



APPROVAL BLOCK

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CITY OF BELLEVILLE

Stephen Ashton, Manager of Policy Planning
Engineering and Development Services Department
Report No. PP-2018-44
November 5, 2018

To: Belleville Planning Advisory Committee

Subject: Proposed Zoning By-law Amendment (By-laws 10245, 3014 and 2076-80)
City of Belleville
APPLICANT: City of Belleville

File: B-77-1067

Recommendation:

THAT the Belleville Planning Advisory Committee recommends to the Council of The Corporation of the City of Belleville that a Zoning By-Law Amendment Application to define and introduce provisions governing second units and other technical amendments within City of Belleville zoning by-laws be prepared for Council's consideration.

AND FURTHER THAT the Belleville Planning Advisory Committee recommends to the Council of The Corporation of the City of Belleville that they direct Planning, Building and Fire Services Staff to report back to Council at a later date on the potential implementation of a Legal Apartment Registry.

Proposal:

The subject proposal is to add second dwelling unit provisions to a variety of dwelling types as an amendment to Comprehensive Zoning By-laws 10245, 3014, and 2076-80 in accordance with the directives of the Province. The second unit regulations be added to the General Provisions of the City's By-laws and applied City-wide.

More specifically, the purpose of the application is to amend the Zoning By-laws of the City to permit second units (accessory residential dwelling units) in single detached dwellings, semi-detached dwellings, townhouse (rowhouse) dwellings, and accessory buildings throughout the City of Belleville, subject to specific criteria. The proposed amendment is intended to conform to the Province's Long-Term Affordable Housing Strategy (LTAHS) 2016, the Strong Communities Through Affordable Housing Act, 2011, the Planning Act, R.S.O. 1990 c.P. 13, as amended, and the Minister

of Housing's directive to all municipalities in the Province of Ontario to update their Official Plans and Zoning By-laws to permit second units (See Attachment #1)

There is no appeal to the Local Planning Appeal Tribunal of a decision of the City of Belleville Council in respect of a by-law that gives effect to the second unit polices of Section 16(3) of the Planning Act, R.S.O. 1990, as amended, including no appeal in respect of any requirement or standard in such a by-law, in accordance with Section 34(19.1) of the Planning Act, R.S.O. 1990, c.P.13 as amended.

Background:

The Province first released its Long Term Affordable Housing Strategy in 2010, which was a multi-pronged effort intended to stimulate the provision of more housing options, including affordable housing, inclusionary zoning, additional funding to reduce poverty and homelessness and other social housing programs. This Strategy included changes to the Planning Act in 2012 that required municipalities to incorporate 'second unit' provisions in their Official Plans and Zoning By-laws for single detached, semi-detached, townhouse dwellings, and accessory structures, as well as remove obstacles, such as appeals to the OMB (now the Local Planning Appeal Tribunal), to expedite this directive.

It is important to recognize that the Province has prioritized the requirements for Municipalities in Ontario to allow Second Units because, according to the Minister's Directive "The benefits of second units are widely recognized and they form a substantial and increasing part of the province's affordable housing supply." The housing and rental market has become an increasing concern for many municipalities across Ontario that have been attempting to address housing issues relating to availability, accessibility, affordability and occupant safety.

Accessory dwelling units can be an important source of affordable housing for low and moderate-income households and are typically offered at some of the most affordable rental rates. They also give homeowners, particularly younger and older homeowners, the opportunity to earn additional income to help meet the costs of homeownership, provide housing for elderly parents or live-in caregivers, and/or help residents remain in their homes for longer periods of time. The introduction of accessory dwelling units would also more efficiently utilize existing housing stock, infrastructure and other services within the municipality.

At present, there is a need for additional supply of rental housing, both affordable and market rate. According to CMHC, the rental vacancy rate in Belleville was 2.5% as of October 2017 and the average rental rate was

\$991 per month. CMHC will be updating these figures and it is expected that they will be published in November 2018. It is not known whether the vacancy rate will show an improvement but the trend has been a decrease over time in vacancy rates from 4.3% in October 2015 to 3.0% in October 2016 (3.0%) to 2.5% as in October 2017. Likewise, rental rates have shown an increase over time from \$918 per month in October 2015 to \$950 in October 2016 to \$991 per month in October 2017. If these trends continue, it would be reasonable to expect both a decrease in vacancy rate and increase in rental rate for October 2018 when these statistics are published by the CMHC. The introduction of permissive second unit provisions will hopefully assist to increase the supply of rental housing and choices in the marketplace and help improve housing affordability.

Strong Communities Through Affordable Housing Act, 2011 and the Planning Act

Changes to the *Planning Act* [Section 16(3)] now require Municipal Official Plans to permit secondary dwelling units, as of right, in all detached dwellings, semi-detached dwellings, townhouses and in ancillary structures. It does limit this permission to one Secondary dwelling unit per lot. This means one accessory dwelling in either the primary dwelling unit or in an ancillary structure but not both.

