

City of **MARKHAM**

Task 13A: Review & Assessment of Affordable and Shared Housing, and Secondary Suites

Comprehensive Zoning By-law Project



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Introduction

The City of Markham is committed to promoting affordable and shared housing opportunities and to providing an appropriate and adequate range of housing choices, with a diversity of housing types, tenure and affordability levels to accommodate the needs of all residents and workers¹. The City has made considerable progress towards this goal over the past decade by identifying its housing needs, reviewing current policies and practices, consulting with stakeholders, and establishing priority actions to increase housing choices.

The development approval framework for affordable and shared housing is a local responsibility in Ontario. Municipalities can play an effective role in promoting affordable and shared housing primarily through their ability to develop official plan policies, as well as zoning by-laws to help implement these policies.

In June 2014, York Region approved Markham's new Official Plan policies which support affordable and shared housing². The City is currently undertaking a New Comprehensive Zoning By-law Project and there is an opportunity to evaluate the existing zoning framework, identify in which ways it can be aligned with broader planning objectives, and assess zoning approaches that would enable the City to move forward in achieving the 2014 Official Plan's affordable and shared housing goals.

1 City of Markham. 2014 City of Markham Official Plan. Chapter 4: Healthy Neighbourhoods and Communities. Region Approved, June 2014.

2 Certain policies of the Plan remain under appeal at the Ontario Municipal Board (as of September 2015).

From a zoning perspective, among the range of regulatory tools available for municipalities to direct development and promote the availability of affordable and shared housing³, the most useful relate to the ability to implement zoning by-laws to permit secondary suites, and establish standards for shared housing, where appropriate. This discussion paper focuses on these issues. It is structured as follows:

- Section 1 reviews the policy framework for affordable and shared housing including recent changes to provincial and regional policy, and recent Markham research and policy initiatives that have led to the formulation of the affordable and shared housing policies contained in the 2014 Official Plan;
- Section 2 examines key zoning issues associated with shared housing;
- Section 3 reviews the policy framework for secondary suites including recent changes to the Planning Act and the York Region Official Plan, as well as work completed by Markham Council's Subcommittee on Second Suites which previously recommended a new Strategy for Secondary Suites, and the staff-recommended Action Plan to implement the Strategy;
- Section 4 examines key zoning issues associated with secondary suites, drawing on work previously completed by Markham and, where relevant, assessing the experiences of other municipalities in the Greater Toronto Area; and
- Section 5 concludes with a summary of the key zoning issues and approaches to be considered in the development of the comprehensive zoning by-law.

This report is part of a series of discussion papers prepared to inform Markham's New Comprehensive Zoning By-law Project. A separate paper, to be read in conjunction with this report, has been prepared to address zoning issues related to the provision of student housing. This report will be included as part of the public consultation on the new comprehensive zoning by-law review project scheduled for the fall of 2015.

Methodology

Beginning with an overview of applicable definitions and regional and local policies, this paper identifies specific considerations that should be taken into account in the drafting of the affordable and shared housing provisions, including secondary suite provisions, in the new comprehensive zoning by-law and suggests options for addressing them. These options are identified primarily through a review of a significant body of work already undertaken by the City of Markham on affordable and shared housing, and secondary suites. This includes background research, data analysis, stakeholder consultations, and in-depth reviews of relevant legislation and effective practices from other municipalities. A summary table is provided in Section 5 highlighting the key zoning issues and the options available for addressing them. It is relevant to note that several municipalities in the Greater Toronto Area (GTA) have relied on the work produced by Markham as a reference to inform their own policy and planning decisions around affordable and shared housing including secondary suites.

3 The range of planning tools available to help municipalities meet their housing needs is outlined in the Ministry of Municipal Affairs and Housing's *Municipal Tools for Affordable Housing* handbook, which highlights the ability to develop and implement official plan policies and zoning by-laws to direct development and promote the availability of a full range of housing types to meet a range of identified needs. This includes implementing policies to permit second units, as well as enabling policies needed to use planning and financial tools. Source: Ministry of Municipal Affairs and Housing. *Municipal Tools for Affordable Housing*, Summer 2011.

Key resources consulted to inform this paper include policy documents, staff reports, and previous research reports and studies prepared by the City, including:

- the Affordable Housing and Special Needs Housing Study (2011) and the Shared and Supportive Housing Study (2011) addressing affordable and shared housing; and
- the Markham Council Subcommittee on Second Suites Recommendations Report (2008) and the Markham Staff Action Plan to Implement a new Strategy for Second Suites Report (2009) addressing secondary suites.

This paper also builds on Markham's previous work reviewing zoning provisions from a number of other municipalities. The information has been updated in accordance with the current policy framework and is complemented with relevant zoning practices recently adopted by other municipalities in the GTA, where appropriate. In addition, City staff were consulted to provide advice on relevant resources and important points to be highlighted in this report.

Definitions

What is Affordable Housing?

Section 4.1.3 of the Official Plan identifies that affordable housing is aimed at households in the lowest 60 percent of the income distribution in Markham, who are likely experiencing affordability challenges because they are having to spend more than 30 percent of their income on ownership or rental housing. In particular, households in the lowest 30 percent of the income distribution in Markham, whose needs are not being met by the private market, require publicly financed social or assisted housing.

Section 11.2 of the Official Plan includes the following definition of housing affordability:

Affordable housing means,

In the case of ownership housing, the least expensive of:

- a) housing for which the purchase price results in annual accommodation costs not exceeding 30 percent of gross annual household income for low and moderate income households; or
- b) housing for which the purchase price is at least 10 percent below the average purchase price or a resale unit in the regional market area;

In the case of rental housing, the least expensive of:

- a) a unit for which the rent does not exceed 30 percent of gross annual household income for low and moderate income households; or
- b) a unit for which the rent is at or below the average market rent of a unit in the regional market area.

For the purposes of this definition, "low and moderate income households" means in the case of ownership housing, households with incomes in the lowest 60 percent of the income distribution for Markham with particular attention to households in the lowest 30 percent of the income distribution or, in the case of rental housing, households with incomes in the lowest 60 percent of the income

distribution for rental households in Markham with particular attention to the households in the lowest 30 percent of the income distribution.

This definition is consistent with the 2014 Provincial Policy Statement (PPS) and the York Region Official Plan definitions of affordable housing. However, Markham's definition further clarifies the meaning of "low and moderate income households" in Markham. This definition is currently under appeal to the Ontario Municipal Board.

The policy framework in support of the provision of new affordable housing opportunities in Markham is discussed in more detail in Section 1 of this paper.

What is Shared Housing?

Section 4.1.3 of the Official Plan identifies shared housing as a form of housing where individuals share accommodation either for economic, support, long term care, security or lifestyle reasons. In some cases, shared housing has no support services attached such as students, seniors or other unrelated individuals choosing to live together to share the cost and/or maintenance of housing. In other cases, shared housing may have various levels of support and services for persons with special needs which may include assistance with daily living, housekeeping, counseling, medication, etc.

Section 11.2 of the Official Plan defines shared housing as follows:

Shared housing is a form of housing where individuals share accommodation either for economic, support, long-term care, security or lifestyle reasons.

- a) *Shared housing small scale* is a form of housing where 3 to 10 persons share accommodation with or without support services.
- b) *Shared housing large scale* is a form of housing where more than 10 persons share accommodation with or without support services.
- c) *Shared housing long term care* is a form of housing where people who need 24-hour nursing care in a secure setting share accommodation.
- d) *Shared housing supervised* is a form of housing where people who need 24-hour supervision in a secure setting share accommodation.

The background and context under which the Official Plan definition was developed is discussed in more detail in Section 1 of this paper. Markham does not include a definition of special needs housing in the Official Plan, however, it is intended that persons with special needs will be accommodated in *shared housing small scale* or *large scale* with supports, *shared housing long term care*, and *shared housing supervised*. The zoning provisions related to shared housing are discussed in more detail in Section 2 of this paper. Student housing issues are dealt with in a separate discussion paper, to be read in conjunction with this paper.

What is a Secondary Suite?

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 rowhouse.

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 rowhouse 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.

Zoning provisions related to secondary suites are reviewed in detail in Section 4 of this paper.

1. Policy Framework for Affordable and Shared Housing

1.1 Provincial Regulations and Policies

Municipalities in Ontario must respond to provincial legislation when making planning decisions around affordable and shared housing. Applicable regulations and policies are listed below:

1.1.1 Ontario Human Rights Code, 1962

Housing is recognized internationally as a fundamental and universal human right. The Ontario Human Rights Code⁴ (the *Code*) aims to protect and promote human rights and ensure that every individual has the right to equal treatment, including equal opportunity to access housing and the benefits associated with it, without discrimination. The Code applies to terms and conditions in housing contracts and leases, and it also applies to municipalities, as both regulators and providers of housing. Municipalities must ensure that their by-laws, processes and decisions respecting affordable and shared housing do not target or disproportionately affect groups protected by the Code⁵. In Ontario, the Code takes precedence over all other legislation unless the legislation specifically states differently.

4 Government of Ontario. (1990). Human Rights Code, R.S.O. 1990, c. H.19.

5 There are a total of 17 Code-protected grounds, among which are age, ancestry, colour, race, citizenship, ethnic and place of origin, creed, disability, family status, marital status, gender identity and expression, receipt of public assistance, sex and sexual orientation.

1.1.2 Planning Act, 1990

The Planning Act⁶ sets out the ground rules for land use planning and development in Ontario and provides a range of land use planning tools that municipalities can use to promote housing choices in their communities, including affordable and shared housing. The Planning Act identifies the adequate provision of a full range of housing, including affordable housing, as a provincial interest and includes a number of planning tools that municipalities can consider using to help achieve a full mix and range of housing options, including establishing targets for affordable housing and Section 37 community benefits in support of affordable housing options. Among other things, the Planning Act requires municipalities to establish policies and zoning provisions allowing secondary suites in new and existing developments to further expand affordable housing options. These provisions will be discussed further in Section 3 of this paper. In support of shared housing options, the Planning Act prohibits the passing of zoning by-laws under Section 35 (2) that have the effect of distinguishing between persons who are related and persons who are unrelated in respect of the use or occupancy of a building.

1.1.3 Municipal Act, 2001

The Municipal Act⁷ sets out the responsibilities of municipalities in Ontario and the authorities through which these responsibilities can be carried out. It establishes a broad legislative framework that provides municipal governments with powers to pass by-laws relating to a wide range of activities, including by-laws respecting the economic, social and environmental well-being of municipalities. Among the provisions in the Municipal Act that may be considered in the development and preparation of housing strategies are those related to the licensing of rental housing, including affordable and shared housing. The Municipal Act gives municipalities the specific authority to license, regulate and govern businesses operating within the municipality. This includes the authority to pass licensing by-laws covering the business of renting residential units and operating rooming, lodging or boarding houses/group homes and other forms of affordable and shared housing. Such decisions, as required by the Code, must not have a disproportionate adverse impact on or target people or groups who identify with Code grounds⁸.

1.1.4 Residential Tenancies Act, 2006

The Residential Tenancies Act (RTA) governs rental housing in Ontario. Under the RTA, when selecting prospective tenants in rental housing, including affordable and shared housing, landlords can only consider information that complies with the Code and related regulations. They may not discriminate on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status, disability or the receipt of public assistance.

1.1.5 Local Health System Integration Act, 2006

The Ontario Ministry of Health and Long-Term Care (MOH-LTC) has the provincial mandate to provide overall direction to the health system in Ontario through a leadership and stewardship role. In 2006, as part of the Province's new approach to health care in Ontario, the government enacted the Local Health System Integration Act, which created 14 Local Health Integration Networks (LHINS). The Act re-centres some of the power of decision of each local health system at the

6 Government of Ontario. (1990). *Planning Act*. R.S.O. 1990, c.P.13.

7 Government of Ontario. *Municipal Act, 2001*, SO 2001, c 25.

8 Ontario Human Rights Commission. *Room for everyone: Human rights and rental housing licensing*. Province of Ontario: Toronto, 2013.

community level. Although LHINS do not directly provide services, they have the mandate for planning, integrating and funding health care services and are responsible for community support service organizations, mental health and addiction agencies, long-term care homes, among other services.

LHINS play a key role in providing funding for certain types of affordable and shared housing including seniors housing and other forms of shared housing with support services. The emphasis is on keeping seniors and certain persons with special needs in their own community and promoting the provision of supports within their home or shared housing, where appropriate. As a result, there is currently no longer any new provincial funding for long-term care beds, as the focus for funding is “aging in place.”

1.1.6 Provincial Long-Term Affordable Housing Strategy and Bill 140 Strong Communities through Affordable Housing Act, 2012

In 2009 the Province began developing a new long-term affordable housing strategy, which resulted in the publication of *Building Foundations: Building Futures, Ontario’s Long-Term Affordable Housing Strategy* (LTAHS) by the Ministry of Municipal Affairs and Housing in 2010⁹. The LTAHS outlines a number of tools designed to facilitate the provision of affordable and shared housing in Ontario and sets the stage for a transformed affordable housing system built on four key pillars: putting people first; creating strong partnerships; supporting affordable options; and accountability. The Strategy led to changes to the Planning Act introduced through Bill 140: the Strong Communities through Affordable Housing Act, which received Royal Assent on May 4, 2011 and came into effect on January 1, 2012¹⁰. Bill 140 enacted the Housing Services Act, 2011, and made amendments to other legislation, including the Planning Act.

