

The Corporation of the City of Guelph

By-law Number (2021) - 20609

A by-law to provide for the registration of Additional Residential Dwelling Units and to repeal by-law number (2017)-20199.

WHEREAS under subsections 8(1), 8(2), 8(3), 8(4), 10(1) and 10(2) of the *Municipal Act, 2001* the City may pass by-laws providing for the registration of Additional Residential Dwelling Units;

AND WHEREAS the City previously passed By-law Number (2017)-20199 providing for the registration of Two-unit houses;

AND WHEREAS the City wishes to replace its by-law providing for the registration of Two-unit houses with a new by-law providing for the registration of Additional Residential Dwelling Units;

AND WHEREAS under section 425 of the *Municipal Act, 2001* the City may pass by-laws providing that a person who contravenes a by-law of the City passed under the *Municipal Act, 2001*, or a director or officer of a corporation who knowingly concurs in the contravention of a by-law, is guilty of an offence;

AND WHEREAS under section 429 of the *Municipal Act, 2001* the City may establish a system of fines for offences under a by-law;

The Council of The Corporation of the City of Guelph enacts as follows:

Interpretation

1. In this By-law:

"Additional Residential Dwelling Unit" means:

- (i) an Additional Residential Dwelling Unit as defined in the Zoning By-Law and as permitted in the Zoning By-law or as approved by a planning application under the *Planning Act*; or
- (ii) one of two Dwelling Units in the same Building on the same lands and premises

but does not include a Building with a commercial use located on lands zoned commercial as set out by the Zoning By-law;

"Building" means a building as defined in the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended or replaced from time to time;

"*Building Code*" means the Building Code, O. Reg. 332/12, as amended or replaced from time to time;

"City" means The Corporation of the City of Guelph;

"Contact Information" means information about an Owner that will enable the Registrar to contact the Owner, and includes as many as possible of the following: address(es) for personal service, mailing address(es), telephone number(s), fax number(s), and email address(es);

"Dwelling Unit" means a room or group of rooms occupied or designated to be occupied as a independent and separate self-contained housekeeping unit.

"*Electrical Safety Code*" means the Electrical Safety Code, O. Reg. 164/99, as amended or replaced from time to time;

"*Fire Code*" means the Fire Code, O. Reg. 213/07, as amended or replaced from time to time;

"Primary Dwelling Unit" means a dwelling contained in the main building in which the principal use of the property is carried out;

"*Municipal Act*" means the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended or replaced from time to time;

"Owner", in respect of a Additional Residential Dwelling Unit, means the registered owner of the lands and premises upon which the Additional Residential Dwelling Unit is located;

"*Planning Act*" means the *Planning Act*, R.S.O. 1990, c.P.13, as amended or replaced from time to time;

"Power of Entry By-Law" means the City's Power of Entry By-Law Number (2009)-18776, as amended or replaced from time to time;

"Property Standards By-law" means the City's Property Standards By-law Number (2000)-16454, as amended or replaced from time to time;

"*Provincial Offences Act*" means the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended or replaced from time to time;

"Register" means the public record of Additional Residential Dwelling Units registered under this Bylaw;

"Registrar" means the Chief Building Official of the City or the Chief Building Official's designate;

"User Fee By-law" means the City's User Fee By-Law Number (2020)-20550, as amended or replaced from time to time.

"Zoning By-law" means the City's Zoning By-law Number (1995)-14864, as amended or replaced from time to time.

2. This By-law is to be construed with all changes in number and gender as may be required by the context.
3. If a court of competent jurisdiction declares any provision or part of a provision of this By-law to be invalid, illegal, unenforceable or of no force and effect, it is the intention of Council in enacting this By-law that the remainder of this By-law will continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.
4. If the Owner of a Additional Residential Dwelling Unit comprises two or more persons, then a representative, comprising fewer than all of those persons, is sufficient to carry out any obligation of the Owner under this By-law, as long as such representative has the permission of all the other persons comprising the Owner.
5. The Registrar shall be responsible for the administration of this By-law, and may prescribe all forms and procedures necessary to implement this By-law, and may amend such forms and procedures from time to time as the Registrar determines necessary.
6. Where the Registrar is authorized to make any decision or determination under this By-law, the Registrar may make such decision or determination in the Registrar's sole and absolute discretion.

Requirement for Registration

7. Every Owner shall register each Accessory Residential Dwelling located on the property.
8. No person shall own, operate or permit the occupancy of an Additional Residential Dwelling Unit unless it is registered under this By-law.

Initial, Automatic Registration

9. Upon passage of this By-law, every Additional Residential Dwelling Unit that was registered as part of Two-unit House registered under By-law (2017)-20199, is automatically registered under this By-law.

Applying for Registration – General

10. If an Additional Residential Dwelling Unit is not registered under this By-law, then the Owner shall apply to the Registrar to have it registered under this By-law.
11. An Owner, who applies to have an Additional Residential Dwelling Unit registered under this By-law, shall pay all applicable fees or charges pursuant to the User Fee By-law for all documentation required for registration.
12. In applying to have an Additional Residential Dwelling Unit registered under this By-law, the Owner shall provide the following to the Registrar:
 - (a) Contact Information;
 - (b) Such drawings and other information and material as the Registrar may require; and
 - (c) The applicable fees or charges.
13. The Owner shall bear the onus of proving to the Registrar that the Owner's Additional Residential Dwelling Unit meets all applicable requirements for registration under this By-law. For greater certainty, an Additional Residential Dwelling Unit may still qualify for registration under this By-law despite being part of a legal non-conforming use.

