorship, a partnership, an unincorporated association, a trust and a corporation;

“Secondary Dwelling Unit” means a dwelling unit that is ancillary and subordinate to a primary dwelling unit that may be contained within the main building on a lot or in an accessory building, where “dwelling unit”, “primary dwelling unit”, “main building”, and “accessory” have the meaning assigned to such terms as defined in the Zoning By-law;

“User Fee By-law” means the City’s By-law to Establish Miscellaneous User Fees for Services Provided by the City of Greater Sudbury, 2015-266, as amended or replaced from time to time; and

“Zoning By-law” means the City’s Comprehensive Zoning By-law 2010-100Z as amended or replaced from time to time.

Interpretation

2.-(1) Whenever this By-law refers to a Person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.

(2) References to items in the plural include the singular, as applicable.

(3) The words “include”, “including” and “includes” are not to be read as limiting the phrases or descriptions that precede them. Any examples provided are intended to be representative examples and not intended to be an exhaustive list.

(4) Headings are inserted for ease of reference only and are not to be used as interpretation aids.

(5) Specific references to laws in the By-law are printed in italic font and are meant to refer to the current laws applicable with the Province of Ontario as at the time the By-law was enacted, as they are amended, restated or replaced from time to time.

(6) Any reference to periods of time, stated in numbers of days, shall be deemed applicable on the first business day after a Sunday or Statutory holiday if the expiration of the time period occurs on a non business day, where 'business day' means Monday to Friday except a statutory or civic holiday.

(7) The obligations imposed by this By-law are in addition to obligations otherwise imposed by law or contract.

(8) Where this By-law provides metric and imperial units of measure, the metric unit of measure shall prevail. For convenience only, approximate imperial measurements have been provided in parentheses but are of no force or effect. The abbreviation "mm" stands for millimetres and "m" stands for metres.

(9) Nothing herein authorizes a contravention of the Zoning By-law.

(10) Terms with capitals shall be read with the meaning in section 1, and other words shall be given their ordinary meaning.

Severability / Conflict

3.-(1) If any section, subsection, part or parts of this By-law is declared by any court of law to be bad, illegal or ultra vires, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

(2) Nothing in this By-law relieves any person from complying with any provision of any Federal or Provincial legislation or any other By-law of the City.

(3) Where a provision of this By-law conflicts with the provisions of another By-law in force in the City, or any of the provisions of any federal or provincial states or regulation, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

Application

4. This By-law shall apply within the geographic limits of the City.

Administration/ Delegation

5.-(1) The administration of this By-law is assigned to the CBO who is delegated the authority to:

- (a) make all decisions and determinations required of the CBO under this By-law;
- (b) perform all administrative functions, referred to herein and those incidental to and necessary for the due administration and implementation of this By-law;
- (c) establish and amend from time to time, such protocols, procedures and standards and such forms and documents, as the CBO may determine are required to implement and administer this By-law; and
- (d) develop, implement and update from time to time programs and processes to increase public awareness and understanding of secondary unit registration issues, procedures, policies and guidelines.

(2) The CBO may delegate the performance of any one or more of his or her functions under this By-law to one or more persons from time to time as the occasion requires and may impose conditions upon such delegation and may revoke any such delegation. The CBO may continue to exercise any function delegated during the delegation.

(3) The decisions of the CBO are final and not subject to appeal.

Registration Required

6.-(1) Every Owner of a single detached dwelling, a semi-detached dwelling, a row dwelling, a street townhouse dwelling or a building accessory to any of the foregoing, which has a Secondary Dwelling Unit shall register the Secondary Dwelling Unit in accordance with this By-law.

(2) No Person shall establish, operate, permit the occupancy of or permit the continuing occupancy of a Secondary Dwelling Unit in a single detached dwelling, a semi-detached dwelling, a row dwelling, a street townhouse dwelling or a building accessory to any of the foregoing unless the Secondary Dwelling Unit is registered in accordance with the requirements of this By-law.

(3) For the purposes of subsections 6(1) and 6(2) "single detached dwelling", "semi-detached dwelling", "row dwelling", "street townhouse dwelling", and "accessory" each have the meaning assigned to such terms as defined in the Zoning By-law

(4) For clarity, registration pursuant to this section is permitted but not required in circumstances in which:

- (a) an additional dwelling unit was created on or before July 16, 2016 pursuant to and compliant with a site-specific Zoning By-law Amendment; and

- (b) a building permit authorizing the construction of the additional dwelling unit has been issued, final inspections have occurred and there are no outstanding issues under the building permit as it relates to the additional dwelling unit.
- (5) In the event of a registration pursuant to subsection 6(4), the dwelling unit shall, for the purposes of this By-law be treated as a Secondary Dwelling Unit, and references to Secondary Dwelling Unit shall include such registered dwelling units.