The legislation supports a community-centered approach where housing services provided by the Province and/or their designated service managers are flexible, adapt to different needs of local communities and do a better job of helping people. To respond to growth management goals, regional municipalities in Ontario are responsible for the provision of a full mix and range of housing through the authority of the Planning Act, and as designated service managers through the authority of Bill 140. The Housing Services Act, 2011 requires regional municipalities to develop 10-year Housing and Homelessness Plans, including the establishment and monitoring of affordable housing targets.

1.1.7 Ontario Housing Policy Statement, 2011 and Provincial Policy Statement, 2014

Under the Planning Act, the Minister of Municipal Affairs and Housing may issue provincial statements on matters related to land use planning that are of provincial interest.

The Ontario Housing Policy Statement, 2011 requires designated Regional service managers to implement housing and homelessness plans and emphasizes the importance of partnership and collaboration among several partners including municipalities. Housing and homelessness plans are expected to:

- 9 Ministry of Municipal Affairs and Housing. *Building Foundations: Building Futures. Ontario’s Long-Term Affordable Housing Strategy*. 30 November 2010.
- 10 All provinces in Canada encourage the development of secondary suites as a means to provide affordable housing, yet, only Ontario has enacted specific provincial legislation requiring municipalities to develop policies in their official plans and zoning provisions to provide for secondary suites through Bill 140. Source: Canada Mortgage and Housing Corporation. *Affordable Housing in Canada. Permitting Secondary Suites*.

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- Coordinate housing and homelessness services to assist families and individuals move toward a level of self-sufficiency;
- Coordinate services provided to all municipalities in the Region;
- Include the provision of supports prior to and after obtaining housing to facilitate transition to safe, adequate and stable housing; and
- Reflect the evolving demographics of the community and address the needs of specific local groups (i.e. seniors, youth, women, immigrants).

The Provincial Policy Statement¹¹ (PPS), issued in 2014 under Section 3 of the Planning Act, contains overall policy directions on matters of provincial interest related to land use planning and development. Municipalities use the PPS to develop their official plans and to guide and inform decisions on other planning matters. Under the Planning Act, all municipal decisions affecting land use planning matters shall be consistent with the PPS.

Key changes to the 2014 PPS include the recognition of additional elements of healthy communities, such as community design and planning for all ages and the recognition of institutional uses (including long-term care homes) as important elements of communities. Of particular relevance are policies listed under Sections 1.1, 1.2, 1.4, which state the following among a list of goals to be achieved:

1.1.1 Healthy, liveable and safe communities are sustained by:

- (b) accommodating an appropriate range and mix of residential (including second units, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs; and
- (f) improving accessibility for persons with disabilities and older persons by identifying, preventing and removing land use barriers which restrict their full participation in society.

1.2.1 A coordinated, integrated and comprehensive approach should be used when dealing with planning matters with municipalities, across lower, single and/or upper tier municipal boundaries, and with other orders of government, agencies and boards including:

- (h) addressing the needs in accordance with provincial policy statements such as the Ontario Housing Policy Statement

1.4.3 Planning authorities shall provide for an appropriate range and mix of housing types and densities to meet projected requirements of current and future residents of the regional market area by:

- (a) establishing and implementing minimum targets for the provision of housing which is *affordable to low and moderate income households*. However, where planning is conducted by an upper-tier municipality, the upper-tier municipality in consultation with the lower tier municipalities may identify a higher target(s) which shall represent the minimum target(s) for these lower-tier municipalities;

¹¹ Ministry of Municipal Affairs and Housing. Provincial Policy Statement. Issued under section 3 of the Planning Act. April 30, 2014.

- (b) permitting and facilitating:
1. all forms of housing required to meet the social, health and well-being requirements of current and future residents, including *special needs* requirements; and
 2. all forms of *residential intensification*, including second units, and *redevelopment* in accordance with policy 1.1.3.3;
- (c) directing the development of new housing towards locations where appropriate levels of infrastructure and public service facilities are or will be available to support current and projected needs;
- (d) promoting densities for new housing which efficiently use land, resources, *infrastructure and public service facilities*, and support the use of *active transportation* and transit in areas where it exists or is to be developed; and
- (e) establishing development standards for *residential intensification*, *redevelopment* and new residential development which minimize the cost of housing and facilitate compact form, while maintaining appropriate levels of public health and safety.

Among other things, the PPS directs planning authorities to provide an appropriate range and mix of housing types, permit and facilitate all forms of residential intensification, including secondary suites, and promote densities for new housing in mixed use communities that are located close to transit and other services, promoting more intrinsically affordable housing and offering greater access to supports which increase shared housing opportunities.

1.2 Regional Plans and Guidelines

The Regional Municipality of York's guiding policy documents provide direction on the implementation of targets that support the provision of a full mix and range of housing¹².

1.2.1 York Region Official Plan, 2010

The Regional Official Plan¹³ (ROP) was approved by the Ministry of Municipal Affairs and Housing in September 2010. Key elements of the Regional Official Plan as they relate to affordable and shared housing include:

- All new secondary plans are to include an affordable housing implementation strategy;
- 25 percent of all new housing developments are to be affordable, with a portion accessible for people with disabilities. Units should provide opportunity for all household types, including larger families, seniors, and residents with special needs;
- 35 percent of all new housing developments in areas designated as Centres and Key Development Areas are to be affordable;

12 The Regional Municipality of York. (2012). Housing Matters: A Review of the Housing Market in York Region. Newmarket, Ontario.

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

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- Optimal sites for social and affordable housing should be identified early in the development process;
- Special needs housing, emergency, affordable, and seniors' housing are to be located in proximity to rapid transit and other human services;
- The creation of intrinsically affordable housing and secondary suites should be encouraged; and
- There should be consideration of the use of innovative financial arrangements to encourage social and affordable housing development.

The ROP contains the following specific policies related to zoning for affordable housing¹⁴:

Section 3.5.4 - Requires that local municipal official plans and zoning by-laws permit a mix and range of housing types, lot sizes, unit sizes, functions, tenures and levels of affordability within each community. The mix and range of housing shall be consistent with Regional forecasts, and intensification and density requirements.

Section 3.5.22 - 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.

1.2.2 Regional Housing Plan, 2014

York Region released its first 10 Year Housing Plan, titled *Housing Solutions: A Place for Everyone*¹⁵ in June 2014. The Housing Plan establishes the following four roles for local municipalities in York Region:

- Set land-use designations and growth patterns for their municipality and within individual communities;
- Implement the Region's minimum targets for affordable housing development;
- Pass zoning by-laws that permit secondary suites and accessory units; and
- Support affordable housing development in a variety of ways, such as including social housing as a community benefit in negotiations with developers.

The Housing Plan also acknowledges the need for zoning provisions that support the provision of shared housing in the form of transitional and supportive housing. One of the requirements of the Housing Plan is to report annually outlining progress toward the four goal areas articulated within in the Plan.

14 The full set of provisions is contained in Section 3.5: Housing Our Residents, under Chapter 3: Healthy Communities of the Regional Official Plan.

15 York Region. *Housing Solutions: A Place for Everyone*. York Region 10 Year Housing Plan. June 2014.

1.2.3 Regional Affordable Housing Measuring and Monitoring Guidelines, 2015

In June 2015, Regional Council endorsed the *Affordable Housing Measuring and Monitoring Guidelines*¹⁶. The Guidelines outline a standardized approach which will allow for the consistent identification and measurement of the supply of new affordable housing units in local municipalities within York Region. The Guidelines establish maximum affordable housing thresholds calculated annually by tenure for York Region and each local municipality, outline a process where affordable housing commitments are secured by the local municipality through the secondary plan and development application review and approval, and enable the Region and each local municipality to monitor progress towards achieving affordable housing targets annually.

2.3 City of Markham Policy Initiatives

The City of Markham has made extensive efforts towards developing a policy framework to promote affordable and shared housing options for its residents and workers. Beginning in June 1999, Council launched a series of initiatives that included establishing a Task Force on Affordable Housing, holding public forums to obtain input from residents, directing staff to prepare a strategy for secondary suites and retaining consultants to provide additional recommendations on affordable and shared housing issues¹⁷. Below is a chronological summary of some of the key initiatives that were undertaken subsequently.

2.3.1 Affordable and Rental Housing Strategy, 2003

In 2003, Markham City Council adopted a strategy to support the provision of affordable and rental housing that defined an advocacy/partnership, policy and financial role for Markham. It also established a cooperative role for the City in relation to senior government, private sector and community interests. The strategy gave rise to a number of related initiatives in future years.

2.3.2 Housing Stock Analysis, 2005

In 2005, Planning staff began developing an in depth Housing Stock Analysis, which later formed a basis for the Recommended Markham Growth Alternative to 2031, adopted by Council in May 2010. The analysis looked at market demand and supply within Markham and explored ways to support diversification of the City's housing stock.

2.3.3 Intensification Strategy, 2007

In 2007, City staff began work on an intensification strategy to identify potential intensification areas within parts of Markham's built up area that are served by higher order transit. One of the goals of the study was to look at productive ways to support diversification of the housing stock to include a larger number of medium and higher density dwelling types, such as apartments.

16 York Region. Clause 10, Report No. 11. Committee of the Whole. Planning and Economic Development, June 11, 2015. Affordable Housing Measuring and Monitoring Guidelines. Adopted on June 25, 2015.

17 Town of Markham. Development Services Committee. Follow up on the Recommendations of the Markham Task Force on Affordable Housing. 04 February 2003.

2.3.4 Affordable and Special Needs Housing Strategy Study, 2010

Recognizing that the City can play an effective role in creating opportunities for new affordable and shared housing units through financial incentives, advocacy and partnerships, education and policy initiatives, the City retained SHS Consulting to identify a series of recommended actions for a new strategy. In 2010, the City worked with SHS to complete a review of the 2003 Affordable and Rental Housing Strategy and recommend an updated Affordable and Special Needs Housing Strategy¹⁸. In addition to assessing the City's existing role in the provision of affordable and shared housing, the study put forth recommendations which led the City to:

- Release a Draft Affordable and Special Needs Housing Strategy for public review and comment;
- Develop a new policy framework for the Official Plan, which was responsive to senior government policy and to the initiatives and regional housing targets in effect at the time; and
- Complete a further review of City policies respecting special needs housing, more particularly the need for shared housing with supports such as long term care homes or residential care facilities, private retirement homes, lodging houses, group homes etc. and shared housing without supports such as rooming houses or boarding houses, seniors housing and student housing.

2.3.5 Shared and Supportive Housing Policy Review, 2011

A key recommendation of the Affordable and Special Needs Housing Strategy (described above) was that further work be conducted on emergency/transitional and special needs housing gaps in Markham. This resulted in the preparation of the Shared and Supportive Housing Policy Review in 2011¹⁹. The review aimed to provide direction for the Official Plan policies pertaining to key shared housing forms: long term care homes or residential care facilities, private retirement homes, lodging houses, group homes, rooming houses or boarding houses, seniors housing and student housing. Keeping up with how people want to live and removing policy barriers to shared housing were key policy directions. The review also assessed policies that govern the demolition and conversion of existing rental housing. The review recommended a number of preliminary policies for the City to consider:

- Adopt appropriate, relevant and applicable definitions for the key housing forms identified under shared housing;
- Ensure that policies support a diverse range of housing options and include policies to support financial and time-saving incentives;
- Remove policy barriers to housing and care options in residential zones as appropriate;
- Establish guidelines for developing appropriate forms of shared and supportive housing, ensuring that this is consistent with the Ontario Fire Code and Building Code; and
- Evaluate the appropriateness of Official Plan requirement for 5 percent of special needs housing and extend the target to the private sector.

18 Town of Markham Affordable and Special Needs Housing Strategy: Recommended Policy Framework. November, 2010.

19 Town of Markham and SHS Consulting. Affordable and Special Needs Housing. Shared and Supportive Housing Policy Review. Presentation to the Development Services Committee. May 24, 2011.

2.4 City of Markham's Policy Framework

2.4.1 Markham's Strategy for Affordable Housing and Shared Housing

In April, 2011, Council released a Draft Affordable and Special Needs Housing Strategy for public review and comment. The Strategy focuses on practical steps that Markham can take towards policy development, financial incentives, advocacy and partnerships together with senior levels of government and community partners to increase affordable and shared housing choices for Markham residents and workers.

2.4.2 Official Plan Housing and Land Use Policies

The 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.

The Official Plan provides guidance for future development and growth management in Markham as an urban, sustainable, diverse and socially responsible municipality. The overall intent of policies contained in the Plan is to promote environmental protection, good urban design, healthy communities, and transportation choices for Markham's residents, among other goals.

Chapter 4 of the Official Plan outlines housing objectives to increase the diversity of housing type and tenure, and affordable housing options to contribute to the liveability of neighbourhoods and the quality of residents and ensure a stable workforce.

