

CREATING A SECOND SUITE

Landlord's Self-Help Centre has developed **Creating a Second Suite: An Information Guide for Homeowners** as one of three educational guides for the Second Suites in Ontario project. The other two guides include the **Operating Guide: An Information Guide for Second Suite Landlords**, and **Financial Considerations: An Information Guide for Homeowners Thinking About Adding a Second Suite**. In order to comprehensively understand what is involved with Second Suites in Ontario, it is suggested that all three educational guides are reviewed by homeowners interested in becoming landlords.

The guide to **Creating a Second Suite** contains a corresponding **Steps to Creating a Second Suite** poster, which can be found as an attachment. This guide explains the process of creating and upgrading authorized Second Suites in Ontario, and contains detailed information about the regulatory environment that governs homeowners. It includes information related to zoning, building, fire and electrical safety inspections, insurance, and licensing and registration. A discussion about the rules and established standards in place to ensure that houses with Second Suites are safe and livable for both landlords and their tenants is also included.

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SECOND SUITES IN ONTARIO

“... 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.”

Chris Ballard,
Minister of Housing

Second Suites are a vital component of Ontario’s rental housing landscape, as they represent an estimated 38%¹ of rental housing stock in the Greater Toronto Area and 32%² across the province. The number of Second Suites in the city of Toronto is estimated to be between 74,988 and 102,263.³

Second Suites are self-contained residential units which include a private kitchen, bathroom facilities, sleeping areas and a separate entrance. They are generally permitted in single detached, semi-detached and row houses as well as in ancillary structures and are often found in communities, close to shopping, schools and transit. Also known as secondary units, accessory units, basement apartments and/or in-law suites, Second Suites are regarded as affordable housing, because the rent tends to be 10 to 15% less than rent charged for traditional multi-unit residential rental properties.

Some suites were created during the short-lived legislation called the *Residents Rights Act, 1994*, which permitted homeowners province-wide the right to create a Second Suite rental unit in detached, semi-detached, row houses and in ancillary structures, subject to prescribed planning standards. Although the legislation was repealed on May 22, 1996, Second Suites created in accordance with the Act became grandparented and were permitted as long as they complied with health, safety, housing and maintenance standards. Second Suites may have been allowed under previous legislation and homeowners are encouraged to consult with their municipality to determine what rules may have governed in the past and what may be grandparented.

The Government of Ontario passed the *Strong Communities through Affordable Housing Act, 2011* to promote the creation of Second Suites province-wide through amendments to the *Planning Act*.

Planning Act amendments came into force on January 1, 2012 and facilitate the creation of Second Suites by requiring Ontario municipalities to:

- Establish official plan policies and zoning bylaw provisions allowing Second Suites in detached, semi-detached and row houses, as well as in ancillary structures.

The amendments also:

- Remove the ability to appeal the establishment of these official plan policies and zoning bylaw provisions, except where included in five-year updates of municipal official plans.

¹ Current and Projected Size and Scope of Ontario’s Secondary Rental Housing Market report by Vink Consultants

² *Ibid*

³ Secondary Suites: A Methodological Approach to Estimate their Prevalence within the City of Toronto by Jeremy Kloet

- Provide the Minister of Municipal Affairs and Housing the authority to make regulations authorizing the use of and prescribing standards for Second Suites.

In 2016, the Province released an update to the Long-Term Affordable Housing Strategy with the introduction of the *Promoting Affordable Housing Act, 2016* which amends the *Development Charges Act, 1997* and gives the authority to amend regulations and exempt second units in new homes from development charges.

The Province also plans to hold a public consultation on potential changes to the Building Code. These changes would seek to amend Regulation 332-12, and work “to improve the affordability of second units in newly constructed houses while still meeting safety standards of both the Building Code and Fire Code.” If successful, the new construction requirements would result in lower construction costs and allow for greater flexibility.

The origin of the Second Suite “as of right” policy in Toronto

In Toronto, the Mayor’s Action Task Force on Homelessness published the report “Taking Responsibility for Homelessness: An Action Plan for Toronto,” which was the incentive for a Second Suite “as of right” policy, that City Council narrowly passed in 1999. The bylaw was later appealed to the Ontario Municipal Board and the change was eventually approved, with amendments, as Toronto Bylaw No. 493-2000 in July 2000.

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ARE YOU READY TO BE A LANDLORD?