Application for Registration

7.-(1) Every applicant for registration under this By-law shall file with the CBO:

- (a) an application in the form established by the CBO from time to time, fully completed and signed by the applicant, declaring the accuracy of the information provided. Where the applicant is a corporation or a partnership, the application shall be signed by a Person who has authority to bind the applicant corporation or partnership;
- (b) the applicable application fee determined in accordance with the User Fee By-law;
- (c) where the applicant is not the Owner of the property on which the Secondary Dwelling Unit is situate, consent of the Owner to the application; and
- (d) such other documents and information as may be identified in the application form, or as the CBO may require in the circumstances to assess the application or to be satisfied as to compliance with the requirements for registration.

(2) The applicant for registration of a Secondary Dwelling Unit shall bear the onus of providing evidence satisfactory to the CBO that the Secondary Dwelling Unit qualifies for registration.

(3) No application fees shall be refunded to the applicant.

Refusal to Register

8.-(1) The CBO shall refuse to register the Secondary Dwelling Unit unless to the CBO is satisfied that:

- (a) the applicant has filed the application, fees, documents and information required pursuant to section 7; and
- (b) the Secondary Dwelling Unit is compliant with applicable requirements of:
 - (i) the Zoning By-law;

- (ii) the City's By-law to Prescribe Standards for Maintenance and Occupancy of All Property, By-law 2011-277, as amended or replaced from time to time;
- (iii) the *Building Code Act, 1992*, S.O. 1992, c. 23 as amended or replaced;
- (iv) the *Building Code*, O. Reg 332/12 as amended or replaced;
- (v) the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended and replaced; and
- (vi) the Ontario Fire Code, O. Reg 213/07, as amended and replaced;
- (vii) the Ontario Electrical Safety Code, as amended and replaced; and
- (viii) any other applicable law.

(2) For clarity, compliance with the Zoning By-law need not be provided where the applicant provides evidence that the CBO has made a determination that the use of the Secondary Dwelling Unit is a legal nonconforming use.

Notice of Decision

9.-(1) The CBO shall provide written notification of any refusal of an application for registration under this By-law and the reasons for the application. Notice may be given in person, or mailed by registered mail to the applicant at the address for the applicant shown in the application.

(2) The decision of the CBO shall be final.

(3) Nothing prevents a Person from re-applying for registration of a Secondary Dwelling Unit after a refusal to register or revocation of a registration. A re-application shall be treated as a new application, and processed in accordance with section 7.

(4) Once registered, the Secondary Dwelling Unit shall remain registered unless the registration is revoked.

Registry

10.-(1) The CBO shall maintain and keep current, a register of Secondary Dwelling Units registered under this By-law, including:

- (a) the address of the property where the Secondary Dwelling Unit is situate;
- (b) a description of the where the Secondary Dwelling Unit is to be found on the property;
- (c) the date of registration;
- (d) the date and other particulars of any revocation of the registration; and

- (e) such other information as the CBO shall determine.

(2) The register shall be available to the public in a form and in a manner determined by the CBO from time to time.

Revocation of Registration

11.-(1) The CBO shall revoke the registration of a Secondary Dwelling Unit:

- (a) if, in the opinion of the CBO:
 - (i) the registration was based in whole or in part on false information;
 - (ii) the registration was made in error;
 - (iii) the Secondary Dwelling Unit no longer qualifies for registration under this By-law, for any reason; or
- (b) upon written request of the Owner supported by evidence satisfactory to the CBO that the Secondary Dwelling Unit has been demolished or converted such that it can no longer be used as a Secondary Dwelling Unit.

(2) Where an Owner applies under paragraph 11(1)(b), nothing herein releases the Owner from obtaining such permits as may be required to demolish or convert a former Secondary Dwelling Unit such that it is no longer a residential dwelling unit.

(3) Where the CBO revokes a registration, whether on his or her own initiative, or at the request of the Owner, the CBO shall advise the Owner in writing. Notice may be given by regular mail, mailed to the address for the Owner as shown in the tax rolls for the property on which the Secondary Dwelling Unit was located. The notice shall include the reason for the revocation and the effective date of the revocation. The revocation is not dependent upon notice being received.

Identification

12.-(1) To signify to emergency responders and wayfinders the presence of a registered Secondary Dwelling, every Owner of a property on which there is a single detached dwelling, a semi-detached dwelling, a row dwelling, a street townhouse dwelling or a building accessory to any of the foregoing, with respect to which a Secondary Dwelling Unit has been registered, shall:

- (a) place or cause to be placed, the letters SU in a location immediately below the municipal street number on the building; and
- (b) maintain in place or cause to be maintained in place, the letters SU in the location described in 12(1)(a).

(2) The Owner shall ensure that the letters SU required under subsection 12(1) meet the following requirements. The letters used shall be:

- (a) no less than
 - (i) 3 inches in height if the building setback from the streetline does not exceed 10 feet;
 - (ii) 4 inches in height if the building setback from the streetline does not exceed 30 feet;
 - (iii) 6 inches in height if the building setback from the streetline does not exceed 50 feet; and
 - (iv) a size approved in writing by the CBO if the building setback from the streetline exceeds 50 feet.
- (b) in printed format, not in cursive;
- (c) in a contrasting color to the background; and
- (d) clearly legible in both daylight and at night, when viewed from the street.

Enforcement - No Obstruction Etc.