Diversifying the Housing Stock

The Official Plan promotes residential intensification along transit corridors, optimizing the use of land infrastructure, resulting in more sustainable higher-density, mixed-use communities. The result will be a variety of housing choices and employment opportunities close to where people live at densities that make housing more intrinsically affordable and public transit more financially feasible.

The Official Plan identifies that the addition of more mid-rise and high-rise building types and a greater mix of dwelling units, will accommodate an increasing number of smaller households, senior led households, immigrant households and lone parent households, as well as a significant number of households with children requiring dwelling units of sufficient size to accommodate families.

Section 4.1.2 identifies that a greater diversity of housing tenure will assist residents and workers with a preference for rental and shared housing given their household size and composition, their stage of life and level of ability, or their economic status.

Affordable and Shared Housing Strategy

Section 4.1.3 identifies one of the benefits of further diversification of the housing stock is a broader range of affordable and shared housing options. Increasing opportunities for affordable and shared housing options will assist low and moderate income households experiencing affordability challenges, and those persons with special needs requiring additional supports with activities of daily living and personal care. It will also improve accessibility for persons with disabilities and the elderly by removing and/or preventing land use barriers that prevent their full participation in society.

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Chapter 8 outlines a range of residential and mixed use land use designations which provide for shared housing small scale, shared housing large scale, shared housing long term care and shared housing supervised and secondary suites as well as specific use policies applying to these forms of affordable and shared housing. Some of the key housing and land use policies of the Official Plan that address affordable and shared housing are listed in Appendices 1 and 2 to this paper.

Section 2. Key Zoning Issues Associated with Shared Housing

2.1 Background

Markham recognizes the important function that shared housing plays within the range of options needed for the City to meet its affordable housing needs. Part of the background research that informed the development of Markham's Affordable and Special Needs Housing Strategy in 2011 involved an analysis of Markham's housing continuum. The analysis, which identified the income distribution of Markham's households in comparison with the costs of new rental and ownership housing in 2011, concluded the following²⁰:

- Approximately 15,375 households (or 20 percent of the total number of households in Markham) earned less than \$40,000 per year and were limited to the option of smaller private rental units and social housing as well as emergency, transitional and supportive housing; and
- Approximately 30,775 households (or 40 percent of the total number of households in Markham) earned between \$40,000 and \$103,000 per year and were primarily within the private rental market with ownership options limited to small market affordable condos²¹.

In spite of the evident need for shared housing, there are still impediments to the expansion of such types of housing in most municipalities in Ontario and across Canada. Public controversy attached to affordable housing continues to be one of the main barriers to its development. According to the

20 The analysis is based on the provincial and municipal definitions of affordable housing, and therefore considers households spending no more than 30 percent of their combined household incomes on housing.

21 Town of Markham. Report to Development Services Committee. Affordable and Special Needs Housing Strategy: Recommended Policy Framework. 22 February 2011.

Ontario Human Rights Commission²², taking the steps required to overcome community opposition to affordable housing is key to building attractive, livable and economically successful communities, given that housing is the foundation for stable living conditions and a key starting point for financial security and community inclusion.

The municipal regulatory power to address shared housing through zoning is somewhat restricted in Ontario. The work conducted for the City of Markham through the Affordable and Special Needs Housing Strategy and the Shared and Supportive Housing Policy Review in 2011 identified a number of preliminary policy development actions to be realized by the City. Among the recommendations put forward by the consultants in both the strategy and policy review, the following pertain to zoning:

1. Implement zoning permissions for secondary suites;
2. Eliminate distancing requirements for group homes in the zoning by-law;
3. Address rooming houses in the zoning by-law;
4. Adopt appropriate, relevant and applicable definitions for the six key shared housing forms including long term care facilities, private retirement homes, rooming houses, lodging facilities, identified under shared and supportive housing;
5. Encourage lower parking requirements for affordable housing units.

These actions and the context under which these recommendations were proposed are discussed in this section and in Section 5 of this report.

2.2 Current Zoning By-law Regulations

The key forms of shared housing can be found in different zoning by-laws across the City of Markham. However, there is no consistent approach to zoning permission for long-term care homes or residential care facilities, private retirement residences, rooming houses or boarding houses, lodging houses, and group homes.

Zoning By-law 177-96 covers the majority of greenfield development areas of Markham. Currently, By-law 177-96 (November 01, 2014 consolidation) contains two definitions that relate to long term care homes or residential care facilities and private retirement homes.

Long Term Care Facility is defined in By-law 177-96 as a use in a building or part of a building that is licensed pursuant to Provincial legislation, where a broad range of personal care, support and health services are provided for the elderly, disabled or chronically ill occupants in a supervised setting, and may include one or more accessory uses, such as common dining, lounging, kitchen, recreational or medical offices, but shall not include a retirement home.

Retirement Home is defined in By-law 177-96 as a building or part of a building that is designed and used to provide accommodation primarily to retired persons or couples where each private bedroom or living unit has a separate private bathroom and separate entrance from a common hall but where common facilities for the preparation and consumption of food are provided, and where common lounges, recreation rooms and medical care facilities may also be provided.

22 Ontario Human Rights Commission. In the zone: Housing, human rights and municipal planning. Government of Ontario: Toronto, Canada, 2012.

Initially, By-law 177-96 contained regulations and definitions for “group homes”, “auxiliary group homes”, “correctional group homes” and “crisis care facilities”, which were later deleted through amendments to By-law 177-96. The definitions were deleted in 2005 (through By-law 2005-5) and all other provisions related to these uses were deleted in 2013 (through By-law 2013-108).

Rooming Houses or Boarding Houses, and Lodging Houses are defined in the 1987 Official Plan as dwellings where lodging for four, or more persons, is provided in return for remuneration or the provision of services or both, and where the lodging units do not have both bathrooms and kitchen facilities for the exclusive use of individual occupants. These shared housing forms are not defined or addressed in By-law 177-96, however, By-law 90-81 includes boarding or rooming houses in the definition of dwelling and By-law 1229 includes a definition for boarding house or lodging house.

The Markham Centre Zoning By-law 2004-196 does not make any specific references to shared housing forms, and does not permit boarding houses, rooming houses, or dormitories, although these terms are included in the definition of “Suite”, as follows:

“Suite” means a single room or series of rooms of complementary use, operated under a single tenancy and includes dwelling units, individual guest rooms in motels, hotels, boarding houses, rooming houses and dormitories as well as individual stores and individual or complementary rooms for business and personal services occupancies.

In addition, By-laws 2014-9, 2013-65 and 2013-67 amend Zoning By-law 2004-196 to allow dwelling units and retirement home rooms/units on any storey, including the first storey, of an apartment building in specific areas, under Special Site Provisions.

Markham has faced challenges in establishing policies and regulations for group homes. In 1989, a Task Force was implemented to make recommendations with respect to community needs and attitudes towards group homes and potential alternatives to the locations, or amendments to the implementation procedures for group homes within Markham. After lengthy public consultation and debate, including a number of public meetings, in 1991 Markham adopted both an Official Plan Amendment (OPA No. 97) and a Zoning By-law (By-law 72-91) that contained definitions of types of group homes and provisions on the number of residents, separation distances, and caps on numbers of group homes²³. Markham’s approach to dealing with group homes was in line with the approach of other municipalities at the time.

Markham’s proposed regulations were appealed to the Ontario Municipal Board by the Ministry of Municipal Affairs and Housing on the grounds of non-compliance with the Human Rights Code. In 2004, Markham repealed both OPA 72-91 and By-law 72-91.

Group Homes provisions were later incorporated into By-law 177-96, which allowed group homes with 3 to 6 residents in any zone with a single detached, semi-detached, duplex, street townhouse, apartment, and multiple dwelling. Group homes with 7 to 10 residents were permitted in single detached dwellings in zones where these dwellings are allowed. Correctional group homes and crisis care facilities were permitted only on lots having both frontage and access to a provincial highway or arterial road. The zoning by-law also required a minimum distance separation between group homes²⁴. Since then, By-law 177-96 has gone through a number of amendments and the provisions for group homes have been deleted.

23 Regional Municipality of York. Report No. 6 of the Regional Planning and Economic Development committee. Meeting held on June 12, 2002. June 27, 2002.

24 A minimum of 500 metres was required between a group home and an auxiliary group home or between two auxiliary group homes. A minimum of 800 metres was required between two group homes, a group home and correctional group home,

2.3 Recent Zoning Approaches to Shared Housing

2.3.1 Definitions

Different forms of shared housing may require regulations that address specific elements inherent to that particular housing form. This requires distinguishing between different uses in the zoning by-law. Developing appropriate definitions, however, is often a challenge given that there are no universal definitions that apply to most terms. In addition, municipalities have had to respond to changing contexts, including changes adopted by provincial acts and policies²⁵. Definitions have been updated and terms have had to be re-defined over time. The zoning review process provides an opportunity for ensuring that the definitions used to describe different forms of shared housing are consistent across different policies and zoning by-laws, and reflect current changes and emerging needs.

Municipalities in Ontario also have a responsibility to ensure that no groups are discriminated against through the zoning process. An important consideration of the zoning by-law review process is to adopt language that adequately describes different forms of shared housing while minimizing potential negative impacts due to stigma associated with some terms.

The City of Markham has dealt effectively with these challenges in the Official Plan by adopting broad definitions that group shared housing forms, with different categories based on scale and need for supervision and care, as described in Section 1 above. The definitions adopted in the Official Plan respond to policy direction provided through the Shared and Supportive Housing Policy Review conducted in 2011, which involved extensive consultation with stakeholders. The consultation process revealed that a significant barrier to the creation of shared housing is the need to fit the form of housing to the existing zoning permissions, as opposed to the actual needs of residents and groups. Therefore, it is important to review zoning definitions to ensure they are applicable and responsive to existing needs.

The categories of shared housing provided for in the Official Plan represent an opportunity for developing more responsive definitions, which can be developed possibly through the use of sub-categories that fit under the broader categories established by the Official Plan. This requires considering different terms that are used alternatively to describe the same type of housing, such as lodging house, boarding house and rooming house, for example²⁶. It is important, therefore, to ensure consistency in the definition of the various terms amongst the Official Plan, zoning by-laws, licensing by-laws, as well as other relevant regulations such as the Building Code and the Fire Code.

and a group home and crisis care facility. A minimum of 1,600 metres was required between two correctional group homes, a correctional group home and a crisis care facility, and two crisis care facilities. Additionally, two auxiliary group homes could be located within the same building under the by-law. The zoning by-law also states that the total number of group homes could not exceed a ratio of one per 3000 resident population.

25 For example, when the Planning Act was amended to prohibit municipalities to pass a zoning by-law for land use that had the effect of distinguishing between persons who are related and persons who are unrelated in respect of the use or occupancy of a building, the concept of “single-family house” had to be revisited. Most municipalities adopted alternative concepts such as “single-detached dwelling”, which does not contain references to a specific type of occupant residing in the dwelling.

26 City of Toronto. Approach for Proposed Zoning Regulations for Rooming Houses. Staff Report, Planning and Growth Management Committee. Reference Number: pg1004. December 14, 2009.

In Section 4.1.3 of the Official Plan, shared housing is described as a form of housing where individuals share accommodation either for economic, support, long term care, security or lifestyle reasons. In some cases, shared housing has no support services attached such as students, seniors, or other unrelated individuals choosing to live together to share the cost and/or maintenance of housing. In other cases, shared housing may have various levels of support and services for persons with special needs which may include assistance with daily living, housekeeping, counseling, medication, etc.

The chart below illustrates how common definitions of different types of shared housing may fall under the four categories described in the Official Plan:

Official Plan Category	a) Shared housing small scale		b) Shared housing large scale		c) Shared housing long term care	d) Shared housing supervised
Official Plan Definition	A form of housing where 3 to 10 persons share accommodation with or without support services.		A form of housing where more than 10 persons share accommodation with or without support services.		A form of housing where people who need 24-hour nursing care in a secure setting share accommodation.	A form of housing where people who need 24-hour supervision in a secure setting share accommodation.
Common Zoning By-law Definitions/ Categories	Shared housing small scale without support services	Shared housing small scale with support services	Shared housing large scale without support services	Shared housing large scale with support services		
	Rooming houses or Boarding Houses; Seniors housing; Student housing.	Long-term care homes or Residential care facilities; private retirement homes; Lodging houses; Group homes.	Rooming Houses or Boarding Houses; Seniors housing; Student housing.	Long-term care homes or Residential Care facilities; Private retirement homes; Group homes.	Long-term care homes or Residential Care Facilities; Private retirement homes;	Group homes; Correctional group homes; Crisis care facility Emergency and transitional housing

Note that zoning by-law definitions are dealt with in detail in a separate paper prepared as part of the series of papers aimed to inform Markham’s Comprehensive Zoning By-law Review Project. This section highlights some key issues to be considered in the formulation of definitions and zoning provisions for shared housing in particular.

Group Homes

Most municipalities in Ontario have adopted the definition of group home based on the definition provided in the Municipal Act²⁷:

Group home means a residence licensed or funded under a federal or provincial statute for the accommodation of three to 10 persons, exclusive of staff, living under supervision in a single housekeeping unit and who, by reason of their emotional, mental, social or physical condition or legal status, require a group living arrangement for their well being.