In addition to the financial investment needed to create a Second Suite, homeowners should also understand all the legal rights and obligations involved in becoming a landlord. A landlord has options when the tenant does not pay rent on time, causes property damage or seriously interferes with the landlord's enjoyment. However, there is no remedy for a landlord where the tenant allows someone to move in with them contrary to the lease

agreement because this is not against the law. Overall, the most important legal obligation and responsibility of a landlord is to provide a safe home for tenants.

The landlord's relationship with a tenant is governed by the *Residential Tenancies Act*. The following three provisions from the Act are especially relevant to Second Suites landlords:

| | |
|----------------------|---|
| Security of tenure | Tenants do not have to vacate a rental unit at the end of a tenancy agreement. Tenants have the right to occupy the Second Suite until valid grounds for eviction are proven and proper notice has been given, even during a dispute. |
| Housing standards | Tenants have the right to live in a Second Suite that is habitable, safe and properly maintained according to the established standards. |
| Reasonable enjoyment | Tenants have the right to have overnight guests, to cook whatever foods they like, and to come and go as they please. |

All tenancy agreements are subject to rules and regulations about discrimination under the *Ontario Human Rights Code*. The Code states that a person cannot be refused an apartment, harassed by a

housing provider or other tenants, or otherwise treated unfairly on one or more of the following grounds:

| | |
|---|---|
| race, colour or ethnic background | family status |
| religious beliefs or practices | marital status, including those with a same-sex partner |
| ancestry, including individuals of Aboriginal descent | disability |
| place of origin | sexual orientation |
| citizenship, including refugee status | age, including individuals who are 16 or 17 years old and no longer living with their parents |
| sex (including pregnancy and gender identity) | receipt of public assistance |

Landlords should be aware of how this affects the tenant selection process and their interactions with the tenant. Community mediation services can often

help resolve problems when you and your tenant disagree. Several services are available to help landlords and tenants.

WHAT IS A SECOND SUITE?

A **Second Suite** is a self-contained residential unit that contains a private kitchen, bathroom facilities, sleeping areas and its own entrance. Second Suites are also commonly known as:

- Secondary units
- Accessory apartments
- Apartments in houses (i.e. Main floor or Basement unit)
- Granny flats
- In-law apartments
- Nanny suites

Second Suites may be located in a single detached, semi-detached, or in an ancillary structure such as a coach house, garage, laneway house or garden suite.

While there are thousands of Second Suites across Ontario, many operate as unauthorized or illegal rental accommodation. These rental units operate under the radar, are not inspected by officials, not registered or licensed, and may be inadequately insured. They are not approved or permitted by the

municipality in which they exist and often fail to meet established health, safety, housing and maintenance standards. In addition to the concerns about potential liability and insurance coverage, if an unauthorized or illegal rental unit is discovered by the municipality, the landlord may be ordered to remove it.

As a strategy to create new affordable rental housing opportunities that benefit both homeowners and the community, Second Suites have been embraced by the province of Ontario. However, it is up to local municipalities to develop, manage and enforce their own policies regarding Second Suites. These policies include regulating residential zoning bylaws, the process for submitting plans and obtaining approvals for a Second Suite. As a result, a patchwork of regulations has been created across the province with rules and procedures differing from one municipality to another, and there continue to be many municipalities which have yet to adopt a Second Suite policy.

In Toronto, a comprehensive Second Suite policy has existed for quite some time prior to 2012, while Mississauga, Brampton, and Vaughan developed and implemented their Second Suite policies post 2012.

Any Second Suite existing on July 14, 1994 must meet current health, safety, housing and maintenance standards as defined by the *Building Code Act*, the *Ontario Fire Protection and Prevention Act*, and comply with building, zoning and property standard bylaws as established by the local municipality.

The rules and regulations that govern the construction of a Second Suite can be complex and

tend to change over time, so homeowners are encouraged to research and gain a full understanding of what is required when creating a Second Suite. The Landlord's Self-Help Centre has compiled a variety of information to help landlords navigate the process of owning and operating a Second Suite, understand the procedures involved, and gain an overview of the rules and regulations that govern Second Suites.