Changes to Section 35.1 of the *Planning Act* requires that each local municipality ensure that its zoning by-laws are updated to address the required second unit requirements of the province. The Ministry of Municipal Affairs and Housing indicated the expectation of the Province is that Municipalities will come into compliance with the Planning Act by revising their Official Plans before December 2017 and their Zoning By-law by December 2018.

When updating the overall Official Plan policies and the overall zoning by-law document, the Planning Act does not permit appeals of secondary dwelling units in regards to Official Plan policies and/or zoning by-law provisions with the exception of the Minister. When updating policies of the Official Plan and Zoning By-law for this purpose, public notice needs to be provided and participation in the process should be welcomed. However, there is no right of appeal (See Attachment #2: Second Units -Info Sheet Spring 2017).

These changes to the Planning Act were the result of the Strong Communities Through Affordable Housing Act, 2011 which, according to the Ministry's website, "includes a wide range of actions to improve the affordable housing system, including amendments to the Planning Act." The amendments provide municipalities with enhanced land use planning tools to support the creation of second units and garden suites.

Provincial Policy Statement, 2014

The Planning Act R.S.O. 1990, c.P.13, requires that the Council of a local Municipality shall be consistent with matters of Provincial Interest in carrying out applications such as a Zoning By-law Amendment. Items of Provincial Interest are outlined in the Provincial Policy Statement (PPS) issued by the Ministry of Municipal Affairs and Housing in 2014 and the Growth Plan as issued by the Ministry of Public Infrastructure Renewal in 2006, and include such items as:

- promoting efficient, cost-effective and financially sustainable development and land use patterns;
- ensuring that sufficient land is designated and approved to accommodate projected residential growth;
- ensuring that an appropriate range of housing types and densities are provided to meet the requirements of current and future residents;
- ensuring that necessary infrastructure and public service facilities are or will be available to meet projected needs;
- promoting land use patterns and densities which are transit-supportive;
- avoiding development and land use patterns which may cause environmental and/or public health and safety concerns;
- facilitating and promoting intensification;
- protecting transportation corridors.

Beyond the above items, Section 1.4.3 b) 2. requires planning authorities to permit and facilitate all forms of intensification and redevelopment including second units. The current staff proposal introduces revised definitions and regulations into Belleville's three Zoning By-laws to permit accessory dwelling units in accordance with the Province's direction and thereby support the provision of additional housing units, many of which will be affordable, in the community.

Official Plan:

The current Official Plan was adopted by City Council on June 18, 2001 and approved by the Ministry of Municipal Affairs and Housing on January 7, 2002. Since 2002, a significant number of new and updated policies and legislation has occurred at the provincial level. The City is currently undertaking a Municipal Comprehensive Review and update to the policies of the Official Plan to ensure they comply with current provincial policies and legislation. The City will have to comply with the province's new legislation,

regulations, and policies when updating the Official Plan.

Zoning By-law:

The subject proposal is to add accessory residential units to a variety of dwelling types as an amendment to the City's three Comprehensive Zoning By-laws in accordance with the directives of the Province. The second unit regulations will be added to the General Provisions Section of the By-laws and applied City-wide.

The creation of a second unit in a dwelling or accessory building would require the issuance of a building permit. However, if the minimum zoning provisions including parking, landscaping and location are not met then a building permit could not be issued to create the second unit.

City of Belleville Planning Staff is proposing basic standards to ensure that the impact on a neighbourhood's character is minimized. These basic requirements include:

- Parking
- Minimum front yard landscape space
- Restriction to prevent severances of coach houses in the future
- Limiting development of a second unit to either the main dwelling or accessory structure: not both

Planning Staff is also proposing the update of definitions related to semi-detached dwellings to clarify what this type of dwelling is and more importantly, what it is not. Many people are under the assumption that if they have two units on one lot that they term 'semi-detached', then they are able to have accessory apartments for each of the two units resulting in four units for one lot. This is not the intention of the Province's second unit policy and new definitions for both "Dwelling, Semi-Detached" and "Dwelling, Semi Detached Duplex" will assist in clarifying the difference between these types of dwelling units.

Attachment # 3 outlines the draft regulations that are proposed as part of the Zoning By-law Update process. The intent of the new regulations is to comply with the provincial direction to facilitate additional supply of new second dwelling units in the community, while maintaining reasonable standards of care and compatibility to minimize neighbourhood conflicts.

The Minister retains the authority to enact over-riding regulations which would directly permit second units and coach house units and/or prescribe standards for them (i.e. parking) if the Minister deems any provisions of a local by-law to be too restrictive.

From a planning standpoint, the proposed Zoning By-law Amendment would permit a development form which is compatible with the Residential Area and represents a modest and positive level of intensification for the City. The proposed Amendment also conforms to the Province's policies, regulations and requirements regarding second units.

OTHER MATTERS

Legal Apartment Registry

A major consideration for any municipality is the tracking of apartments. This benefits the health and safety of the community's residents to ensure that the units meet minimum codes as well as ensuring emergency services are aware of a dwelling having a second unit.