Municipalities throughout Ontario have been using this definition in zoning by-laws since it was first introduced by the Province²⁸. Recently, human rights concerns have brought the definition under scrutiny. In particular, using the phrase “by reason of their emotional, mental, social, or physical condition or legal status” to describe reasons why this type of living accommodation may be required has been found to be inappropriate from a human rights perspective. Removing this phrase from the definitions is recommended given that “supervised living accommodation”, “licensed or funded by under Province of Ontario or Government Canada legislation” and “supervised group living arrangement” are sufficient to distinguish this use from other housing accommodation²⁹.

As a result, the City of Toronto has adopted the following alternative definition:

Group Home means premises used to provide supervised living accommodation, licensed or funded under Province of Ontario or Government of Canada legislation, for three to ten persons, exclusive of staff, living together in a single housekeeping unit because they require a group living arrangement.

Other municipalities, such as the Town of Milton, Oshawa and Ajax³⁰ have adopted sub-definitions to distinguish between different types of group homes, as outlined below:

27 The same definition is used in the City of Toronto Act.

28 City of Toronto. Final Report on the City-wide Zoning By-law. Staff Report to Planning and Growth Management Committee. January 22, 2013. Retrieved from: <http://www.toronto.ca/legdocs/mmis/2013/pg/bgrd/backgroundfile-55477.pdf>

29 City of Toronto. Review of Zoning Provisions Pertaining to Group Homes. Staff Report to Planning and Growth Management Committee. October 4, 2013.

30 Town of Milton Comprehensive Zoning By-law 144-2003, February 2014 Consolidation; City of Oshawa Zoning By-law Number 60-94, Last Updated in October 2014; and Town of Ajax. Zoning By-law 95-2003, Office Consolidation March 31, 2014.

Milton	Oshawa	Ajax
<p>GROUP HOME, CORRECTIONAL: Means a detached dwelling occupied by residents who live as a single housekeeping unit, supervised on a daily basis, for persons who have been placed on probation, released on parole or admitted for correctional purposes, and which is licensed, approved, supervised or funded by the Province of Ontario.</p> <p>GROUP HOME TYPE 1: Means a detached dwelling occupied by residents who live as a single housekeeping unit requiring specialized or group care, supervised on a daily basis, and which is licensed, approved or supervised, or funded by the Province of Ontario as:</p> <ul style="list-style-type: none"> • Home for Special Care, Homes for Special Care Act; • Approved Home, Mental Hospitals Act; • Children’s Residence, Child and Family Services Act; • Approved Home, Homes for Retarded Persons Act; • A Facility, Developmental Services Act; • Charitable Home for the Aged, Charitable Institutions Act; or, • Home for the Aged, Homes for the Aged and Rest Homes Act. <p>GROUP HOME TYPE 2: Means a detached dwelling occupied by residents who live as a single housekeeping unit requiring specialized or group care, supervised on a daily basis, and which is licensed, approved or supervised, or funded by the Province of Ontario under any general or specialized Act and which shall be maintained and operated primarily for:</p> <p>Persons who require temporary care and transient or homeless persons; or</p> <p>Persons requiring treatment and rehabilitation for addiction to drugs or alcohol.</p>	<p>“CORRECTIONAL GROUP HOME” means a group home containing one or more persons who have been placed on probation, released on parole, admitted for correctional purposes, or found to be not criminally responsible for a crime by virtue of mental incapacity.</p> <p>“GROUP HOME” means a dwelling unit housing three to ten persons, exclusive of staff, who by reason of their emotional, mental, social or physical condition or legal status require a group living arrangement for their wellbeing, and who live under responsible supervision, with the group home licensed or approved for funding under Provincial Statutes.</p>	<p>GROUP HOME Shall mean a residence, licensed or funded under an Act of the Parliament of Canada or Province of Ontario, that is designed for the accommodation of 3 to 10 persons, exclusive of staff, living under supervision in a dwelling unit and whom by reason of their emotional, mental, social, or physical condition or legal status, require a group living arrangement for their well-being. For the purposes of this by-law, group homes are classified either as Group Home A or Group Home B.</p> <p>GROUP HOME A Shall mean a group home primarily for persons who have been referred by a hospital, recognized social services agency or health professional.</p> <p>GROUP HOME B Shall mean a group home operated primarily for persons who have been placed on probation, released on parole, or admitted for correctional purposes.</p>

Lodging Houses

In York Region, lodging houses are considered domiciliary hostels which are privately owned, maintained and operated for the care of individuals who require supervision of their daily living activities (i.e. cooking, shopping, personal hygiene, financial management and medical care). The residents have special needs which may include mental health, development and/or physical disabilities, or frail elderly. Under Section 1.1 of the Municipal Act, York Region currently licenses Lodging Houses and operators are required a York Region Lodging House Licence or a Homes for Special Care Licence from the Ministry of Health and Long-Term Care in order to enter into a Domiciliary Hostel Agreement with the Region³¹.

Rooming Houses or Boarding Houses

Rooming houses, also known as boarding houses, are a form of accommodation that contains some private and some shared facilities. A Canada-wide survey conducted in 2006 developed a working definition of rooming house as a permanent form of housing that contains at least four separate habitable rooms, each containing either food preparation or bathroom facilities, but not both³².

The main goal of zoning by-laws that regulate rooming houses or boarding houses is to ensure the safety of occupants through the enforcement of building standards and other requirements, such as licensing, or establishing a minimum number of sanitary facilities. Under the Fire Code (Division B, Part 9, Section 9.3) and the Building Code (Division A, Part 1), rooming houses are defined as follows:

- A building that does not exceed 3 storeys, with a building area not exceeding 600m², where lodging is provided for more than 4 persons in return for remuneration or the provision of services (or both); and where rooms do not have both bathrooms and kitchen facilities for the exclusive use of individual occupants³³.

Thus according to the Fire Code, residential dwelling units with less than 3 lodgers are not considered a rooming house. These would therefore be normally permitted in all residential zones.

A staff report prepared by the City of Barrie states that rooming or boarding houses, which require distinct development standards, cannot fall under the definition of a standard *dwelling unit*. The report recommended the following:

“To ensure that a tenant-occupied house of more than 4 tenants could not be defined as both a Dwelling Unit and a Boarding Lodging Rooming House, and thereby subject to the less restrictive development standards, staff propose the definition of Dwelling Unit be amended to establish that if a use fits the definition of a Boarding Lodging Rooming House, it must be regarded as such as cannot be considered a Dwelling Unit”³⁴

31 York Region. Clause No. 20, Report No. 13. Committee of the Whole, September 4, 2014. New Lodging Houses Bylaw. Adopted on September 11, 2014.

32 City of Toronto. Approach for Proposed Zoning Regulations for Rooming Houses. Staff Report to Planning and Growth Management Committee. December 14, 2009.

33 Town of Ajax. Lodging Houses Review Discussion Paper. Options to Address Lodging Houses. Town of Ajax Planning and Development Services. June, 2013

34 City of Barrie. Staff Report PLN048-07. To General Committee. File: D14TE-BOA. Boarding, Lodging Rooming Houses. November 12, 2007.

When considering an appropriate approach to developing zoning regulations for rooming houses, a 2009 background study by the City of Toronto³⁵ recommended that the definition of rooming houses:

- Specify a minimum size of 4 rooms designed for separate living accommodation, in order to acknowledge that its intention is to provide housing for multiple residents in individual rooms;
- Specify that the rooming house may contain one dwelling unit to allow, for example, the owner to reside in the same building;
- Specify certain uses as not being a rooming house, such as group homes, residential care facilities, nursing homes, retirement homes, religious residence, student residence, tourist home or hotel.

Regulations Applying to Rooming Houses and Boarding Houses

In 1994 the Planning Act was amended to prohibit municipalities from distinguishing land uses based on the relationship between building occupants, rendering the definition of *family* and any development standard that referred to this definition as unenforceable according to Section 35(2) of the Planning Act. The application of specific zoning regulations for rooming houses is justifiable, therefore, as long as zoning is simply concerned with intensity of use, and not with the relationship between building occupants (i.e. whether they are related or unrelated, including in terms of occupying a single household unit), or whether occupants are the building owner or not.

Given that rooming houses are associated with a higher level of intensity of use, municipalities have adopted specific approaches to regulate where they are permitted. The City of Toronto opted for permitting rooming houses exclusively in zones that permit multiple unit residential buildings, (RA, CR, RM). The City of Barrie proposed a distinction between small and large rooming houses, which enables the City to permit small rooming houses in all residential zones, while permitting large rooming houses in zones associated with higher density uses (RM2, RA1 and RA2)³⁶. Small rooming houses are those that provide lodging for no more than 6 tenants. Other municipalities adopted variations to this approach and permit rooming houses as follows:

35 City of Toronto. Approach for Proposed Zoning Regulations for Rooming Houses. Staff Report to Planning and Growth Management Committee. December 14, 2009.

36 Ibid.

	Brampton	London	Kitchener	Oshawa	Waterloo	Guelph
Areas where rooming houses are permitted	Permitted in selected Residential and Commercial zones city-wide.	Class 1 (< 3 occupants) permitted in any Residential zone city-wide. Class 2 (> 3 occupants) permitted in medium to high density Residential zones.	Permitted in selected Residential, Institutional, Commercial and Mixed Use zones.	Residential Zone 7 (R7) is designated as a zone where the only permitted use is a rooming house. Also permitted in selected Commercial zones.	Class 1 (>4 occupants plus owner, or >6 occupants without owner) permitted in Residential zones. Class 2 (4 or 5 occupants without the owner) permitted only through a zoning by-law amendment.	Type 1 (> 5 occupants); Type 2 (townhouse or apartment with >5 occupants; subject to a zoning amendment) permitted in Residential (R1) and Commercial (CBD) zones.

Distancing Requirements for Group Homes, Rooming Houses or Boarding Houses and Lodging Houses

In Ontario, most group homes are approved, funded, operated and governed by Provincial legislation. As a result, the municipal regulatory power over group homes is limited to the ability to determine the geographic location of group homes, and establish a registration system for group homes³⁷.

Zoning by-laws that limit the number of group homes and rooming houses or that prescribe a minimum distance between two group homes or rooming houses may act as a barrier to the creation of affordable and special needs housing. A number of municipal by-laws dealing with group homes have faced challenges before the Ontario Municipal Board and complaints to the Human Rights Tribunal of Ontario in recent years. Examples of such cases include:

- Advocacy Centre for Tenants Ontario v. the City of Kitchener: In 2005, the Advocacy Centre for Tenants Ontario and a number of groups appealed Official Plan and Zoning by-law Amendments approved by the City of Kitchener that sought to prohibit new supportive housing facilities from a neighbourhood in the city, citing an over concentration of such housing types. In 2010, the Ontario Municipal Board (OMB) ordered the City of Kitchener to revisit a proposed by-law that was designed to limit certain housing forms in an area that the City felt was over-concentrated with single-person, low-income households, residential care facilities and social/supportive housing. The OMB decision identified that “when by-laws result in restrictions for groups protected by the Code, a municipality may need to show that they are rationally connected to municipal objectives, they were established in good faith, and that it would be impossible to accommodate the group affected without undue hardship”. Portions of the amendments that were not contested were approved, and the City of Kitchener was given 15 months to consider preparing updated Amendments. The City decided not to complete the study and has since eliminated distancing requirements for group homes.

³⁷ Section 166 of the *Municipal Act, S.O. 2001, c.25* enables a municipality to maintain a registry of group homes. Municipalities have the authority to create a registration system for group homes but are not provided special authority to license group homes. The registration system is not dealt with under the zoning by-law review, but through a separate, parallel process that considers the implementation of a registration by-law.

- City of Hamilton v. Lynwood Charlton Centre: In 2012, the City of Hamilton denied a Zoning By-law Amendment application to permit a group home to be located less than 300 metres away from another group home. The organization owned another property able to accommodate their facility that did not meet a radial separation distance requirement of Hamilton's Zoning By-law 6593, as amended. The organization appealed the decision of Hamilton City Council to the Ontario Municipal Board and the Ontario Human Rights Commission intervened in the case. In 2013, the OMB found that allowing the group home's application would be consistent with other uses in the area and with the provincial, regional and municipal plans, and that the City's refusal was not justified by any demonstrated impact on the neighbourhood. The City has since committed to undertaking a review of by-laws relating to minimum separation distances.
- City of Toronto v. Dream Team: In 2012 the Dream Team, an organization that advocates supportive housing for people with disabilities, challenged the City of Toronto's minimum separation distance requirements for group homes for people with disabilities at the Human Rights Tribunal of Ontario. An expert was hired by the City of Toronto to examine issues arising from the City's imposition of minimum separation distances to group homes. The report concluded that there is no sound, accepted planning rationale for minimum separation distances and recommended that they be removed³⁸.