LOCATION OF SECOND SUITES

Second Suites may be located in many different areas of a home or in **ancillary structures**, which are structures that are additional to the primary residence. Second Suites may be located in:

- **Laneway houses:** A one or two-storey building that faces a laneway or alley and is

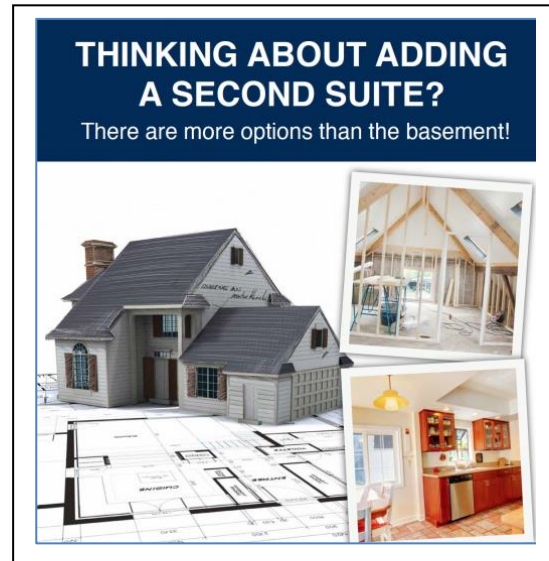
meant to function independent of the primary house.

- **Garden suites** (also known as a granny flat or coach house): A structure that is independent from the primary house, although it may share some facilities with

the main house (e.g., laundry and parking). Garden suites are often designed and used for relatives, and while they are similar to laneway houses, they do not always face a laneway.

- **Garage suites** (also known as a coach house): A Second Suite built above a garage that is separate from the primary residence.
- **Attached units:**
 - Attic
 - Basement
 - Duplex

Note: Section 9.8 of the *Fire Code* applies if the Second Suite is contained within a detached, semi-detached or row house.



ARE SECOND SUITES PERMITTED IN YOUR COMMUNITY?

Landlords who own a house in Ontario may be permitted to operate a Second Suite in their home provided the local municipality has adopted a policy that permits this type of rental accommodation, whether it is new construction or an upgrade of an

existing unit.

Note that in some municipalities, registration or licensing is a requirement. The fees and process will vary depending on the rules established by local municipalities.

THINGS TO CONSIDER...

All Second Suites must be constructed in accordance with municipal and provincial regulations; these include, but are not limited to, the *Fire Code*, the *Building Code Act*, and the *Planning Act*. By following the process defined by the local municipality, landlords can ensure the construction of their Second Suite complies with zoning standards and that it meets established health, safety, property and maintenance standards. As a landlord, meeting compliance requirements will provide greater peace of mind, and reduce the risk and potential for liability.

Landlords are required to obtain approvals and permits for construction, plumbing and electrical work. There is a charge associated with each permit, and fees for each application will vary depending on the type of work being done, the amount of work

and the square footage involved. Prior to securing permits, detailed drawings and plans must be submitted and approved by the Building Department of the local municipality. Landlords can contact their municipal Building Department for information on whether a permit is required for a project.

If construction has started without first obtaining the necessary permits, the landlord will be required to stop work on the project and possibly remove the work that has been done. Landlords may also be subject to prosecution.

Landlords are responsible for ensuring their property complies with the minimum requirements outlined in the provisions of the *Fire Code*, section 9.8: Two Unit Residential Occupancies. Failure to do so may result in the owner receiving a penalty under the *Fire Prevention and Protection Act* (up to \$50,000 for

individuals and up to \$100,000 for corporations), or a one-year prison term, or both.

Electrical safety is a key component of fire prevention. Ensuring that a home contains a safe service and wiring system will increase the safety of the property. Landlords must arrange for an inspection of the unit by the Electrical Safety Authority (ESA) and correct any identified deficiencies that result from this inspection. Once this is completed, the landlord will be issued an Electrical Safety Certificate.

A Second Suite must meet basic health and safety principles to protect both the landlord and tenant. In order for a Second Suite to become an authorized unit, it must comply with:

- Residential zoning requirements and bylaws;
- Property and occupancy standards;
- Health and safety requirements;
- Fire safety standards; and
- Electrical safety standards.

WHO OWNS AND RENTS SECOND SUITES?

Creating and operating a Second Suite in your home can offer the solution to managing the increasing costs of home ownership, including assistance with mortgage payments, property taxes, utilities and renovations, or providing the perfect home for a family member.