In the case of new apartments being built through the City's new second unit policies, the units will be built to code and meet planning requirements. In these cases, new units can be added to a City Legal Apartment Registry once their construction receives final inspection approvals by the Building Section.

The approval of new second unit regulations will also provide the opportunity for property owners with existing units to verify their second units are legal. There is a substantial amount of time spent by City Staff investigating and making a determination on whether existing apartments and duplexes are legal and or legal non-conforming uses. This includes staff time from fire services, building services, by-law enforcement, and planning, and legal. With the approval of second units dwelling regulations in the City's Zoning By-laws, there can be a process established whereby owners of properties that have second units can be included on the legal apartment registry. This requirement would include satisfying both zoning by-law and building code requirements. This process would address illegal apartments that do not meet building code requirements and should result in an improvement to the overall health and safety of Belleville residents. The inclusion on the legal apartment registry will also be of value to tenants who, for example, could verify the apartment meets minimum standards and provide clarity for sellers and the real estate agents when homes are being sold. It would also improve efficiencies within the City's departments as there would be clear rules on what a legal apartment is.

To date, Planning Staff has met with both Building Staff and Fire Services and there is agreement amongst these departments that a Legal Apartment Registry is necessary to both recognize legal apartments and bring into conformity other apartments which do not have legal status. The details of an apartment registry will occur over the coming months and this will be presented to Council in the future.

Promotion of Second Units

In order to ensure that the second unit dwelling and coach house dwelling program is executed in a proper manner and that the public is well-informed with respect to the proposed regulations, the City will develop information brochures which will be available on the City's website, through the building section, and distributed to the City's homebuilders and the Quinte Real Estate members.

Development Charges for Second Units (Accessory Apartments)

Second Units (Accessory Apartments) have historically been considered as being created within existing buildings. However, second units can also be constructed within new buildings and this is also promoted by the Province of Ontario.

Section 5 of the City's Development Charge By-law addresses rules with respect to exemptions for intensification of existing housing. For example, Section 5(1)(a) exempts development charges to the enlargement of an existing building. Subsections 5(1)(b) and (c) would exempt the creation of second units within the existing home.

With the overall goal of providing second units to increase housing options and affordability, municipalities consider the context of the clauses of their development charge by-law which promotes the goal of developing second units without the application of development charges. Quinte West and Cobourg have the same clauses as the City of Belleville and do not apply development charges to second units whether the second unit is in the main dwelling, an expanded dwelling, a new build, or within an existing or new accessory building.

Staff will utilize these best practices and not apply development charges to second units so that we are consistent with these municipalities.

Public Comments:

On October 11, 2018 a written notice was published in The Intelligencer. The notice provided information to the general public that a public meeting was scheduled for November 5, 2018.

The Notice was also published on the City's website notifying the general public that a Public Meeting was scheduled for November 5, 2018.

Both notices state that additional information is available at the City's Planning Department during business hours.

To date, no correspondence from the public has been received by the City regarding this application.

Staff and Agency Comments:

External Agency Circulation

The subject application was circulated for comment to the Algonquin & Lakeshore Catholic School Board, the Hastings & Prince Edward District School Board, Hastings and Prince Edward Health Unit, Bell Canada, Canada Post, Ontario Power Generation, Union Gas, Veridian Connections, Hydro One, TransCanada Pipeline, Enbridge Pipelines, Trans-Northern Pipelines, MPAC, and the Health Unit.

To date, no comments or concerns have been received regarding this application.

Internal Department Circulation

The subject application was circulated for comment to the Belleville Fire Department, Belleville Police Service, the Development Engineer, the General Manager of Transportation & Operations Department, General Manager of Environmental Services, the Director of Recreation, Culture and Community Services, the Manager of Parks & Open Spaces, the Chief Administrative Officer, the Manager of Economic & Strategic Initiatives, the City Clerk, and the Chief Building Official.

To date, no comments or concerns have been received regarding this application.

Planning Staff has directly had discussions with both the City's Chief Building Official and Senior Fire Prevention Officer to discuss the application and the requirement for a legal apartment registry.

Planning Analysis:

Consistency with Provincial Policy Statement, Official Plan and Zoning By-law

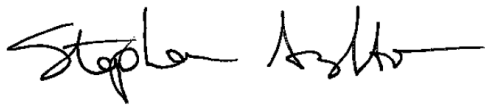
This application for updating the City's 3 Zoning By-laws (10245, 3014 and 2076-80) to allow accessory dwelling units is consistent with the Province's Long-Term Affordable Housing Strategy, the Strong Communities Through Affordable Housing Act, 2011, the Planning Act, R.S.O. 1990 c.P. 13, as amended, and the Minister of Housing's directive to all municipalities in the Province of Ontario to update their Official Plans and Zoning By-laws to permit second units.

With the requirement for municipalities to include Official Plan Policies to allow secondary suites before the Ministry will approve any update to the Official Plan, the City should be in conformity with Provincial Legislation in 2019 when the Official Plan Update process is expected to conclude.

Conclusion:

Staff is supportive of this proposal. The proposed regulations are permissive to allow second units to satisfy the Province while at the same time providing minimum regulations that ensure neighbourhood character is maintained.