The increasing number of similar cases in recent years demonstrates that planning for facilities such as group homes requires careful consideration with respect to human rights. In 2012 the Ontario Human Rights Commission published the report *In the Zone: Housing, Human Rights and Municipal Planning*³⁹, which indicates that zoning by-laws that define and restrict the location of dwellings based on the characteristics of their users ("people zoning"), rather than the type of use ("land use zoning"), have deemed to be discriminatory and may violate the Code. Examples of such zoning approaches include minimum separation distances and caps on the number of residents allowed that are not justified on a rational planning basis.

Two studies addressing these issues were prepared in recent years for the Town of Oakville (2012) and the Town of Ajax (2013), to inform their respective zoning by-law reviews. Both studies concluded that the establishment of minimum distance separation provisions for group homes and rooming houses was not recommended⁴⁰. The study prepared for the City of Toronto in 2012 in response to the Dream Team case also recommended that separation distance requirements for group homes be removed, but not for crisis care facilities. The study further recommended that a clear distinction be made between the definition of these two types of housing.

Parking Requirements for Shared Housing Units

Evidence shows that parking requirements can impact housing affordability given that parking spaces increase the cost of development. Since parking costs increase as a percentage of rent for lower priced housing, and low income households tend to own fewer vehicles, establishing onerous

38 Agrawal, Sandeep K. Opinion on the Provisions of Group Homes in the City-wide Zoning By-Law of the City of Toronto. Prepared for the City of Toronto. Report to the Planning and Growth Management Committee. Final Report on the City-wide Zoning By-law: Supplementary Report on Human Rights Challenge to Group Home Zoning Regulations, PG13020. February 28, 2013.

39 Ontario Human Rights Commission. In the Zone: Housing, Human Rights and Municipal Planning. Toronto, 2012.

40 Town of Ajax. Lodging Houses Review Discussion Paper. Options to Address Lodging Houses. Town of Ajax Planning and Development Services. June, 2013 and Town of Oakville. Technical Paper: Residential Zones Received by the inZone Subcommittee February 4, 2013.

minimum parking requirements for affordable housing units is considered unfair practice⁴¹ and is inconsistent with efforts to promote housing affordability.

The table below provides an overview of typical parking requirements for rooming houses and group homes in certain municipalities in Ontario:

	Brampton	London	Kitchener	Oshawa	Guelph	Barrie
Parking requirements for Rooming/ Lodging/ Boarding Houses	Min. 0.5 parking spaces for each lodging unit, plus two parking spaces for the proprietor.	Min. 0.33 parking spaces per unit. If the lodging house contains more than 5 units, 0.75 long-term bicycle parking spaces are required.	1 off-street parking space required for every 25 m2 of floor area dedicated to the rooming house.	Min. 0.5 parking spaces for every lodging unit. If it contains a separate dwelling unit, one additional parking space is required.	1 off-street parking space per building plus 1 parking space for every 3 occupants. Certain properties within the CBD-1 zone may be exempt from this requirement.	Small rooming houses: min. 1 parking space + 1 additional on-site parking space for every 2 tenants (tandem parking permitted). Large rooming houses: min. 1 parking space for every 2 tenants (tandem parking not permitted)
	Newmarket	Stratford	Ajax	Oshawa	Burlington	Barrie
Parking Requirements for Group Homes	Greater of 2 parking spaces or 1 space per staff member on duty.	Minimum of 2 parking spaces.	Minimum: 2 parking spaces plus the requirements of the dwelling.	1 parking space for every 3 residents.	4 off-street parking spaces required.	1 parking space per dwelling unit.

41 Based on typical affordable housing development costs, one parking space per unit increases costs by approximately 12.5%, and two parking spaces can increase costs by up to 25%. Source: Litman, Todd. Parking Requirement Impacts on Housing Affordability. Victoria Transport Policy Institute. 11 June 2014.

It is relevant to note that municipalities have often used parking requirements as a way to control the development of certain types of housing. The City of Barrie, for example, proposed the use of restrictive on-site parking standards for rooming houses with the specific intent to restrict the number of homes that can accommodate tenants or be used for small rooming houses⁴².

An in-depth review of parking requirements is provided in a separate report prepared as part of the series of papers aimed to inform Markham’s Comprehensive Zoning By-law Review Project.

Licensing

Under the Municipal Act, municipalities in Ontario may license, regulate and govern businesses including renting residential units and operating group homes, boarding, rooming or lodging houses within the municipality. Licensing is normally enforced through a licensing by-law and is used to help ensure that landlords and building owners maintain the property in accordance with minimum standards, including required safety standards.

Licensing requirements can vary considerably among municipalities, as depicted below:

	Brampton	London	Kitchener	Oshawa	Guelph
Licensing requirements for Rooming Houses	Required and must be renewed yearly. Cost: \$117. Max. fine for non-compliance: \$25,000.	Class 2 (> 3 occupants) must be licensed and renewed yearly. Cost: \$490. A register is required detailing name and previous residence of occupants.	Required and must be renewed yearly. Initial cost: \$901 and \$732 thereafter. Maximum fine for non-compliance: \$25,000.	Required. Application fee: \$100. Licensing fee: \$250.	Licensing required. Details not specified.

The Ontario Human Rights Commission does not support zoning housing categorized as affordable, supportive and group homes as businesses or services, given that these zoning categories can subject occupants to higher levels of scrutiny and expectations than do other forms of residential housing⁴³.

Licensing is seen as reasonable when it contains provisions related to fire, garbage and snow removal, maintenance, health and safety standards and parking. However, licensing may contravene the Ontario Human Rights Code when it places gross floor area requirements, bedroom caps, and minimum separation distances, given that these provisions may have the effect of reducing the availability and range of rental housing, which can have an adverse impact on Code protected groups⁴⁴.

42 City of Barrie. Staff Report PLN048-07. To General Committee. File: D14TE-BOA. Boarding, Lodging Rooming Houses. November 12, 2007.

43 Ontario Human Rights Commission. In the Zone: Housing, Human Rights and Municipal Planning. Toronto, 2012

44 Ontario Human Rights Commission. Room for everyone: Human rights and rental housing licensing. Province of Ontario: Toronto, 2013.

Section 3. Policy Framework for Secondary Suites

3.1 Provincial Regulations and Policies

3.1.1 Building Code Act, 1992

The Building Code Act (BCA) governs the construction, renovation, demolition and change of use of buildings. The Building Code (2012)⁴⁵ is a regulation 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 authorities⁴⁶) are responsible for enforcing the BCA and Building Code. The Building Code sets building design requirements such as those relating to energy efficiency and barrier-free design, including specific dimensions and placements for barrier-free entrances, paths of travel and washrooms, requiring new tactile signs for people with visual disabilities and requiring that a percentage of units in new apartment buildings or hotels include accessible features. These accessibility requirements are minimum standards, which may be exceeded.

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 construction, and inspections during construction, to ensure compliance with standards (such as minimum room areas, standards for fire separation and egress, etc.).

45 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.

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

3.1.2 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 the legalization of existing units.

3.1.3 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 shall 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 provisions⁴⁷. Building owners are still required to ensure the secondary suite meets applicable building, fire and health and safety standards.

3.1.4 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 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, 1995⁴⁸.

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 of the Planning Act 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.

3.1.5 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 buildings and their surrounding properties. Except where otherwise specified, the property owner has the responsibility of complying with the Fire Code.

3.1.6 Strong Communities through Affordable Housing Act, 2012

Municipalities are required to implement Official Plan policies and zoning by-law provisions that allow secondary suites in detached, semi-detached and townhouses, or as accessory units. Bill 140: the Strong Communities through Affordable Housing Act recognized affordable housing

47 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.

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

as a matter of provincial interest and amended various sections of the Planning Act to promote affordable housing opportunities.

With the intent of increasing the use of secondary suites as an affordable housing option, the Planning Act now requires municipalities to implement Official Plan policies and zoning by-law provisions that allow secondary suites in detached, semi-detached building and townhouses, or as accessory units. The provisions permit one additional unit either in a house (as a basement, for example) or in an ancillary structure (above a laneway garage, for example). Municipalities are required to bring their planning documents into conformity with the new legislation as part of their five-year official plan review, or in advance of the official plan review.

Municipalities are responsible for determining appropriate locations and performance standards for secondary suites, including minimum unit size and parking requirements. 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.

The Planning Act was also amended by Bill 140 to remove the right to appeal the establishment of applicable Official Plan policies and zoning by-law provisions, including requirements or standards identified in such by-laws, to the Ontario Municipal Board, with the exception of Official Plan policies that are included in five-year updates of municipal official plans⁴⁹. In addition, the Bill increases the maximum temporary allowance of garden suites from 10 years to a maximum of 20 years.

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 (examples include special policy areas within the floodplain or areas with inadequate servicing), and municipalities are responsible for considering such constraints when developing or reviewing their policies for secondary suites.

Below is a summary of the regulations introduced to Sections 16, 17, 34 and 35.1 of the Planning Act through Bill 140:

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, semidetached 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).

⁴⁹ Note that in some instances, municipalities may conclude that it is appropriate to allow a secondary suite both as part of a dwelling and as ancillary structures. However, the sheltering of appeals does not extend to third suites. The authorization of the third suite would be subject to potential appeals to the Ontario Municipal Board.

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.

3.2 Regional Plans and Guidelines

The Regional Municipality of York's guiding policy documents provide direction on the implementation of targets that support the provision of a full mix and range of housing⁵⁰.

3.2.1 York Region Official Plan, 2010

The Regional Official Plan⁵¹ (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.

3.3 City of Markham Policy Initiatives

Strategy for Secondary Suites and Staff Action Plan to Implement the Strategy, 2003-2009

The City of Markham has dedicated considerable efforts towards implementing zoning permissions for secondary suites. In 2002, 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 and legalization of secondary suites in Markham.

In June, 2002, the Development Services Committee directed staff "to prepare an appropriate secondary suites strategy and implementing by-law that permits and legalizes accessory

50 The Regional Municipality of York. (2012). Housing Matters: A Review of the Housing Market in York Region. Newmarket, Ontario.

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

apartments in select residential communities with required standards”⁵². From 2003 to 2009, City staff worked on a new strategy to permit secondary suites in Markham. This work included in February 2008, a Council Subcommittee on Secondary Suites recommendation for a proposed new Strategy for Secondary Suites comprising:

- 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.

In 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).

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

A number of meetings were held between 2008 and 2009, including public meetings to obtain input from residents on the proposed Strategy (April 16, 2008 and May 20, 2008), a workshop held by the Development Services Committee to allow further discussion on the proposed Strategy and the Action Plan required to implement it (April 28, 2009), and Council meetings (March 3, 2009 and May 12, 2009).

Council eventually requested that no further action be taken by staff with respect to secondary suites. The existing enforcement strategy was maintained and Staff were asked to take additional steps to educate Markham's residents on the City's existing regulations regarding secondary suites⁵³.

3.4 City of Markham's Policy Framework

3.4.1 Official Plan Housing and Land Use Policies

The 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 outlines housing objectives to increase the diversity of housing type and tenure, and affordable housing options to contribute to the liveability of neighbourhoods and the quality of residents and ensure a stable workforce.

Section 4.1.2.6 supports the further 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 a range of residential, mixed use land, greenway and countryside 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. 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.

Some of the key housing and land use policies of the Official Plan that address secondary suites are listed in Appendices 1 and 2 to this paper.

53 Town of Markham. Council Minutes. Meeting Number 8. 12 May 2009.

Section 4. Key Zoning Issues Associated with Secondary Suites

4.1 Background

Secondary suites can contribute to the achievement of a number of key planning objectives, as highlighted in provincial and municipal policies that support their implementation. Municipal housing strategies across Canada recognize that secondary suites can bring long-term benefits to communities due to several factors:

- Secondary suites offer an opportunity for new dwelling units to be added to both the existing housing stock and to new housing developments;
- Secondary suites provide a flexible response to changing neighbourhood and household demographics, including households with aging parents or adult children;
- Their implementation relies largely on private sector funding once zoning and related regulatory provisions are in place;
- Owners of dwellings with a secondary suite have the opportunity to obtain rental income, which can help offset the costs of home ownership or maintenance. This may be important for homeowners who are seniors and other households that may otherwise face housing affordability challenges;

- Secondary suites can increase the stock of affordable housing without requiring significant intervention from the City, particularly in comparison with traditional affordable housing programs that are funded and managed by the public sector;
- There is an opportunity to optimize the use of public infrastructure, which is commonly designed for higher densities; and
- Secondary suites can meet the needs of seniors, live-in caregivers, smaller households and other residents seeking affordable rents.

4.2 Current Zoning By-law Regulations

Secondary suites are generally not permitted in Markham under existing zoning by-laws, except in specific areas where the zoning permits them (Markham Centre), or where a secondary suite existed on November 16, 1995 and is recognized (grandfathered) as a permitted use under provincial legislation (see Section 1: Provincial and Regional Policies – Ontario Regulation 384/94). Markham currently requires that houses containing a permitted secondary suite be registered with the City and comply with building and fire safety codes and property standards.

4.2.1 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-D5⁵⁴. 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 regulations pertaining to secondary suites in By-law 2004-196 are limited to parking provisions. 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 Units⁵⁵.