Second Suites are operated by a broad range of homeowners and offer a housing solution for:

- First-time homebuyers who need the income generated by a Second Suite for additional borrowing power to qualify for a mortgage.
- Seniors who want to remain independent and “age in place,” but do not have the income or savings required to remain in the family home.
- Elderly family members who can use the Second Suite as an alternative to staying in assisted living housing.
- Adult children who have completed their education and need some support before beginning their careers;
- Live-in caregivers who are caring for young children or providing support for a disabled or elderly family member.

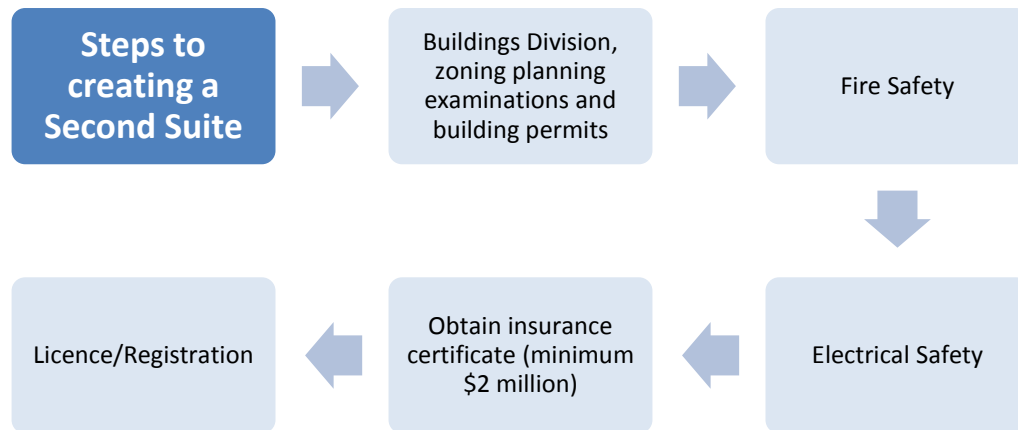
Owners of Second Suites can either remain in the main dwelling and rent out the Second Suite or move to the Second Suite and rent out the main dwelling.

A Second Suite also allows retirees who are snowbirds to meet occupancy requirements established by insurers during periods of prolonged absences. The insurance industry requires that properties not be left vacant for periods of more than 30 days (homeowners should check with their insurance provider to confirm), and an occupied Second Suite would allow homeowners to meet this requirement.

Second Suites offer affordable rental accommodation in established neighbourhoods, often located close to jobs, schools, transit, community centres and shopping malls, making them a good choice for many tenants. They represent one of several types of rental accommodation that comprise the secondary rental market, considered as non-conventional forms of rental housing.

In the broader sense, the community as a whole benefits from Second Suites, because they attract and provide housing for new residents who will support local businesses and services.

THE PROCESS INVOLVED



Landlords creating a new Second Suite or upgrading an existing one will be required to work with a variety of municipal departments. At minimum, these departments will include the Planning and Zoning Division, the local Building Department and the local Fire Department. Second Suites will also require an inspection by the Electrical Safety Authority (ESA) and a certificate to confirm compliance with the *Ontario Electrical Safety Code*. In some cases, landlords will be required to interact

with municipal officials from other departments such as the Committee of Adjustments.

A variety of costs and fees are associated with the creation or upgrade of a Second Suite for permits, inspections, and in some municipalities to register the unit or obtain a license. Depending on the local policies, these costs may be tiered, a one-time expense, or an annual fee.

Planning and Building Department

This municipal department typically deals with newly created Second Suites and the construction process. The Planning and Building Department will review zoning and building plans and administer construction permits.

Property Standards and Inspections Department

This municipal department deals primarily with upgrading existing Second Suites. It reviews property standards and municipal codes, and carries out inspections to ensure compliance with local bylaws. It also responds to complaints from neighbours about Second Suites.

Fire Department and Inspections

Municipal fire departments perform fire safety inspections and provide confirmation letters to certify the fire safety of a house with a Second Suite.

Electrical Safety Authority (ESA)

This is a private, not-for-profit corporation mandated by the Government of Ontario to enhance public electrical safety in the province. It is also responsible for ensuring compliance with regulations, training and education, and promoting awareness of electrical safety. The Electrical Safety Authority encourages homeowners to request copies of their Certificate of Inspection for all electrical work done in their homes or businesses, as this provides the homeowner with a record that all electrical work complies with the requirements defined in the *Ontario Electrical Safety Code*.

