

From MMAH Webpage:

Secondary Units

Changes to the Planning Act

The *Strong Communities through Affordable Housing Act, 2011* amended various sections of the *Planning Act* to facilitate the creation of second units by:

- requiring municipalities to establish official plan policies and zoning by-law provisions allowing second units in detached, semi-detached and row houses, as well as in ancillary structures
- removing the ability to appeal the establishment of these official plan policies and zoning by-law provisions except where such official plan policies are included in five-year updates of municipal official plans
- providing authority for the Minister of Municipal Affairs and Housing to make regulations authorizing the use of, and prescribing standards for, second units

What are second units?

Second units — also known as accessory or basement apartments, secondary suites and inlaw flats — are self-contained residential units with kitchen and bathroom facilities within dwellings or within structures accessory to dwellings (such as above laneway garages).

Second units must comply with any applicable laws and standards. This includes the Building Code, the Fire Code and property standards bylaws.

Benefits of second units

In addition to increasing the stock of affordable rental accommodation in an area, second units benefit the wider community in a number of other ways. They:

- provide homeowners with an opportunity to earn additional income to help meet the costs of homeownership
- support changing demographics by providing more housing options for extended families or elderly parents, or for a live-in caregiver

- maximize densities and help create income-integrated communities, which support and enhance public transit, local businesses and the local labour markets, as well as make more efficient use of infrastructure
- create jobs in the construction/renovation industry

Municipal Considerations

The *Strong Communities through Affordable Housing Act, 2011* requires municipalities to authorize second units in detached, semi-detached and row houses, as well as in ancillary structures. However, there is a need for municipalities to assess several considerations in developing new official plan policies and zoning provisions, or in reviewing their existing policies and provisions, if they already allow second units:

- Second units should be permitted in both existing residential communities and in newly developing areas. Newly developing areas offer the opportunity to plan proactively for second units. This includes the design of the actual houses and in the lot fabric or neighbourhood layout where ancillary structures like laneway garages could be integrally incorporated into the design. Municipalities and development proponents should specifically consider second units in the planning of new neighbourhoods.
- While the Act requires municipalities to permit second units, the government recognizes there may be inherent constraints within portions of a municipality or community which would make those areas inappropriate for second units (such as flood-prone areas or those with inadequate servicing). Municipalities should consider any such constraints in developing or reviewing second unit policies.
- While the Act requires municipalities to permit second units in detached, semi-detached and row housing, and in ancillary structures, the provisions permit one additional unit (i.e., a second unit) either in a house (e.g., basement) or in an ancillary structure (e.g., above laneway garage) on the same lot. Municipalities should assess where second units may be appropriate in the primary dwelling versus the ancillary structure. In some instances, municipalities may conclude it is appropriate to allow a second unit in both. However, in these situations, the sheltering of appeals does not extend to the third unit. Any party would be able to appeal the authorization of the third unit to the Ontario Municipal Board.
- Municipalities that currently permit second units will need to review their official plans and zoning by-laws to assess whether they are permitted in the range of housing types listed in the Act.

- While the Act introduced a regulation-making ability for the Minister of Municipal Affairs and Housing to prescribe minimum standards for second units, a regulation has not been issued under this authority. As such, municipalities are responsible for determining what standards or zoning provisions should apply to second units in relation to matters such as minimum unit size or parking requirements. Standards should support the creation of second units.

Grandfathering of Second Units

Second units must comply with any applicable laws, which could include the Building Code, the Fire Code and property standards by-laws. The changes do not “grandfather” any existing second units that do not meet applicable laws.

Do I need a building permit?

A building permit may be required to establish a second unit depending on whether alterations to the house are needed. As such, homeowners considering establishing a second unit should contact their municipality prior to doing so.

Effective Date of Changes for Second Units and Impact on Official Plan Policies

The changes to the *Planning Act* for second units came into effect on January 1, 2012.

Municipalities that have already implemented second unit policies should review their policies in light of the changes made through the *Strong Communities through Affordable Housing Act, 2011* to determine whether any changes are required.

Municipalities that do not currently have second unit policies should review the new requirement in the *Planning Act* related to second units and determine what amendments are required to their official plans and zoning bylaws. They should then begin amending their planning documents prior to the second unit provisions coming into effect to be in compliance with the new legislative provisions once they are proclaimed in force.

Changes to the Planning Act: Before and After

	Before Changes Made Through <i>Strong Communities through Affordable Housing Act, 2011</i>	Today (With Changes Made Through <i>Strong Communities through Affordable Housing Act, 2011</i>)
Second Units	Municipalities voluntarily establish second unit official plan policies and zoning by-law provisions.	Municipalities are required to establish official plan policies and zoning by-law provisions allowing second units in single, semi and row houses, as well as in accessory structures (e.g. above laneway garages).
	<i>Planning Act</i> shelters the municipal establishment of official plan permitting second units in single, semi and row houses from appeal to the Ontario Municipal Board; municipalities may permit second unit in accessory structure but these policies for accessory structures are not sheltered from appeal.	Municipal establishment of official plan policies and zoning by-law provisions permitting second units in single, semi, row houses, and in accessory structures, are sheltered from appeal to the Ontario Municipal Board, except during five year review periods. Sheltering of appeals extends to municipally-determined standards for second units.
	No standards for second units in legislation (municipalities currently establish their own standards); no ability for MMAH Minister to prescribe standards.	Municipalities continue to have ability to identify appropriate areas for second units, and to establish appropriate standards for second units; Minister has regulation-making authority to prescribe standards for second units.

For More Information

For more information and assistance, please contact one of the Municipal Services Offices. If you are considering establishing a garden suite or a second unit, be sure to contact your municipality to understand any processes, permits or policies.