

THE CORPORATION OF THE TOWN OF WHITBY

BY-LAW NO. 6322-10

BEING A BY-LAW TO REQUIRE REGISTRATION OF ACCESSORY APARTMENTS

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 on March 29, 2010 Council amended zoning by-laws within the Town to permit accessory apartments in single detached and semi-detached dwellings; and

WHEREAS Council of the Corporation of the Town of Whitby considers it appropriate to pass a by-law, to require the registration of accessory apartments, and set out regulations requiring the maintenance of safety and property standards for occupancy as set out in this by-law, the Building Code Act, the Fire Promotion and Protection Act, the Electricity Act and relevant by-laws of the Town of Whitby;

NOW THEREFORE the Council of the Corporation of The Town of Whitby hereby enacts as follows:

DEFINITIONS

1. For the purposes of this By-law;
 - (a) ACCESSORY APARTMENT – means a separate, self-contained area within a dwelling, used or intended to be used by one or more persons, which contains cooking, eating, living, sleeping and sanitary facilities;

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- (b) ELECTRICAL SAFETY AUTHORITY – means the person or body designated by the regulations to the Electricity Act 1998 S.O. 1998, c.15, as the Electrical Safety Authority;
- (c) ELECTRICAL SAFETY CODE – means Electrical Safety Code adopted by Ontario Regulation made under the Electricity Act 1998 S.O. 1998;
- (d) INSPECTOR- means a Building Inspector, Municipal Law Enforcement Officer or Fire Prevention Officer appointed by the Town of Whitby;
- (e) OWNER – means the person(s) in whom is vested the legal title to property and shall include, any person managing or receiving any rent from the land or premises in connection therewith, whether on the person's own account or as agent or trustee for any other person who would receive the rent if the land and premises were let;
- (f) REGISTRAR - means the Director of Public Works of the Town or his/her designate;
- (g) REGISTRATION means authorization under this By-law, or its predecessor, By-law 4359-99, verified by issuance of a Registration Certificate from the Town to own property containing an Accessory Apartment;
- (h) REGISTRY - means the written or computerized public record established and maintained by the Registrar in which information is set out in respect of properties containing Accessory Apartments that are registered with the Town; and
- (i) TOWN - means The Corporation of the Town of Whitby.

REGISTRATION

2. Every Owner of property containing an Accessory Apartment shall obtain and maintain Registration of the Accessory Apartment with the Town.

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APPLICATION FOR REGISTRATION

3. To obtain Registration, the Owner of property containing an Accessory Apartment shall:
 - (a) Submit a completed application on a form provided by the Town;
 - (b) Pay the prescribed fee in the amount set out in the Town of Whitby, Public Works Department Fees for Services By-law, 6150-09 as amended;
 - (c) Arrange for relevant inspections of the property containing the Accessory Apartment, by an Inspector(s);
 - (d) Provide certification from the Electrical Safety Authority, that the dwelling and Accessory Apartment comply with the requirements defined in the Ontario Electrical Safety Code;
 - (e) Provide a valid building permit issued by the Town for the construction of the Accessory Apartment;
 - (f) Provide an occupancy certificate pursuant to the Building Code Act issued by the Town for the Accessory Apartment;
 - (g) Provide any documents or information required by the Registrar to determine compliance with this By-law or any other applicable law.

DUTIES OF THE REGISTRAR

4. The Registrar shall register an Accessory Apartment that meets the requirements set out in this By-law.
5. The Registrar shall be responsible for directing the administration and enforcement of this By-law.
6. The Registrar may revoke the Registration of an Accessory Apartment by giving notice of intent to revoke under the following circumstances:

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- (a) The property containing the Accessory Apartment ceases to meet the requirements set out in this By-law or other applicable law;
- (b) The Registration Certificate was issued based on false or misleading information; or
- (c) The Registration was issued in error.

GENERAL REGULATIONS

- 7. Every Owner of a property containing an Accessory Apartment shall comply with
 - (a) The requirements of this By-law;
 - (b) All requirements as defined in the Ontario Electrical Safety Code;
 - (c) All relevant Town by-laws;
 - (d) The Ontario Building Code; and
 - (e) The Ontario Fire Code.
- 8. Where there is a change in any of the particulars contained in the application for Registration the Owner is required to report those changes to the Registrar within 7 days of the change(s).
- 9. A Registration Certificate issued to an Owner pursuant to this by-law, shall be proof of Registration of the Accessory Apartment, unless such Registration has been revoked by the Registrar.

INSPECTIONS

- 10. The Owner of property containing an Accessory Apartment shall arrange inspections of the property with the occupants of the property when notified to do so by an Inspector.

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11. An Inspector has the right to enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with this By-law.

OFFENCE AND PENALTY

12. It is an offence for an applicant to provide false or fraudulent information on an application for Registration.
13. No person shall hinder or obstruct, or attempt to hinder or obstruct an Inspector carrying out an inspection to determine compliance with this By-law.
14. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as set out in Section 61 of the Provincial Offences Act R.S.O. 1990 c.P.33.

SEVERABILITY

15. In the event that any of the provisions of this By-law are deemed invalid or void, in whole or in part, by any Court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

NUMBER/GENDER

16. All words and personal pronouns relating to words contained in this By-law shall be read and constructed with the number and gender of the person referred to in each case.

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LEGISLATION

17. References in this By-law to legislation, including regulations and municipal bylaws, shall be deemed to include legislation as amended, including successor legislation.

SHORT TITLE

18. This By-law may be referred to as “The Accessory Apartment Registration By-law”

EFFECTIVE DATE

19. This By-law shall come into force and effect on the date of passing by Council, with exception to section 3.(b), regarding the payment of fees.
20. Section 3.(b) of this by-law shall come into force and effect on January 1, 2011.
21. Any application made for registration of a two-unit house pursuant to By-law 4359-99, which has not been completed prior to the passing of this by-law, shall be registered pursuant to this by-law if such application has been completed and registration obtained, prior to January 1, 2011.

REPEAL OF EXISTING BY-LAWS

22. By-law No. 4359-99 as amended is hereby repealed.

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BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS
19TH DAY OF APRIL, 2010

Debi A. Wilcox, Town Clerk

Patricia Perkins, Mayor