Respectfully submitted



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Manager, Policy Planning
Engineering and Development Services Department

Attachments

- Attachment #1 – Minister of Housing’s Directive to Municipalities Regarding Second Units
- Attachment #2 – Second Units Info Sheet
- Attachment #3 – Proposed Zoning Regulations for Second Units

Attachment #1 – Minister of Housing's Directive

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Let me thank you and your council for the work you do every day on behalf of the citizens of Ontario. It can't be said enough that a strong partnership between your government and my Ministry is critical to addressing the affordable housing challenges we collectively face.

As you'll know, the province recently released an update to the Long-Term Affordable Housing Strategy (LTAHS) 2016 (the "Update"). The Update continues the transformation of Ontario's housing system which we began with the 2010 LTAHS. On September 14, 2016, we re-introduced the Promoting Affordable Housing Act, 2016 (Bill 7). If passed, Bill 7 would help ensure that the people of Ontario have better access to affordable and adequate housing. This includes an even stronger emphasis on the role that private sector housing can play in providing a mix and range of affordable housing choices for Ontarians.

More specifically, second units are an important tool in contributing to the supply of private sector affordable housing choices. They are widely recognized as one of the most affordable forms of rental housing. Second units help optimize the use of the existing housing stock and infrastructure, all the while providing an income stream for homeowners, particularly younger and older homeowners, who may respectively have a greater need for income to help finance and/or remain in their homes.

In support of second units, I am pleased to announce that Bill 7 proposes to amend the *Development Charges Act*, 1997 which, if passed, give authority to amend the regulations and exempt second units in new homes from development charges. This should help spur the design of houses to accommodate second units at the outset, which is a more effective approach compared to retrofitting. In this way, we can plan ahead for houses to be used in a flexible way over time, depending on the life cycle stage of homeowners and whether they seek or need the income a second unit can provide.

Concurrently, we are proposing to publicly consult on potential changes to the Building Code (by way of an amendment to Regulation 332-12) to improve the affordability of second units in newly constructed houses while still meeting safety standards of both the Building Code and Fire Code. The proposed new requirements for construction of newly built houses with second units would allow for greater flexibility and decrease the construction costs.

You may recall that we began a renewed emphasis on second units as part of the 2010 LTAHS which saw us make amendments to the *Planning Act* to require municipalities to amend their official plans and zoning by-laws to authorize second units in single-detached, semi-detached and row dwellings, as well as in accessory structures (e.g. laneway garages). These provisions came into effect on January 1, 2012. The Act was

also amended to give the Minister regulation making authority - to both directly permit second units and/or to prescribe standards for them (e.g. parking).

I am aware that an increasing number of municipalities have taken, or are engaged in taking, steps to amend their official plans and zoning by-laws to reflect these provisions. I appreciate those efforts. However, in some instances, analysis reveals that certain official plan policies and/or zoning provisions do not reflect the permissive spirit and intent of these legislative changes. It is noted that Bill 7 proposes to provide the minister with appeal rights related to municipal adoption of second unit official plan policies and zoning by-laws.

However, the majority of municipalities have not updated their official plans and zoning by-laws to reflect the second unit requirements of the *Planning Act* - even though we are well into the fourth year since this requirement came into effect. As such, and based on all of the above, I have instructed staff to engage in a five part plan as follows:

1. Engage in outreach to apprise municipalities of the proposed changes to the Building Code and *Development Charges Act* as a means of supporting the planning and establishment of second units.
2. Our Municipal Services Offices will approach those municipalities that have adopted official plans and/or zoning by-laws post 2012 to:
 - a. Discuss policies, by-laws, or standards that appear to be overly restrictive and not in keeping with the permissive spirit and intent of the legislation; and
 - b. Request these municipalities to review the policies or standards considered restrictive at the next opportunity (i.e., during an official plan review or zoning by-law update) to reflect the purpose and intent of the *Planning Act* provisions on second units.
3. Our Municipal Services Offices will also approach all of those municipalities that have yet to adopt changes to their official plans and/or zoning by-laws to reflect the *Planning Act* requirements, to seek an understanding of when the changes will be made and to provide guidance as needed. I have instructed them to seek commitments to complete this work by March 31, 2017.
4. Propose a regulation under the *Planning Act* setting out standards and/or limitations on official plan policies and/or zoning standards which would take precedence over existing policies/standards which are deemed to be not in keeping with the permissive spirit and intent of the legislation as follows:
 - o Only a maximum of up to one parking spot per second unit could be required and tandem parking would be permitted;
 - o Second units could not be subject to any provision which requires the primary or second unit be occupied by any person (e.g. a by-law could not require the primary unit to be inhabited by the owner in order for a second unit to be permitted); and
 - o Second units would be permitted in primary dwellings and accessory buildings regardless of date of construction of the primary or the second unit.

5. Publish an information backgrounder setting out best practices on second units, along with promoting guidance material and web content developed by the Landlord Self Help Centre.