Applying for Registration – Additional Residential Dwelling Unit created prior to July 1, 1993

14. An Owner, applying for registration of an Additional Residential Dwelling Unit located within the same Building of the primary Dwelling Unit on the basis that the Additional Residential Dwelling Unit was created prior to July 1, 1993, shall provide to the Registrar documentation that establishes, to the satisfaction of the Registrar, that:
 - (a) Applicable building permits were obtained;
 - (b) The Additional Residential Dwelling Unit existed prior to July 1, 1993;
 - (c) The Additional Residential Dwelling Unit has remained in existence since July 1, 1993; and
 - (d) The Additional Residential Dwelling Unit complies with all provisions of the *Electrical Safety Code*, *Fire Code*, *Property Standards By-law* and *Zoning By-law* which the Registrar determines are appropriate.
15. An Owner, applying for registration of an Additional Residential Dwelling Unit on the basis that the Additional Residential Dwelling Unit was created prior to July 1, 1993, who fails to provide to the Registrar documentation that establishes, to the satisfaction of the Registrar, that

the Additional Residential Dwelling Unit qualifies for such registration, shall satisfy the requirements of this By-law as set out in Section 16.

Applying for Registration – Additional Residential Dwelling Unit created on or after July 1, 1993

16. An Owner, applying for registration of an Additional Residential Dwelling Unit that was created on or after July 1, 1993, or which does not qualify for registration on the basis that the Additional Residential Dwelling Unit that was created prior to July 1, 1993, shall provide to the Registrar documentation that establishes, to the satisfaction of the Registrar, that the Additional Residential Dwelling Unit complies with all provisions of the *Building Code, Electrical Safety Code, and Zoning By-law* which the Registrar determines are appropriate.

Consideration of an Application for Registration

17. In considering an application for registration under this By-law, the Registrar may require the Owner to obtain, pay for and provide inspection reports that are satisfactory to the Registrar.
18. If an application for registration under this By-law is incomplete, the Registrar may require the applicant to make the application complete. If an applicant fails to make an incomplete application complete the Registrar may deny the application. If the Registrar denies the application the Registrar shall retain the fees or charges received.
19. If an application for registration received by the Registrar under this By-law is complete, and satisfies all applicable requirements for registration under this By-law, the Registrar shall register the Additional Residential Dwelling Unit in the Register and shall notify the applicant.

Compliance after Registration

20. The Owner of a registered Additional Residential Dwelling Unit shall ensure compliance of the Additional Residential Dwelling Unit with the *Building Code, Electrical Safety Code, Fire Code, Property Standards By-law, Zoning By-law* and all applicable provisions of this By-law.

Reconsideration of a Registration

21. If a Additional Residential Dwelling Unit is registered, but information or material suggests that the Additional Residential Dwelling Unit may no longer comply with the requirements of this By-law, then the Registrar may notify the Owner.
22. If an Owner is notified by the Registrar that information or material suggests that the Owner's Additional Residential Dwelling Unit may no longer meet the requirements of this By-law, then the Owner shall satisfy the Registrar that the Additional Residential Dwelling Unit meets the requirements of this By-law. In order to be satisfied that the Additional Residential Dwelling Unit meets the requirements of this By-law, the Registrar may require:
 - (a) Current Contact Information;
 - (b) Such drawings and other information and material as the Registrar may require;
 - (c) Inspection reports that are satisfactory to the Registrar; and
 - (d) Payment of any applicable fees or charges.
23. If an Owner fails to provide sufficient evidence to satisfy the Registrar under the foregoing provision, the Registrar may require the Owner to do so within one month. If the Owner fails to provide sufficient evidence within one month, the Registrar may revoke the registration of the

Additional Residential Dwelling Unit, and, if the Registrar revokes the registration, the Registrar shall notify the Owner. Despite such revocation, the Registrar shall retain the fees or charges received.

Contact Information

24. Every Owner of a Additional Residential Dwelling Unit shall maintain the Owner's current, correct Contact Information with the Registrar.

Change of Owner

25. If the ownership of a registered Additional Residential Dwelling changes, then the outgoing Owner and incoming Owner shall notify the Registrar of the ownership change within one month after such change.

Enforcement

26. The City's Power of Entry By-law applies to enforcement of this By-law by every Inspector.
27. Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*.
28. Each day on which a person contravenes any provision of this By-law shall be deemed to constitute a separate offence under this By-law as provided for in section 429(2) of the *Municipal Act*.
29. Pursuant to the authority established in section 429(2) of the *Municipal Act*, every person, other than a corporation, who contravenes any provision of this By-law, is guilty of an offense and upon conviction pursuant to Part III of the *Provincial Offences Act*, shall be subject to the following penalties:
 - (a) Upon a first conviction is liable to a fine of not more than Ten Thousand Dollars (\$10,000.00) for each offence;
 - (b) Upon subsequent conviction, to a fine of not more than Twenty-five Thousand Dollars (\$25,000) for each offence.

Such fines shall be recoverable under the *Provincial Offences Act*.

30. Pursuant to the authority established in section 429(2) of the *Municipal Act*, every corporation, who contravenes any provision of this By-law is guilty of an offence and upon conviction pursuant to Part III of the *Provincial Offences Act*, shall be subject to the following penalties:
 - (a) Upon a first conviction is liable to a fine of not more than Fifty Thousand Dollars (\$50,000) for each offence;
 - (b) Upon subsequent conviction, to a fine of not more than One Hundred Thousand Dollars (\$100,000) for each offence.

Such fines shall be recoverable under the *Provincial Offences Act*.

Short Title

31. The short title of this By-law is "Additional Residential Dwelling Unit Registration By-law".

Repeals

32. The following By-law is repealed: (2017)-20199

Effective Date

33. This By-law shall come into effect upon passage.

Passed this thirty-first day of May, 2021.

Cam Guthrie, Mayor

Dylan McMahon, Acting City Clerk