The process and terms used for Second Suites will be similar; however, different municipalities across Ontario may each have their own unique or specific process that must be followed when creating or upgrading an existing Second Suite. The steps

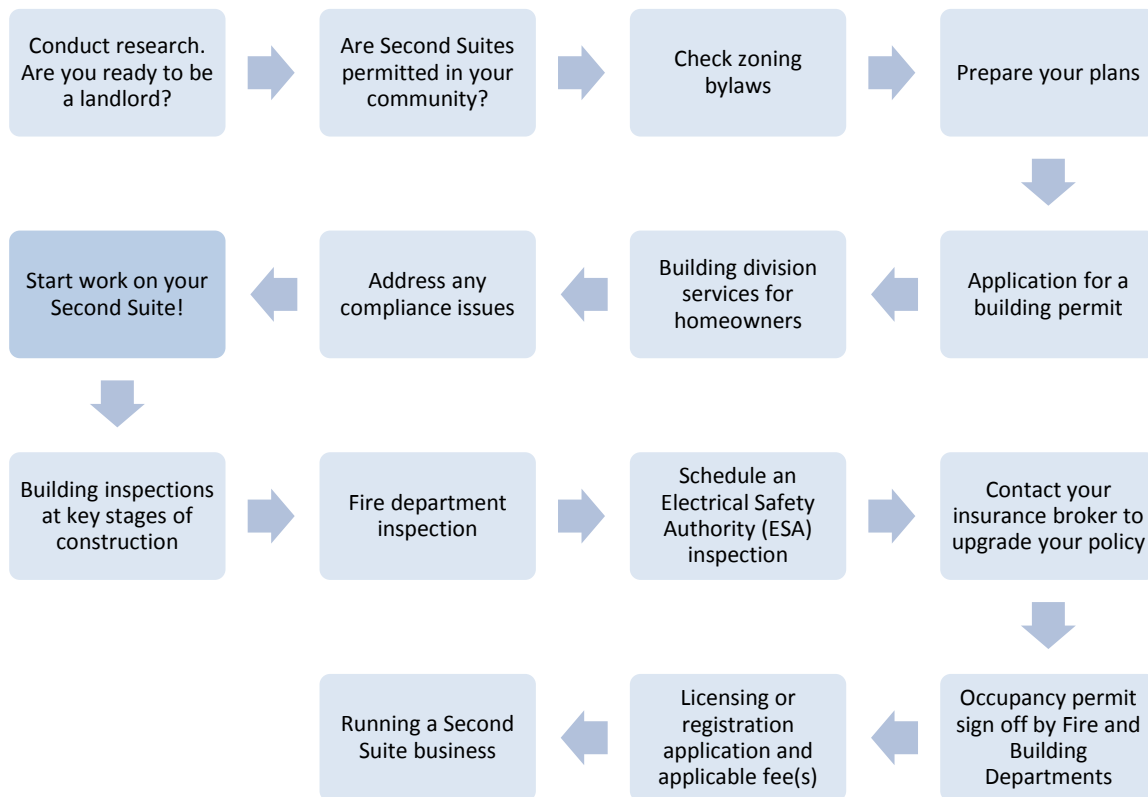
landlords must follow depend on the local municipality. For information on how to start the creating and upgrading process within a specific municipality, landlords can contact their municipality.

CHECK ZONING BYLAWS

The first step in planning is to determine whether a Second Suite previously existed and, if so, was that suite permitted according to local zoning bylaws. If there is no evidence that the home has ever had a Second Suite, then homeowners can follow the process for creating a new Second Suite.

If the house already contains a self-contained residential unit or it appears to have a unit that may have been used as separate living quarters, this may be considered an existing Second Suite. However, if municipal records do not indicate the property had received approval to create a two unit residential dwelling, the homeowner may have to prove a Second Suite existed previously by providing city officials with proper documentation.

Steps to creating or upgrading a Second Suite:



PREPARE YOUR PLANS

The Preliminary Project Review is a service offered by some Ontario cities, such as Toronto and Mississauga, which provides homeowners with detailed written zoning comments on a proposal for the construction of a Second Suite.