While some of the above steps may seem strong, these province-wide legislative requirements for second units have been in place for some time. Since their enactment, the need for affordable housing choices for all Ontarians has increased.

The benefits of second units are widely recognized and they form a substantial and increasing part of the province's affordable housing supply. Since becoming Minister in June, I have crossed the province listening to municipal leaders, housing experts and advocates. In the formal and informal discussions, the need for secondary suites to be part of a healthy municipal housing "mix" became more obvious. I have instructed ministry staff to provide as much information and advice as possible to assist municipalities in moving forward with this important work.

I look forward to all municipalities in Ontario embracing a permissive second unit policy and zoning framework to help house their residents.

Thank you in advance for your help as we work together in partnership to achieve our shared goal of creating more affordable housing in our communities.

Sincerely,



Chris Ballard
Minister

Attachment #2 – Second Units Info Sheet



Purpose

This document is to assist municipalities and the general public to better understand what second units are, why they are important, and the legislative authority behind second units. It provides some examples of specific second unit policy and zoning best practice approaches currently in use in official plans or zoning by-laws by Ontario municipalities.

What are second units?

Second units are self-contained residential units with a private kitchen, bathroom facilities and sleeping areas within dwellings or within structures ancillary to a dwelling (e.g., above laneway garages).

Second units are also referred to as secondary suites, basement apartments, accessory apartments, granny flats, in-law apartments, or nanny suites.

<http://www.mah.gov.on.ca/Page9575.aspx>



Neighbourhood visualization of second units.

What are the benefits of second units?

Second units increase the supply and range of affordable rental accommodation. In addition, they benefit the wider community in many ways as they:

- Allow homeowners to earn additional income to help meet the cost of homeownership
- Support changing demographics by providing more housing options for extended families or elderly parents, or for a live-in caregiver
- Help create mixed-income communities, which support local businesses and local labour markets
- Make more efficient use of existing infrastructure, including public transit where it exists or is planned
- Make more efficient use of the existing housing stock
- Create jobs in the construction/renovation industry
- Assist municipalities in meeting their goals regarding affordable housing, intensification and density targets, and climate change mitigation and greenhouse gas emissions reduction.

SECOND UNITS | Info Sheet - Spring 2017

Where are Second Units Located?

The majority of second units are created through internal alterations, although some are built as additions to the main house or in/above ancillary structures like garages. The size, type (e.g., internal, addition, ancillary structure) and location of the second unit will depend on the size and design of the house as well as its location on and the size of the lot.

Regardless of where they are located second units must comply with health, safety and municipal property standards, including but not limited to, the Ontario Building Code, the Fire Code and municipal property standards by-laws.

Background

The *Strong Communities through Affordable Housing Act, 2011*, amended the *Planning Act* to require that municipalities authorize second units in their official plans and zoning by-laws. The changes took effect on January 1, 2012.

Ontario's updated Long-Term Affordable Housing Strategy, 2016 continues this effort, with a focus on reducing the cost of constructing second units by:

- proposing changes to the Building Code to reduce the cost of construction of a new dwelling with a second unit, while maintaining occupant health and safety
- amending the *Development Charges Act, 1997* that, when in effect, would exempt second units in new dwellings from development charges in the same manner as second units in existing dwellings are exempted, as specified in a regulation.

Legislative Framework

Planning Act

Section 16(3) of the *Planning Act* requires municipal official plans to authorize second units:

- in detached, semi-detached and row houses if an ancillary building or structure does not contain a second unit; and
- in a building or structure ancillary to these housing types provided that the primary dwelling does not contain a second unit.

Section 35.1 requires that each local municipality ensure that its zoning by-law gives effect to the policies described in Section 16.3.

No appeals to the Ontario Municipal Board

The *Planning Act* restricts appeals of second unit official plan policies and zoning by-law provisions to the Ontario Municipal Board except by the Minister.

Provincial Policy Statement, 2014 (PPS)

The Provincial Policy Statement, 2014 (PPS) directs and promotes the development of healthy and complete communities. The goal is to create strong, livable, healthy and resilient communities through efficient land use (s.1.1.1).

Section 1.4.3 of the PPS directs municipalities to permit all forms of housing to provide an appropriate range and mix of housing types and densities – including affordable housing. Further, municipalities should permit and facilitate all forms of residential intensification and redevelopment, including second units.

Provincial plans

Some provincial plans contain specific policy which directly or indirectly relates to second units in the geographic areas they apply to (eg. the Oak Ridges Moraine Conservation Plan and Niagara Escarpment Plan). Municipalities need to consider and reflect any such policies in developing their official plans and zoning by-laws.

SECOND UNITS | Info Sheet - Spring 2017

Official Plans

Municipal official plans outline a community's vision and priorities. They contain policies to guide development in order to achieve land use goals. Official plans must reflect any legislative requirements, be consistent with the PPS and conform to any applicable provincial plans.