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

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

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

- 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 dwelling⁵⁶;

54 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.

55 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).

56 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.

- An accessory dwelling unit (not located in the main building) is permitted in association with lane-based single detached dwellings in Cathedral Town 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 detached private garages 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.

4.3 Existing Secondary Suites

4.3.1 Permitted Secondary Suites

As described above, previous provincial legislation in Ontario (Bill 120) permitting secondary suites as-of-right in residential areas resulted in the establishment of a number of secondary suites in Markham and in municipalities across the Province, which continue to be recognized as permitted uses today. As part of the Detailed Review of Secondary Suites and Strategy Options conducted by City staff in 2008,⁵⁷ it was estimated that approximately 500 secondary suites were established in Markham at that time, which were grandfathered and registered (based on 2001 Census data). As of mid-2015, there were a total of 709 registered secondary suites in Markham.

4.3.2 Secondary Suites without Zoning Permission (Non-registered Secondary Suites)

The 2008 report estimated that a significant number of additional, unidentified secondary suites exist throughout Markham without zoning permission.⁵⁸ This number was estimated at 2,500 in 2008 and continues to be estimated as upwards of 2,000 as of mid-2015. The main concern associated with non-registered units is the potential safety risk associated with them. Owners of non-registered secondary suites are discouraged to voluntarily apply for inspection and registration due to the lack of zoning permission, which may result in non-compliance with the Building Code and Fire Code.

The City of Markham has acknowledged that secondary suites exist and will continue to exist regardless of a zoning framework being in place to regulate them. The implementation of a permissive policy framework that includes inspection and registration represents a step towards ensuring the safety of residents and increasing the accountability of landlords.

4.3.3 Draft Secondary Suites Zoning By-law

In 2008 the City worked on developing a draft Secondary Suites Zoning By-law (see Appendix 3). The draft by-law was an outcome of the work conducted by City staff from 2003 to 2009 as part of Markham's Strategy for Secondary Suites⁵⁹. The proposed Secondary Suites Zoning By-law was not adopted by Council, however, it reflected thorough consideration of key issues associated with secondary suites, as discussed in more detail below.

57 Town of Markham. Report to Development Services Committee. Subcommittee on Second Suites Recommendations. Appendix 'A': Detailed Review of Secondary Suites and Strategy Options. 5 February 2008.

58 The number of non-registered secondary suites in Markham in 2008 was estimated at 2,500. Source: Town of Markham. Markham's Proposed Policy for Second Suites: Frequently Asked Questions. Updated June 2008.

59 The strategy also proposed amendments to the Registration By-law and Property Standards By-law.

4.4 Recent Zoning Approaches to Secondary Suites

As a result of the policy requirements introduced through Bill 140 in 2012, a number of municipalities in Ontario have recently implemented or are currently in the process of implementing zoning regulations for secondary suites. This section reviews some of these experiences, as well as the provisions proposed by Markham in the 2008 Draft Secondary Suites Zoning By-law⁶⁰.

4.4.1 Location criteria

The Planning Act requires municipalities to identify appropriate areas for second units within both existing and new development areas. Markham's Official Plan establishes that, at a minimum, all areas in the city designated as Residential, Mixed Use and Countryside should provide for secondary suites. As part of the detailed review of secondary suites conducted in 2008, Markham conducted an analysis of preferred options and considered two options: permitting secondary suites city-wide in existing and new developments, or permitting it city-wide in new developments only. The review 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 in the process adopted a similar approach.

Among the municipal experiences reviewed here, secondary suites are permitted in all or most residential zones city-wide.

60 Note that the draft version of Markham's New Official Plan initially contained provisions that mirrored the provisions of the 2008 Draft Secondary Suites Zoning By-law. The only element that differed between the two is that in the Draft Official Plan, *townhouses* were included in addition to *detached* and *semi-detached* houses, as a type of building that can accommodate secondary suites (which aligns with the recent changes to the Planning Act). These provisions were modified in the final approved version of the Official Plan. Source: Town of Markham. Action Plan to implement a new Strategy for Second suites. Report to Development Services Committee. Prepared by the Interdepartmental Staff Working Group on Second Suites, March 3, 2009.

Task 13A: Affordable and Shared Housing, and Secondary Suites

	Markham: Draft By-law, 2008 (not in force)	London: Proposed Amendment to By-law Z.-1, 2014	Vaughan: Proposed 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 are to be permitted through site specific zoning by-law amendments (in accordance with the Official Plan). 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-end⁶¹.

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-right⁶². 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.

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

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

4.4.2 Building or dwelling type in which the secondary suite is contained

Section 16 of the Planning Act requires municipalities to authorize the use of secondary suites in single-detached, semi-detached and row houses, as well as in buildings ancillary to detached, semi-detached and row houses that contain a single residential unit.

All municipalities that have recently proposed or passed zoning by-laws permit secondary suites in single-detached and semi-detached dwellings. Some municipalities permit secondary suites in additional dwelling types including street townhouses, multiple residential dwellings, duplexes, row houses, converted dwellings and triplex accessory structures, as demonstrated below:

<p>Building or dwelling type where secondary suites are permitted</p>	<p>Markham: Draft Zoning By-law, 2008 (not in force)</p>	<p>As-of-right in single or semi-detached. The two units must be contained within the same building.</p>	<p>London: Proposed Amendment to By-law Z.-1, 2014</p>	<p>As-of-right in single, semi-detached and street townhouse.</p>	<p>Vaughan: Proposed Amendment to By-law 1-88, 2014</p>	<p>Permitted within <i>and</i> accessory to a single, semi-detached or street townhouse unit.</p>	<p>Barrie: Proposed Amendment to By-law 2009-141, 2015</p>	<p>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 Density (RM2) and Residential Multiple Townhouse (RM-TH) zones.</p>	<p>Oakville: By-law 2014-014 (currently in OMB appeal period)</p>	<p>As-of-right in detached and semi-detached.</p>	<p>Kingston: 2013 By-law (Pilot Phase in effect)</p>	<p>As-of-right in single, semi-detached, or row house dwelling</p>	<p>Toronto: Amendment to By-law 569-2013</p>	<p>As-of-right in single and semi-detached; and in townhouses in the Residential[®] zone.</p>
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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 townhouses⁶³. 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.

4.4.3 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.

63 As indicated earlier, a draft version of Markham's New Official Plan outlined the same provisions proposed under Markham's 2008 Draft Zoning By-law for Secondary Suites, with the exception of the addition of townhouses among the building types that can contain a secondary suite. These specific provisions were removed in the final version of the Official Plan.

Task 13A: Affordable and Shared Housing, and Secondary Suites

	Markham: Draft By-law, 2008 (not in force)	London: Proposed Amendment to By-law Z.-1, 2014	Vaughan: Proposed 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
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.
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 75m2.	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*.

4.4.4 Parking standards

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 demonstrating that secondary suites generally do not generate increased demand for on-street parking⁶⁴. 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.

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

Parking Requirements	Markham: Draft By-law, 2008 (not in force)	No parking spaces are required for a secondary unit. All other provisions of Parking By-law 28-97 must be complied with.	London: Proposed Amendment to By-law Z.-1, 2014	Maximum of 1 parking space required per secondary unit.	Vaughan: Proposed Amendment to By-law 1-88, 2014	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.	Barrie: Proposed Amendment to By-law 2009-141, 2015	1 parking space required per dwelling unit.	Oakville: By-law 2014-014 (currently in OMB appeal period)	1 additional parking space required for the secondary unit.	Toronto: Amendment to By-law 569-2013	Kingston: 2013 By-law (Pilot Phase in effect)	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.
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Under Markham's 2008 Draft By-law for Secondary Suites, no additional parking spaces would be required for the secondary suite. This approach resulted from a review of the Parking Standards By-law requirement (as amended in 2006), which required that 2 parking spaces 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 recommended that no additional spaces be required for the secondary suite. 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 need to comply with the driveway width standards of Markham's Extended Driveway By-law and the parking space requirements outlined in the Parking By-law.

A separate report (Task 9 – Review of Parking Requirements) prepared as part of the Comprehensive Zoning By-law Project analyses parking provisions in detail and suggests that no additional parking be required for secondary suites in Markham's New Comprehensive Zoning By-law. The report suggests that rather than imposing a blanket provision of one additional parking space for each secondary suite, the new comprehensive zoning by-law may seek to develop conditions or performance measures that would help ensure that satisfactory parking arrangements are in place before the approval of a secondary suite, and should adopt the example of By-law 2004-196 (Markham Centre), which does not require or permit additional parking spaces for secondary suites.

Finally, an additional parking approach to be considered 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 city⁶⁵.

4.4.5 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:

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

External Appearance	Markham: Draft By-law, 2008 (not in force)	London: Proposed Amendment to By-law Z.-1, 2014	Vaughan: Proposed 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
	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 be permitted to the front or exterior side yard elevations of a primary dwelling 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 interior 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).

4.4.6 Additional requirements (non-zoning)

Property Standards and Licensing

A common concern associated with secondary suites is poor property maintenance as a result of situations where the owner does not reside on the property.

As part of the detailed review of secondary suites conducted in 2008, the City of Markham considered the implementation of an Internal Property Standards By-law, to be applicable in situations where the landlord is absent. This would require amending Markham's Property Standards By-law. Two options were considered:

1. The by-law would provide guidance on the proper handling of garbage; or
2. The by-law would incorporate a comprehensive internal property standard framework including proper handling of garbage and inspection of basement floors, windows, stairs/landings, plumbing, electrical, heating, water, ventilation, and pest prevention.

Staff recommended the adoption of option 1 initially, to be followed by an 18-month monitoring process to determine if option 2 would be necessary.

Many municipalities have considered requiring owner occupancy for dwellings with secondary suites, as a way to assist in protecting the character of existing neighbourhoods. The City of Mississauga evaluated the possibility of implementing this requirement, and concluded that such an approach would be discriminatory and would run contrary to the Planning Act, Section 35(2). As a solution, Mississauga developed a two category approach where secondary suites are categorized either as an Owner Occupied Dwelling or an Investment Dwelling. The approach is complemented by specific licensing requirements. Owner Occupied Dwellings have lower licensing fees and are permitted as-of-right where the existing zoning regulations are complied with. Investment dwellings are required to conduct an inspection and file a record of inspection form every three months as a condition of licensing along with higher licensing fees. Both types of units are required to meet Ontario Building and Fire Code regulations⁶⁶. The licensing process is established by Mississauga's Enforcement Division of the Transportation and Works Department. Licensing requirements include compliance with zoning by-law regulations, the Ontario Building Code, the Ontario Fire Code and other applicable municipal by-laws. Proposed licensing fees are \$500 for owner-occupied dwellings and \$1,000 for investment dwellings, in addition to other permit and inspection fees.

Public Infrastructure Requirements

Although in some instances communities have expressed concern over the potential burden of secondary suites on servicing an infrastructure capacity, municipalities that have assessed the impact of new secondary suites on existing infrastructure have concluded that this is not a valid concern⁶⁷. The City of Kingston conducted an evaluation of its secondary suites pilot strategy, which suggested that the addition of new secondary suites has not resulted in any notable concerns

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

67 Town of Whitby. Recommendation Report. Subject: Accessory Apartments. Report to Planning and Development committee. March 16, 2009.

related to the integrity or capacity of the public infrastructure system, according to a November 2014 staff report⁶⁸.

Servicing and infrastructure design is based on the average floor area of buildings, not on the expected number of occupants in a building. In addition, multiple factors can impact the number of people residing in a neighbourhood. Recent demographic changes, for example, have led the average population per dwelling to decrease over time. Evidence shows that secondary suites can in fact result in more efficient use of municipal infrastructure, such as transit, utilities, roads, recreation centres and parks, and the potential increase in population of existing neighbourhoods can contribute to the viability of local schools, community centres, shops and local businesses and services⁶⁹.

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

69 Federation of Canadian Municipalities. Housing Affordability and Choice: A Compendium of ACT Solutions. Ottawa, 2011.

Section 5. Conclusion

The zoning by-law is a key regulatory tool available for municipalities to direct development and promote the availability of affordable housing. The comprehensive zoning by-law review process represents an opportunity for the City of Markham to establish adequate and responsive standards for shared housing and implement permissions for secondary suites. These actions will enable the City move forward in achieving its affordable housing goals.

In addition to provincial and regional policies and the new Official Plan, which together provide the framework to guide the development of zoning by-laws, the City of Markham has dedicated significant efforts towards assessing and evaluating zoning options to address affordable housing. A number of other municipalities in Ontario have also recently adopted zoning practices that serve as relevant examples available for Markham to draw from. The table below summarizes these considerations, outlining the rationale behind key issues and the zoning approaches or requirements to be considered in addressing them.