A Second Suite will usually require the submission of the following drawings listed in the table below. Note that all drawings must be accurately drawn to scale in ink, and must show existing and proposed construction, along with elevations and dimensions.

| | |
|-----------------|---|
| Site plan | A drawing showing the property and identifying all the structures on the property in relation to the property boundaries. It should include a north-facing arrow, the lot lines and their dimensions, the distance between the structures and the lot lines, and any proposed changes to the existing grade. |
| Floor plan | A drawing of the house as it would look if it were cut horizontally a few feet above the floor. One floor plan is required for every storey or level of the house affected by the new construction. Each plan shows the interior layout of the particular level and provides information on the size, type and location of exterior and interior walls as well as partitions. |
| Elevations | Show the exterior view of each side of the house. Each elevation is identified according to the direction it faces (north, east, etc.) and indicates the extent of new and existing construction along with items such as roof overhangs, roof shape and eavestroughs. |
| Section details | Provide a view of a house as it would look if it were cut through vertically at a particular location and illustrate construction details such as footings, foundations, walls, floors and roof. |

APPLICATION FOR A BUILDING PERMIT

WHAT IS A PERMIT?

A **permit** is written approval that grants homeowners formal permission to make significant structural changes to their house and helps ensure that any structural changes made are safe, legal and sound. A permit should be obtained before any construction or demolition begins.

The building permit process ensures that building standards are met and protects the homeowner's interests as well as those of the community at large. Contractors may get permits on the homeowner's behalf, but it is ultimately the homeowner's responsibility to comply with all the requirements.

To apply for any type of permit, homeowners should contact the building department in the area in which the property is located.



WHAT HAPPENS IF YOU DO NOT GET A PERMIT?

If a homeowner does not have the necessary permits but proceeds with construction, the homeowner may be ordered to stop work, remove work that has already been completed or they may be prosecuted.

If there is any uncertainty as to whether a permit is required for a project, homeowners can contact their local municipality directly.

| You need a permit to... | You do not need a permit to... |
|--|---|
| Renovate, repair or add to a building. | Replace existing, same-size doors and windows, subject to distance from property lines. |
| Demolish or remove all or a portion of a building. | Install siding on small residential buildings, subject to distance from property lines. |
| Change a building's use. | Build a roofless deck under 2 feet (0.61 meters) that is not attached to a building. |
| Install, change or remove partitions and load-bearing walls. | Build a utility shed under 100 feet squared (9.29 meters squared). |
| Make new openings for, or change the size of, doors and windows. | Reshingle a roof, provided there is no structural work. |
| Build a garage, balcony or deck. | Install eaves troughs, provided that drainage is contained on the property. |
| Excavate a basement or construct a foundation. | Replace or increase insulation, drywall or plaster. |
| Install or modify a heating, plumbing, air conditioning system or fireplace. | Damp-proof a basement, paint or decorate. |
| *Contact your local municipality to check if a permit is required. | Install kitchen or bathroom cupboards without plumbing. |
| | Build a fence (except for swimming pools; outside pools require permits). |

BUILDING DIVISION SERVICES FOR HOMEOWNERS

Before creating a new Second Suite, an application for a building permit must be completed. All new Second Suites must comply with the *Ontario Building Code*, residential zoning bylaws and property standards. Any new construction will require a permit and inspections.

Permits for all plumbing and electrical work will also have to be obtained. There is a charge associated with each permit, and the fees for each application vary depending on the type of work being done and the amount of work or square footage involved.

Inspections of the Second Suite construction are

carried out by building inspectors, who review projects during key stages to ensure the work complies with the *Building Code Act* and approved plans. Municipal building inspectors are professionals with extensive hands-on experience. Inspectors may visit several times, depending on the project, and they must be able to see the work under inspection. Scheduling will be important to the workflow to avoid unnecessary delays. Inspectors require a minimum of 48 hours' notice to book an inspection. It is recommended that homeowners be present while inspections are taking place.

Note: The Building Department will not inspect a house prior to ownership. If a potential homeowner requires an inspection for a property of interest, he or she will need to use a Building Inspection Service.

REQUIREMENTS FOR CREATING A SECOND SUITE

The property must meet a range of basic requirements before an authorized Second Suite can be created. Since these requirements differ from one municipality to another, the first step for a

homeowner is to contact the local Building Department or search online to find the basic requirements for that municipality.

Common property requirements before creating a Second Suite:

Façade: The exterior façade cannot be significantly altered. For example, adding a second and separate front door may not be permitted.