Zoning By-laws

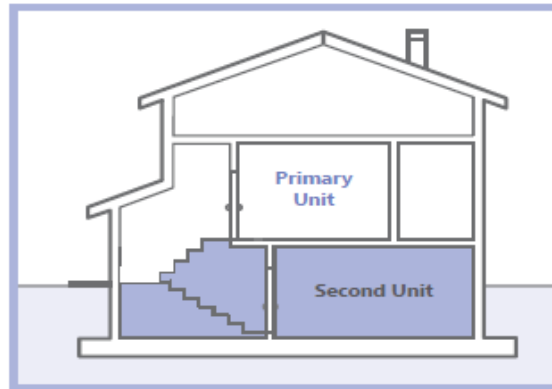
A zoning by-law sets standards for development and must conform to a municipality's official plan. Zoning by-laws must be updated within three years of a new or amended official plan and must also reflect any requirements of the *Planning Act*, be consistent with the PPS and conform to any applicable provincial plan.

Best Practices

The *Planning Act* provides a broad legislative foundation for permitting second units by requiring that they be authorized in single-detached, semi-detached and row dwellings, and in ancillary structures. In practice though, there are circumstances where second units are not appropriate based on good land use planning principles, including health and safety and environmental considerations. So while official plan policies should be permissive and zoning by-laws should generally allow second units to be established "as of right", there may be situations where second units should not be allowed and/or require some specific assessment prior to their establishment. The following are some examples of best practices in official plan policies and zoning by-laws, including specifics which relate to a number of these circumstances.

"As of right"

For the purposes of this document, "as of right" is a phrase used to refer to the ability to apply for a building permit without having to make a development application (e.g., an official plan or zoning bylaw amendment, a minor variance or a site plan). Similarly, homeowners generally should not need to produce any type of study to demonstrate that they conform to any policy or zoning provisions.



Second unit - Contained within primary dwelling.

Housing types and ancillary building structures

The *Planning Act* provides that official plan policies and implementing zoning by-laws should permit second units in detached, semi-detached and row houses if an ancillary building or structure does not contain a second unit; and, in a building or structure ancillary to these housing types provided that the primary dwelling does not contain a second unit.

In municipalities with limited housing types (e.g. only single detached dwellings), second units would only need to be authorized for that housing type.

Township of Wainfleet Official Plan,

August 14, 2014

3.3.1.4 Secondary suites

Secondary suites shall be permitted in all Residential Area designations, and shall be subject to the following criteria and the regulations of the Zoning By-law:

- a) Only one *secondary suite* per single detached, semi-detached, or townhouse dwelling is permitted;
- b) The secondary suite may be contained within the primary residential dwelling or in a building or structure accessory to the residential dwelling, but not in both;

SECOND UNITS | Info Sheet - Spring 2017

Official plan designations

Municipalities should allow second units in designations or zones that permit detached, semi-detached, or row dwellings.

There may be circumstances where second units may not be appropriate given other planning considerations and policies, particularly relating to health and safety or the natural environment. For example:

- areas that are prone to flooding
- waterfront areas/developments on private roads that are not maintained and where emergency access may be limited
- areas adjacent to lakes with limited lake capacity
- areas of recreational dwellings where there may be a lack of year round roads and/or which lack other daily needs and services residents may require.

Tay Valley Township Official Plan, 2016 3.6.4(1)

...an accessory apartment (secondary suite) is permitted in residential areas within a four-season single detached, semi-detached, or row-house dwelling unit, or attached to a detached garage, located on a road maintained year-round and accessible by Emergency Services, subject to considerations of carrying capacity of lakes and hydrological capacity....

Second Units in existing dwellings and new dwellings

Second units should be allowed in both newly built and existing dwellings. Designing new houses to accommodate a second unit at the outset can be more efficient than retrofitting an existing home to have a second unit. Recent changes to the *Development Charges Act, 1997* and a potential regulation to exempt second units in new homes from development charges (once in effect), and proposed changes to the Building Code, if approved, are expected to reduce the cost of constructing second units in new dwellings. A proposed regulation under the *Planning Act*, if made, would permit second units without regard to the date of construction of the primary building.

Town of Smiths Falls Official Plan, October 2014

LU-2.14 Second Residential Units

The Town will permit the addition of one self-contained residential dwelling unit (i.e. second unit), within single-detached and semi-detached and row house dwellings in both existing and newly developing residential neighborhoods.

Parking

The maximum parking required per second unit should be one space. In some jurisdictions where transit is available, some municipalities have eliminated parking requirements for second units. Tandem parking (a parking space that is only accessed by passing through another parking space) should also be permitted. A proposed regulation under the *Planning Act* would, if made, restrict the maximum parking requirement for a second unit to one space while also requiring that tandem parking be allowed.

City of Ottawa Zoning By-law 2012-147 (June 10, 2015)

Secondary Dwelling Units Sec. 133 (14)

Where a secondary dwelling unit is located on a lot subject to Section 139 - Low Rise Residential Development in Mature Neighbourhoods, no parking is required for the secondary dwelling unit.

Mississauga Zoning By-law 0158-2013 (July 2013)

4.1.20.10

Tandem parking spaces to accommodate a **second unit** shall be permitted.