13. This By-law may be enforced by any Municipal By-Law Enforcement Officer.

Right of Entry - Inspection

14.-(1) A Municipal By-law Enforcement Officer acting pursuant to this By-law may, at any reasonable time, enter and inspect any property, for the purpose of carrying out an inspection to determine whether there is compliance with any one or more of the following:

- (a) the requirements of this By-law;
- (b) an order made pursuant to this By-law or the *Municipal Act, 2001*; or
- (c) an order made pursuant to section 431 of the *Municipal Act, 2001*.

(2) A Municipal By-law Enforcement Officer shall not enter a place being used as a dwelling unless:

- (a) the consent of the owner or occupant is first obtained, ensuring the owner or occupant is first advised that entry may be denied and in such circumstance, entry can only occur thereafter under authority of a warrant;
- (b) a warrant issued under section 158 of the *Provincial Offences Act* is obtained;
- (c) a warrant issued under section 439 of the *Municipal Act, 2001* is obtained;
- (d) a warrant is issued under subsection 386.3 of the *Municipal Act, 2001* is obtained;
- (e) an order issued under section 438 of the *Municipal Act, 2001* is obtained; or

- (f) the delay necessary to obtain a warrant or the consent of the Owner or occupant would result in the immediate danger to the health or safety of any person.

(3) For the purposes of conducting an inspection, a Municipal By-law Enforcement Officer may, in accordance with the provisions of section 436 of the *Municipal Act, 2001*:

- (a) require the production for inspection of documents or things relevant to the inspection;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information from any Person concerning a matter related to the inspection; and
- (d) alone or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.

(4) A Municipal By-law Enforcement Officer performing a duty under this By-law may be accompanied by a Person under his or her direction.

No Obstruction

15.-(1) No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Person exercising a power or performing a duty under this By-law.

(2) Any Person who provides false information to a Person exercising a power or performing a duty under this By-law shall be deemed to have hindered or obstructed such Person in the performance of his or her duty.

Offence

16.-(1) Every Person who contravenes any of the provisions of this By-law and any director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*.

(2) For the purposes of subsection 16(1), each day on which a Person contravenes any of the provisions of this By-law shall be deemed to constitute a separate offence under this By-law.

(3) 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 that the order is not complied with.

(4) 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.

(5) The levying and payment of any fine as provided for under the *Provincial Offences Act* shall not relieve a person from the necessity of compliance with the obligations under this By-law.

(6) If a Person is convicted of an offence pursuant to this By-law, the potential for receiving an economic advantage from a Secondary Dwelling Unit that is not registered pursuant to this By-law may be considered an aggravating factor for sentencing purposes which may attract a special fine.

Order to Discontinue

17. Where the Municipal By-law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Municipal By-law Enforcement Officer 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. The order shall set out reasonable particulars of the contravention, the location of the land on which the contravention is occurring and the date by which there must be compliance.

Service of Orders

18. Service of an order issued under section 17 shall be given to each Person, by delivering personally to the Person or by mailing to an Owner by registered mail at the address shown in the tax records for the City as the address for mailing tax bills. Service will be deemed effective upon delivery, or on the fifth day after mailing, whether or not it is actually received.

Comply with Order

19. Every Person who is served with an order under this By-law shall comply with the requirements of the order within the time period specified in the order.

Prohibition Order

20. When a Person has been convicted of an offence under this By-law, the Ontario Court (Provincial Division), or any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation of

the offence or doing of any act or thing by the Person convicted directed towards the continuation of the offence.

Attendance Fee

21.-(1) An enforcement attendance fee in an amount determined in accordance with the User Fee By-law then in effect shall be payable on a time spent basis:

- (a) for the second and each subsequent inspection conducted by a Municipal By-law Enforcement Officer to ascertain compliance with a notice, direction or order pursuant to this By-law, which is conducted after the specified date for compliance; and
- (b) in the event that a Municipal By-law Enforcement Officer attends any remediation directed by or conducted by the City, pursuant to this By-law as a result of a failure to comply with an order made pursuant to this By-law.

(2) Any fee under subsection 21.(1) shall be payable:

- (a) in accordance with the provisions of the User Fee By-law; and
- (b) in addition to any fine levied upon conviction of an offence under this By-law, and whether or not there is a charge laid, and whether or not any charge laid leads to a conviction.

Confidential Information

22.-(1) The CBO is authorized to collect personal information for the purposes of administering this By-law.

(2) All information submitted to and collected by the City in accordance with this By-law shall, unless the City Clerk determines otherwise, be available for disclosure to the public in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56 (MFIPPA).

(3) In the event that any Person is submitting information to the City or to the CBO in any form, as required under this By-law, where such information is confidential or proprietary or otherwise may be exempt from disclosure under the MFIPPA, the Person submitting the information shall so identify that information upon its submission to the City or the CBO and shall provide sufficient details as to the reason for its purported exemption from disclosure.

Short Title

23. This By-law may be referred to as the "Secondary Dwelling Unit Registration By-law".

Effective

24. This By-law shall come into full force and effect upon passage.

Read and Passed in Open Council this 10th day of January, 2017



Mayor



Clerk