The table below provides a summary of main points for consideration in the development of the City of Markham's new comprehensive zoning by-law:

SHARED HOUSING		
Key Issue	Rationale	Zoning Approaches / Requirements
<p>Definitions</p>	<ul style="list-style-type: none"> ▶ Markham’s Shared and Supportive Housing Policy Review (2011) recommended adopting appropriate, relevant and applicable definitions for the key housing forms under shared housing. ▶ Definitions should be consistent with and developed as sub-categories that fall under the definitions provided in the Official Plan. Markham’s OP categorizes shared housing by the scale of the building type and the level of support services as follows: shared housing small scale; shared housing large scale; shared housing long term care and shared housing supervised. ▶ It is important to ensure consistency in the definition of the various terms amongst the Official Plan, zoning by-laws, licensing by-laws, as well as the Building Code and the Fire Code. ▶ Definitions should attempt to avoid potential negative impacts associated with stigma attached to some terms. Municipalities have the responsibility to ensure that no groups are discriminated against through the zoning process. 	<ul style="list-style-type: none"> ▶ A decision will need to be made on whether to break down the Official Plan definitions of shared housing into further sub-categories in the zoning by-law to include Group Homes, Rooming Houses or Boarding Houses, Lodging Houses, Long-term Care Homes or Residential Care Facilities, and Private Retirement Homes. ▶ It would seem appropriate to distinguish between the definition of group homes and crisis care/residential care facilities/emergency and transitional housing. ▶ The phrase “by reason of their emotional, mental, social or physical condition or legal status”, although included in the definition of group homes in the Municipal Act, is inconsistent with the Ontario Human Rights Code and the Canadian Charter of Rights and Freedoms and therefore should not be included in municipal definitions of group homes. ▶ A distinction can be made between small and large rooming houses. ▶ In general, definitions of rooming houses: <ul style="list-style-type: none"> ▶ Specify a minimum size of 4 rooms designed for separate living, ▶ Specify that the rooming house may contain one dwelling unit, ▶ Specify that a use defined as a rooming house does not include other uses. ▶ Definitions are further discussed in Task 5: Review and Assessment of Zoning By-law Definitions.

SHARED HOUSING		
Key Issue	Rationale	Zoning Approaches / Requirements
<p>Location of Shared Housing</p>	<ul style="list-style-type: none"> ▶ The zoning by-law must implement the policies contained in the Official Plan. ▶ The Official Plan establishes that shared housing small scale shall be accommodated within a permitted building type in accordance with all applicable codes, by-laws and regulations; and the location of shared housing large scale, shared housing long term care and shared housing supervised shall be restricted to permitted building types on an arterial or collector road and built in accordance with all applicable codes, by-laws and regulations. 	<p>The zoning by-law must provide for:</p> <ul style="list-style-type: none"> ▶ Shared housing small scale in Residential Low Rise, Residential Mid Rise, Residential High Rise, Mixed Use Low Rise, Mixed Use Mid Rise, Mixed Use High Rise, and Mixed Use Heritage Main Street land use designations; ▶ Shared housing large scale in Residential Mid Rise, Residential High Rise, Mixed Use Mid Rise, Mixed Use High Rise, and Mixed Use Office Priority land use designations; ▶ Shared housing long-term care and Shared housing supervised in Residential Mid Rise, Residential High Rise, Mixed Use Mid Rise, Mixed Use High Rise, Mixed Use Office Priority, Mixed Use Heritage Main Street land use designations; ▶ Shared housing small scale shall be accommodated within a permitted building type in accordance with all applicable codes, by-laws and regulations; ▶ Shared housing large scale, shared housing long term care and shared housing supervised to be permitted only on arterial or collector roads and built in accordance with all applicable codes, by-laws and regulations.
<p>Separation distances</p>	<ul style="list-style-type: none"> ▶ Municipal by-laws that prescribe minimum distance requirements between group homes or rooming houses have faced challenges before the Ontario Municipal Board and the Ontario Human Rights Commission. This zoning approach is deemed discriminatory and may violate the Human Rights Code. 	<ul style="list-style-type: none"> ▶ No separation distance should be required for group homes. ▶ Separation distance requirements may be considered for crisis care facilities.

SHARED HOUSING		
Key Issue	Rationale	Zoning Approaches / Requirements
Parking Requirements	<ul style="list-style-type: none"> ▶ Parking requirements can increase the cost of development and negatively impact housing affordability. Onerous parking requirements are considered unfair, given their disproportionate burden on lower-income households. Parking requirements should not be used as a way to control the development of affordable housing in certain areas. 	<ul style="list-style-type: none"> ▶ A decision will need to be made on whether to adjust parking requirements for shared housing units. ▶ A detailed review of parking requirements is provided in Task 9: Review & Assessment of Parking and Loading Standards.
Non-Zoning Initiatives		
Licensing	<ul style="list-style-type: none"> ▶ Licensing can help ensure that fire, garbage, snow removal, maintenance, health and safety standards and parking requirements are complied with. ▶ Licensing should not prescribe gross floor area requirements, bedroom caps and minimum separation distances given that these provisions can have an adverse impact on Code-protected groups. 	<ul style="list-style-type: none"> ▶ Licensing by-law provisions should be consistent with the zoning by-law and should be carefully developed to focus on property standards and to avoid any adverse impacts on Code-protected groups.

SECONDARY SUITES		
Key Issue	Rationale	Zoning Approaches / Requirements
<p>Provisions for Secondary Suites</p>	<ul style="list-style-type: none"> ▶ The new zoning by-law must respond to Provincial Policy. ▶ Bill 140 requires that secondary suites be permitted in detached, semi-detached and row houses (or as an accessory unit). ▶ At a minimum, the zoning by-law should address the key provisions outlined in Section 8.13.8.1 of Markham’s New Official Plan. ▶ A number of other municipal zoning by-laws address additional requirements such as driveway width and location criteria. ▶ Markham’s 2008 Draft Secondary Suites Zoning By-law contains provisions that are in line with other zoning by-laws that have been recently adopted/proposed by other municipalities in Ontario. For the most part, the Draft is also in line with recently passed Provincial Legislation, except for the fact that it does not currently include a permission for secondary suites in townhouses. 	<ul style="list-style-type: none"> ▶ The zoning by-law must provide for secondary suites in detached, semi-detached and rowhouses or as an accessory unit. ▶ In accordance with the Official Plan, the zoning by-law must address: <ul style="list-style-type: none"> ▶ The building type in which the <i>secondary suite</i> is contained; ▶ The percentage of the floor area of the building type devoted to the secondary suite; ▶ The number of dwelling units permitted on the same lot; ▶ The size of the secondary suite; ▶ The applicable parking standards; ▶ The external appearance of the main dwelling. ▶ It seems appropriate to re-consider the adoption of the 2008 Draft Secondary Suites Zoning By-law. The Draft should be reviewed and amended to include, at a minimum, permission for secondary suites in townhouses.

SECONDARY SUITES		
Key Issue	Rationale	Zoning Approaches / Requirements
Location of secondary suites	<ul style="list-style-type: none"> ▶ In accordance with Provincial legislation, municipalities are currently responsible for determining specific locations for permitting secondary suites. ▶ While the Planning Act requires municipalities to permit secondary suites, it recognizes that there may be inherent constraints within certain areas in a community that make these areas inappropriate for secondary suites, such as special policy areas in the floodplain or areas with inadequate servicing. ▶ Markham's Official Plan establishes that secondary suites may be provided for in all Residential designations and that secondary suites be provided for in all mixed use, greenway and countryside land use designations. ▶ Markham's Official Plan establishes that on lands designated Hamlets an accessory dwelling be provided for in association with a principal dwelling provided that adequate parking is provided and it is services by an individual on-site wastewater system and private well. ▶ Section 4.1.2.6 of Markham's Official Plan establishes provisions to promote the establishment of secondary suites within existing and new permitted dwelling types in accordance with Section 3.5.22 of the Regional Official Plan. 	<ul style="list-style-type: none"> ▶ Secondary suites must be provided for city-wide to comply with Section 35.1(1) of the Planning Act. ▶ An accessory dwelling must be provided for in lands designated Hamlets, in association with a principal dwelling provided that adequate parking is provided and it is services by an individual on-site wastewater system and private well. ▶ The City should consider whether there are potential constraints on secondary suites in special policy areas within the floodplain or areas with inadequate servicing when developing or reviewing policies for secondary suites.
Building or dwelling type	<ul style="list-style-type: none"> ▶ The Planning act requires municipalities to authorize secondary suites in single, semi-detached and row houses, and in buildings ancillary to single, semi-detached and row houses. 	<ul style="list-style-type: none"> ▶ At a minimum, Markham must provide for secondary suites in single detached, semi-detached and row houses/townhouses, as well as in buildings ancillary to these types of dwellings.

SECONDARY SUITES		
Key Issue	Rationale	Zoning Approaches / Requirements
Number and dimension of units	<ul style="list-style-type: none"> ▶ Most municipalities set restrictions on the number of secondary suites allowed on the same lot and 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. ▶ The provisions contained in Markham’s 2008 Draft Secondary Suites Zoning By-law are in line with most recently proposed/adopted zoning by-laws. 	<ul style="list-style-type: none"> ▶ Markham should consider maintaining the 2008 Draft Secondary Suites Zoning By-law, which establishes a maximum of 2 dwelling units on the same lot, a minimum GFA of 35m² and a floor area not greater than 45% of the main dwelling’s floor area for the secondary suite.
Parking	<ul style="list-style-type: none"> ▶ A common concern is that secondary suites will result in increased on-street and front yard parking. ▶ Evidence exists demonstrating that secondary suites generally do not generate increased demand for on-street parking. ▶ The tendency has been for municipalities to reduce parking requirements for affordable housing units and secondary suites. ▶ Some municipalities have introduced a permit system can be used to control on-street parking while generating revenue for the City. ▶ The City of Markham has adopted a Front and Rear Yard Parking By-law in 2006 as a response to concerns with illegal on-street and front yard parking, which is a common problem, regardless of the existence of secondary suites. 	<ul style="list-style-type: none"> ▶ Parking provisions for secondary suites should be addressed in the parking section of the new zoning by-law. ▶ Markham should consider maintaining the provisions outlined in the 2008 Draft Secondary Suites Zoning By-law, which states that no additional parking is required for secondary suites.
External appearance of the main dwelling	<ul style="list-style-type: none"> ▶ Residents are often concerned about exterior alterations to dwellings associated with secondary suites, as these alterations could impact the neighbourhood character. Secondary suites are more likely to be accepted when they are “invisible” and do not impact the main dwelling’s external appearance. 	<ul style="list-style-type: none"> ▶ The zoning by-law can include regulations to restrict changes to dwelling facades when establishing new units. It is suggested that Markham maintain the provisions outlined in the 2008 Draft Secondary Suites Zoning By-law, which states that no more than one dwelling unit may be contained within any main wall facing a streetline, and the entrance to the secondary suite may not be within the garage door.

SECONDARY SUITES		
Key Issue	Rationale	Zoning Approaches / Requirements
	Non-Zoning Initiatives	
Property standards	<ul style="list-style-type: none"> ▶ Markham proposed an Internal Property Standards By-law to address property standards. ▶ Meeting health and safety standards is a common concern among the public and emergency service providers in relation to establishing secondary suites. Many secondary suites are built illegally and therefore there is no procedure in place to guarantee that these units meet Building Code and Fire Code requirements. Legalizing secondary suites is often identified as the main solution to this situation. 	<ul style="list-style-type: none"> ▶ Markham can consider applying licensing requirements only to cases where the owner does not live in the premises, in order to create an incentive for the owner to occupy one of the units in the house. ▶ Health and safety standards can be enforced through the issuance of a building permit that requires compliance with the Fire Code, the Building Code and other by-laws.
Servicing and infrastructure requirements	<ul style="list-style-type: none"> ▶ There is a concern with the possibility that secondary suites could increase the burden on municipal services without a separate property tax assessment. However, most services are based on averages per building floor area, not per occupant. Consumption of services for a house with a secondary suite is unlikely to differ from services consumed by a house with a finished basement. ▶ Adding secondary suites can help to offset population declines where the average persons per dwelling has been decreasing, resulting in more efficient use of existing infrastructure. 	<ul style="list-style-type: none"> ▶ There is no evidence of any associated negative impacts on municipal services and infrastructure due to the addition of secondary suites to existing neighbourhoods, and therefore this should not be a concern in promoting the establishment of secondary suites.

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APPENDIX 1: 2014 Official Plan Key Housing and Land Use Policies

2014 Official Plan Key Housing and Land Use Policies

Some of the key policies under Chapter 4 of the Official Plan that address *affordable* and *shared housing* are listed below:

4.1.2 Diversifying the Housing Stock

It is the policy of Council:

4.1.2.2 To encourage development of a full range of unit types and unit sizes to respond to changes in household composition over time.

4.1.2.4 To support further diversification of the housing stock by encouraging:

- a) a greater share of apartment and multiple units, including stacked townhouses and townhouse units, be added to the housing stock.
- b) a mix of unit sizes to accommodate both family households and an increasing number of non-family households in new dwelling units to be added to the housing stock.

4.1.2.6 To support further diversification of the housing stock tenure by:

- a) encouraging the construction of rental and shared housing with a full mix and range of unit types and sizes; and
- b) 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.