SECOND UNITS | Info Sheet - Spring 2017

City of Toronto Zoning By-law 569-2013 800.50 Defined Terms

(850) **Tandem Parking Space** means a **parking space** that is only accessed by passing through another **parking space** from a **street, lane, drive aisle** or **driveway**.

Servicing

In areas with municipal services, second units should be permitted without a requirement to demonstrate sewer or water capacity, unless there are previously documented servicing constraints.

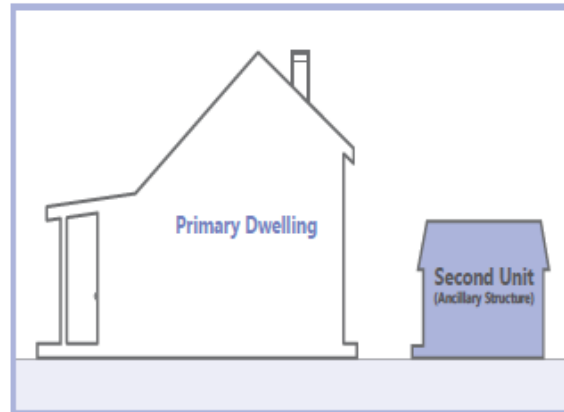
For second units in dwellings serviced by septic systems and private wells, there should be a demonstration of capacity to the satisfaction of the municipality. This is because Building Code permits for septic systems are, in part, based on the number of bedrooms and plumbing fixtures, because septics may be old and/or in order to ensure there is sufficient potable water from the private well.

Howick Township OP, 2016

5. Settlement Areas D. Policies and Actions

10.1 ... Second residential units are permitted in settlement areas and rural areas of the Township provided that:

f) It must be demonstrated that on-site servicing (e.g. water, sewage) have sufficient capacity for the additional dwelling unit.



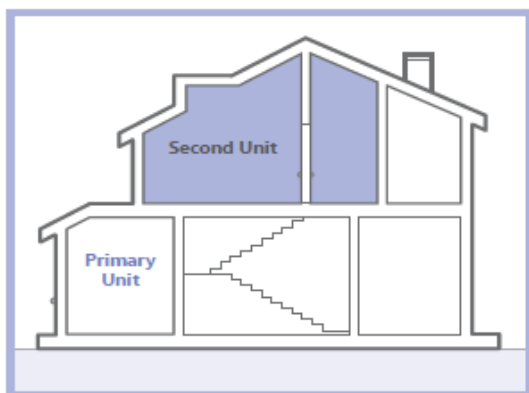
Second unit - Ancillary structure located on property.

Unit Size

The size of second units and the number of bedrooms should solely be regulated by the Building Code. The Building Code establishes health and safety standards for second units. As such, municipal by-laws should not seek to impose size or other standards that are regulated by the Building Code.

The *Development Charges Act, 1997* (via Ontario Regulation 82/98) states that, in order for second units in existing homes to be exempt from development charges, they must be less than or equal to the size of the primary dwelling. This is the only potential size standard a municipality should contemplate including in a by-law.

SECOND UNITS | Info Sheet - Spring 2017



Second unit - Contained within primary dwelling
(Above ground-level unit).

Egress

Requirements for entrances or means of egress for second units are set by the Ontario Building Code and Ontario Fire Code (which need to be referred to for specific standards). In general, second units can share a joint entrance with the primary unit, subject to having a fire separation with appropriate fire resistance rating, and at least two means of egress (exit) that may include windows of an appropriate size. Therefore, there is a need to ensure that by-laws do not contain any standards/provisions that differ from those in the Codes.

Streetscape and Architectural Design

Given most second units are internal to a primary dwelling, second units should have limited impact on streetscape and architectural design. In the case of an addition to a primary dwelling, there may be valid design considerations, particularly in heritage areas. If municipalities establish design standards in relation to streetscape or architectural design, they should be clearly set out in the zoning by-law so a second unit can be planned in accordance with the by-law and a homeowner can proceed directly to obtain a building permit.

Owner occupancy

The *Planning Act* does not allow zoning to have the effect of distinguishing on the basis of relationship. Zoning by-laws should permit occupancy of the primary or second unit regardless of whether or not the owner of the home is a resident of either unit. A proposed regulation under the *Planning Act*, if made, would establish a provision which precludes establishing occupancy requirements for either the primary or second unit.

Tracking and monitoring

A municipality should have a means for tracking and monitoring second units. A registry, in some form, could help the municipality be aware of where second units existed. This could assist in establishing inspection processes to help ensure public safety. It could also provide emergency services with the knowledge that there are two units in the home.

A registry could be established through a mandatory enrollment by the applicant when constructing a second unit or by having the municipal building official inform the appropriate office that a building permit has been issued for a second unit on a property. Ideally, there would be no or only modest fees for registration in order to encourage the creation and registration of second units.