4.1.3.1 To work, in partnership with the Region, the non-profit sector, the development industry, community partners and senior levels of government, to develop a strategy for *affordable* and *shared housing* and coordinate efforts to:

- a) ensure a diverse range of housing choices;
- b) increase the supply of *affordable housing* including social and assisted housing;
- c) increase *affordable housing* options for seniors, youth, new immigrants, and single person households;
- d) provide a range of *affordable housing* options for families;
- e) increase the supply of *shared housing* including housing for persons with special needs; and
- f) increase the supply of accessible housing.

4.1.3.2 To work, in cooperation with the Region, to identify targets for new housing in the strategy for *affordable* and *shared housing* and monitor annual housing growth towards the targets by:

- a) unit type: percentage of new housing units targeted by 2031 such as detached, semi-detached, townhouse and apartment units;
- b) unit tenure: percentage of new housing units targeted as rental and ownership units by 2031; and
- c) unit affordability: 25 percent of new housing units across Markham, and 35 percent of new housing units in Markham Centre, the Langstaff Gateway, and *key development areas*, be affordable to low and moderate income households.

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4.1.3.3 To encourage a portion of the targeted *affordable housing* units be designed as *shared housing* units with supports to accommodate persons with special needs.

4.1.3.4 To support the equitable distribution of *affordable* and *shared housing* across Markham neighbourhoods within permitted building forms.

4.1.3.5 To encourage that *affordable* and *shared housing* be located in proximity to rapid transit and accessible to other human services.

4.1.3.6 To work, in collaboration with the Region, the non-profit sector, the development industry, community partners, and senior levels of government to develop an *affordable housing* implementation framework to implement the actions outlined in the strategy for *affordable* and *shared housing* to:

- a) identify opportunities and optimal locations for *affordable* and *shared housing* early in the development process;
- b) increase opportunities for family housing types in Markham Centre, the Langstaff Gateway and *key development areas*;
- c) require housing policies within all new secondary plans and *comprehensive block plans*, where appropriate, to demonstrate how the *affordable* and *shared housing* targets referenced in Section 4.1.3.2 will be met;
- d) require housing impact statements, for mid-rise and high-rise development proposals exceeding 500 dwelling units or two apartment buildings, to identify:
 - i. the number of proposed new *affordable* and *shared housing* units;
 - ii. the estimated rents and/or initial sales prices of the *affordable* and *shared housing* units by type; and
 - iii. where construction of the units is expected to occur in phases, information regarding the number of *affordable* and *shared housing* units to be provided per phase;
- e) facilitate the timely processing of development applications for *affordable* and *shared housing* projects;
- f) develop new approaches to the delivery of *affordable* and *shared housing* to achieve the targets outlined in the strategy;
- g) encourage the development of intrinsically more *affordable housing*, which may include consideration of modest amenities, standard materials, minimal details and flexibility;
- h) support *affordable* and *shared housing* projects that receive funding under senior government programs; and
- i) consider financial incentives for qualifying *affordable* and *shared housing* projects.

4.1.3.7 To provide for a diverse range of *shared housing* categorized by the scale of the building form and the level of support services as follows: *shared housing small scale*; *shared housing large scale*; *shared housing long term care*; and *shared housing supervised*.

4.1.3.8 That *shared housing* shall be developed in accordance with the specific use policies of Section 8.13.9.

The specific policies of Chapter 8 of the Official Plan that address *affordable and shared housing* are listed below:

8.2 RESIDENTIAL

8.2.1 General Policies

Uses provided for in all 'Residential' Designations

8.2.1.2 In addition to the uses listed in Section 8.1.1, the following uses may be provided for in all 'Residential' designations:

- vi. *secondary suite* in accordance with Section 8.13.8.

8.2.3 Residential Low Rise

Affordable and shared housing shall be considered as an integral characteristic of 'Residential Low Rise' areas.

It is the policy of Council:

General Policies

8.2.3.1 On lands designated 'Residential Low Rise' to:

- c) accommodate *shared housing small scale*.

8.2.3.2 To provide for *shared housing small scale*, in addition to the uses listed in Section 8.2.1.2, on lands designated 'Residential Low Rise' in accordance with Section 8.13.9 of this Plan.

8.2.4 Residential Mid Rise

It is the policy of Council:

Uses

8.2.4.2 To provide for *shared housing small scale, shared housing large scale, shared housing long term care and shared housing supervised*, in addition to the uses listed in Section 8.2.1.2, on lands designated 'Residential Mid Rise' in accordance with Section 8.13.9 of this Plan.

8.2.5 Residential High Rise

It is the policy of Council:

Uses

8.2.5.2 To provide for *shared housing small scale, shared housing large scale, shared housing long term care and shared housing supervised*, in addition to the uses listed in Section 8.2.1.2, on lands designated 'Residential High Rise' in accordance with Section 8.13.9 of this Plan.

8.3 MIXED USE

8.3.1 General Policies

Uses provided for in all Mixed Use Designations

8.3.1.2 To provide for the following uses, in addition to the uses listed in Section 8.1.1, in all 'Mixed Use' designations:

- k) *secondary suite* in accordance with Section 8.13.8

8.3.2 Mixed Use Low Rise

It is the policy of Council:

Uses

8.3.2.2 To provide for *shared housing small scale*, in accordance with Section 8.13.9 of this Plan, in addition to the uses listed in Section 8.3.1.2 on lands designated 'Mixed Use Low Rise'.

8.3.3 Mixed Use Mid Rise

It is the policy of Council:

Uses

8.3.3.2 To provide for the following uses, in addition to the uses listed in Section 8.3.1.2, on lands designated 'Mixed Use Mid Rise':

- g) shared housing small scale, shared housing large scale, shared housing long term care and shared housing supervised in accordance with Section 8.13.9.

8.3.4 Mixed Use High Rise

It is the Policy of Council:

Uses

8.3.4.2 Same as 8.3.3.2 above.

8.3.5 Mixed Use Office Priority

It is the policy of Council:

Uses

8.3.5.2 To provide for the following uses, in addition to the uses listed in Section 8.3.1.2, on lands designated 'Mixed Use Office Priority':

- g) *shared housing large scale and shared housing long term care and shared housing supervised* in accordance with Section 8.13.9.

8.3.7 Mixed Use Heritage Main Street

It is the policy of Council:

Uses

8.3.7.2 To provide for the following uses, in addition to the uses listed in Sections 8.1.1 and 8.3.1.2, on lands designated 'Mixed Use Heritage Main Street':

- d) *shared housing small scale and shared housing long term care and shared housing supervised* in accordance with Section 8.13.9 of this Plan.

8.6 GREENWAY

8.6.1 General Policies

It is the policy of Council:

Uses

8.6.1.2 To provide for the following uses on lands designated 'Greenway':

- d) *secondary suite* in accordance with Section 8.13.8.

8.7 HAMLETS

8.7.1 General Policies

It is the policy of Council:

Uses

8.7.1.3 To provide for the following uses, in addition to the uses identified in Sections 8.1.1 and

8.2.1.2⁷⁰, on lands designated 'Hamlets':

- a) accessory dwelling in association with a principal dwelling provided that adequate parking is provided and it serviced by an individual private on-site wastewater system and private well;

8.8 COUNTRYSIDE

8.8.1 General Policies

It is the policy of Council

Uses

8.8.1.2 To provide for the following uses on lands designated 'Countryside':

- b) *secondary suite* in accordance with Section 8.13.8.

Specific Use Policies

Secondary suites and shared housing are subject to the following Specific Use Policies outlined under Section 8.13 of the Official Plan:

8.13.8 Secondary Suite

It is the policy of Council:

8.13.8.1 That in considering an application to amend the zoning by-law to permit the establishment of a *secondary suite* where provided for in this Plan, 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 suite*;
- e. the applicable parking standards; and
- f. the external appearance of the main dwelling.

8.13.9 Shared Housing

It is the policy of Council:

8.13.9.1 To apply the following specific use policies where *shared housing* is provided for in this Plan:

- a. *shared housing* shall be categorized by the scale of the building type and the level of support services as follows: *shared housing small scale*; *shared housing large scale*; *shared housing long term care* and *shared housing supervised*; and
- b. in considering an application to amend the zoning by-law to permit the establishment of *shared housing*, Council shall be satisfied that the following requirements, where applicable, will be fulfilled:
 - i. that *shared housing small scale* shall be accommodated within a permitted building type in accordance with all applicable codes, by-laws and regulations; and
 - ii. that the location of *shared housing large scale* and *shared housing long term care* and *shared housing supervised*

70 Secondary suite is among the uses identified in Section 8.2.1.2.

Task 13A: Affordable and Shared Housing, and Secondary Suites

shall be restricted to permitted building types on an arterial or collector road and built in accordance with all applicable codes, by-laws and regulations.

**APPENDIX 2:
Summary of shared housing and
secondary suites Official Plan pol-
icies associated with specific land
use designations**

Summary of shared housing and secondary suites Official Plan policies associated with specific land use designations

	Land Use Designation	Official Plan Policy
Shared Housing	Residential Low Rise	Section 8.2.3.1 - Accommodate <i>shared housing small scale</i> in lands designated 'Residential Low Rise'.
	Residential Mid Rise	Section 8.2.4.2 - Provide for <i>shared housing small scale, shared housing large scale, shared housing long-term care and shared housing supervised</i> on lands designated 'Residential Mid Rise'.
	Residential High Rise	Section 8.2.5.2 - Provide for <i>shared housing small scale, shared housing large scale, shared housing long term care and shared housing supervised</i> on lands designated 'Residential High Rise'.
	Mixed Use Low Rise	Section 8.3.2.2 - Provide for <i>shared housing small scale</i> on lands designated 'Mixed Use Low Rise'.
	Mixed Use Mid Rise	Section 8.3.3.2 - Provide for <i>shared housing small scale, shared housing large scale, shared housing long term care and shared housing supervised</i> on lands designated 'Mixed Use Mid Rise'.
	Mixed Use High Rise	Section 8.3.4.2 - Provide for <i>shared housing small scale, shared housing large scale, shared housing long term care and shared housing supervised</i> on lands designated 'Mixed Use High Rise'.
	Mixed Use Office Priority	Section 8.3.5.2 - Provide for <i>shared housing large scale and shared housing long term care and shared housing supervised</i> on lands designated 'Mixed Use Office Priority'.
	Mixed Use Heritage Main Street	Section 8.3.7.2 - Provide for <i>shared housing small scale and shared housing long term care and shared housing supervised</i> on lands designated 'Mixed Use Heritage Main Street'.
	Secondary Suites	Land Use
All Residential Designations		Section 8.2.1.2 - <i>Secondary suites</i> may be provided for in all 'Residential' designations.
Mixed Use		Section 8.3.1.2 - Provide for <i>secondary suites</i> in all 'Mixed Use' designations.
Greenway		Section 8.6.1.2 - Provide for <i>secondary suites</i> on lands designated 'Greenway' (Subject to additional restrictions associated with Greenway lands, as outlined in the Official Plan).
Hamlets		Section 8.7.1.3 - On lands designated 'Hamlets', provide for an accessory dwelling in association with a principal dwelling provided that adequate parking is provided and it serviced by an individual private on-site wastewater system and private well.
Countryside		Section 8.8.1.2 - Provide for <i>secondary suites</i> on lands designated 'Countryside'

APPENDIX 3: Markham Draft Secondary Suite By-law

Markham Draft Secondary Suites By-law

/Clause ____, Report No. ____, 2008



BY-LAW 2008-_____

A By-law to amend 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

WHEREAS the Town 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 Town of Markham;

AND WHEREAS the Town 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 an accessory dwelling unit within single detached and semi detached dwellings within the Town, 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 TOWN 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 and 177-96, as amended be and the same is hereby further amended as follows:

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

"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.

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

"Dwelling, Semi-Detached" means a dwelling unit in a building that is divided vertically into two dwelling units that share a common wall above grade that is divided vertically into two dwelling units that shares a common wall above grade.

"Dwelling, Single Detached" means a building containing only one dwelling unit.

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

"Lane" means a subsidiary thoroughfare which is not intended for general traffic circulation and which provides a public or private means of vehicular access to an abutting property.

"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.

"Street, Private" means a private right-of-way that is used by motor vehicles, but not owned by the Corporation or any other public authority.

"Street, Public" means a roadway owned and maintained by a public authority, and for the purposes of this By-law does not include a lane or any private street.

"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 *accessory dwelling unit* is permitted in a *single* or *semi-detached dwelling* in any Zone provided:

- a) both the *principal dwelling unit* and the *secondary dwelling unit* are wholly contained within the same *single* or *semi detached dwelling*;
- b) there are no more than two dwelling units on the same lot;
- c) the maximum *floor area* of the *secondary dwelling unit* is no more than 45% of *floor area* of the *single* or *semi-detached dwelling* as it existed prior to the establishment of the *secondary dwelling unit*;
- 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*;
- f) the entrance to either the *principal* or *secondary dwelling unit* is not contained within the *garage door*; and,
- g) 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,

By-law 2008-_____
Page 3

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, unless specifically modified or amended by this By-law, are complied with.

- 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 an *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 Town 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 ____, 2008.

READ A THIRD TIME AND PASSED THIS ____ DAY OF ____, 2008.

SHEILA BIRRELL, TOWN CLERK

FRANK SCARPITTI, MAYOR