City of Brantford OP

13.1.8

The City shall permit the creation of a self-contained second unit dwelling on lands designated to permit single detached dwellings, semi-detached dwellings, street townhouse dwellings, or accessory structures in accordance with the applicable zoning bylaw regulations and the following provisions: OPA #125 Dec. 3/08 OPA #180 Dec. 17/12

6. Second unit dwellings shall be registered with the Building Department.

SECOND UNITS | Info Sheet - Spring 2017

Additional Sources

Landlord Self Help Centre website
<http://www.landlordselfhelp.com/intro.htm>

Canada Mortgage and Housing Corporation –
Second Unit Policies –
<https://www.cmhc-schl.gc.ca/en/inpr/afhoce/afhoce/afhostcast/afhoid/pore/pesesu/index.cfm>

For More Information, Contact:

Ministry of Municipal Affairs, Provincial Planning
Policy Branch, (416) 585-6014

Municipal Services Offices:

Central (Toronto), 416-585-6226,
Toll Free: 1-800-668-0230

West (London), (519) 873-4020,
Toll Free: 1-800-265-4736

East (Kingston), (613) 545-2100,
Toll Free: 1-800-267-9438

Northeast (Sudbury), (705) 564-0120,
Toll Free: 1-800-461-1193

Northwest (Thunder Bay), (807) 475-1651,
Toll Free: 1-800-465-5027

Note to User

This Info Sheet summarizes complex matters and reflects legislation, policies and practices that are subject to change. It should not be a substitute for specialized legal or professional advice in connection with any particular matter and should not be construed as legal advice. The user is solely responsible for any use or the application of this information. As such, the Ministry of Municipal Affairs does not accept any legal responsibility for the contents of this Info Sheet or for any consequences, including direct or indirect liability, arising from its use.

Ministry of Municipal Affairs

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Attachment #3 – Proposed Zoning Regulations for Second Units

ACCESSORY DWELLINGS

DEFINITIONS (to be added)

“Dwelling, Second Unit” shall mean one (1) more additional dwelling unit that is located within a single detached dwelling, one unit of a semi-detached dwelling or one unit of a townhouse dwelling.

“Dwelling, Coach House” shall mean one (1) additional dwelling unit on a lot that is located within an accessory building or structure.

“Dwelling, Semi-Detached” means one of a pair of two attached single detached dwellings with a common masonry wall dividing the pair of family dwelling houses vertically, each of which has an independent entrance either directly from the outside or through a common vestibule.

“Dwelling, Semi-Detached Duplex means one of a pair of two attached duplex dwelling houses with a common masonry wall dividing the pair of duplex dwelling houses vertically which are both located on one lot.

Regulations for Second Unit Dwellings

Notwithstanding any other provisions of this By-law to the contrary, a maximum of one Second Unit Dwelling shall be permitted in any single-detached, semi-detached or townhouse dwelling, provided that:

- a) The second unit dwelling use is entirely within the same building as the main use on the same lot;
- b) The use is accessory to the main use on the same lot;
- c) The maximum floor area used for an accessory dwelling on a lot is 100 m² and shall not exceed 45% of the total floor area of the building (including basement or cellar);
- d) A maximum of 2 bedrooms is permitted in each second unit dwelling;
- e) A second unit dwelling is not permitted on a property where there is a converted dwelling, duplex dwelling, triplex dwelling, double duplex dwelling, horizontal multiple

attached dwelling, apartment dwelling, group housing, 2-unit housing, 3-unit housing, garden suite or coach house also situated;

- f) A minimum of 1 parking space is provided for the second unit dwelling, in addition to parking required for the single detached, semi-detached or townhouse dwelling;
- g) The lot has frontage on an open public maintained road; and
- h) Any lot with a second unit dwelling shall provide and maintain a minimum of 40% of the front yard as landscaped open space.

Regulations for Coach House Dwellings

Notwithstanding any other provisions of this By-law to the contrary a maximum of one coach house dwelling is permitted on a residential lot containing a single detached, semi-detached or townhouse dwelling, provided that:

- a) The maximum floor area used for a coach house dwelling on a lot is 100 m² and shall not exceed 40% of the total floor area of the main building (including basement or cellar);
- b) A maximum of 2 bedrooms are permitted in a coach house dwelling;
- c) A coach house dwelling is not permitted on a property where there is a converted dwelling, duplex dwelling, triplex dwelling, double duplex dwelling, horizontal multiple attached dwelling, apartment dwelling, group housing, 2-unit housing, 3-unit housing, garden suite or a second unit dwelling also situated;
- d) A minimum of 1 parking space is provided for the coach house dwelling, in addition to parking required for the single detached, semi-detached or townhouse dwelling;

- e) Any lot with a coach house dwelling shall provide and maintain a minimum of 40% of the front yard as landscaped open space;
- f) The maximum lot coverage of the coach house dwelling shall not exceed 40% of the yard in which it is located;
- g) The coach house dwelling is prohibited from future severance;
- h) The minimum distance from side and rear lot lines shall be either the greater of 1.2 metres or the minimum distance from side and rear lot lines as established within the underlying zone;
- i) Other provisions for accessory buildings or structures as established within the underlying zone apply; and,
- j) The lot has frontage on an open public maintained road.