Size: The Second Suite must be a self-contained dwelling, and in some municipalities (e.g., Toronto) it is required to occupy an area smaller than the owner's unit. The Second Suite must also have a separate entrance and contain proper kitchen and bathroom facilities.

Parking: The property must meet parking requirements established by the local municipality. Some municipalities require one to two parking spaces for the Second Suite, while others do not require a dedicated parking space.

Zoning: The Second Suite can be located in a detached or semi-detached dwelling, townhouse, within a linked dwelling, or in an ancillary structure such as a garden suite or laneway house.

Note: If the property fails to meet the basic requirements by a narrow margin, meaning there is a minor discrepancy between the property and the requirements, the homeowner can apply to the Committee of Adjustment for a minor variance.

A **minor variance** is a small variation from the requirements of the zoning bylaw. A **minor variance approval** is a certificate of permission that allows the property owner to obtain a building permit even though the property does not comply precisely with the zoning by-law.

Keep in mind that if a homeowner must seek approval for a minor variance, it will take some time and may lead to some additional costs.

FAST-TRACK SERVICE

A fast-track service is available in some municipalities and offers over-the-counter, while-you-wait residential building permits for small building projects and minor alterations. For more

information on this service, homeowners can contact the municipal office for the area in which the property is located.

ELECTRICAL SAFETY

Building permits are issued after the plans are reviewed by the Building Department staff and the staff is satisfied that the plans are in compliance with the *Ontario Building Code* and local zoning bylaws. Building permits do not cover electrical work or

compliance with safety codes. Homeowners must contact the Electrical Safety Authority as soon as possible after any change to electrical services or wiring that occurs during the construction of a Second Suite.

DOING IT RIGHT!

When constructing a new suite, homeowners should consider hiring a general contractor. However, homeowners who are experienced in small construction or renovation jobs can save money by doing part of the work themselves and acting as their own general contractor. This job includes coordinating the work of several tradespeople and arranging for inspectors to come in and see the work at the right times.

City officials can help determine the feasibility of creating an authorized Second Suite. Homeowners should make the most of the professional expertise of the Building Division staff before submitting an application for a building permit. Building inspectors and plan examiners can offer suggestions to help solve construction problems, often before they occur.

UPGRADING AN EXISTING SECOND SUITE

There are risks associated with operating a home containing separate living quarters. These risks are reduced when a home is properly equipped for a Second Suite. However, the required changes must be made before the suite is occupied. When upgrading an existing suite, it is common to first approach local municipal building officials. Homeowners should contact their local municipality for more information visit www.secondsuites.info

Having an authorized Second Suite ensures that a home meets basic health and safety principles that protect both the landlord and tenant. If an existing

Second Suite does not fit within the regulations, it would be considered an unauthorized unit. The homeowner is responsible for ensuring that the Second Suite meets established standards. If a fire or flood occurred, depending on its cause, the landlord may be held financially and legally responsible.

The best way to establish a positive working relationship with city services would be to personally request an inspection. Remember, a third party can also request an inspection of the Second Suite. For example, if a tenant or neighbour asked a city official about the safety or maintenance of a Second Suite,

the official would then have to respond to this complaint. The municipality must then follow-up to ensure the Second Suite complies with health, safety, housing and maintenance standards. A result of non-compliance may mean the landlord is

required to remove the unit, which could have complications for a landlord if a tenancy has been established, as the RTA does not include this as a reason for terminating a tenancy.

ARRANGING AN INSPECTION

An inspection of a Second Suite is a two-step process. First, municipal building officials will check to ensure that zoning regulations permit a Second Suite on the property. Then, a municipal building inspector will inspect the property to ensure the Second Suite is fit for habitation. This usually happens within a few weeks of the homeowner's

request, depending on the availability of inspectors.

Municipal building officials can also help with general inquiries about fire, building and electrical codes, and refer the homeowner to the right sources for more information.

HOW TO PREPARE FOR AN INSPECTION

Every inspection will evaluate whether:

- The property is in an existing residential zone that permits Second Suites.
- The primary residence fits within basic conditions.
- The property has all the right building permits.
- The Second Suite meets the municipality's property standards.

If a municipal building inspector finds that the Second Suite does not comply with one or more requirements, a charge or a notice of violation will be issued. This is not intended to penalize the homeowner for trying to upgrade the Second Suite; it is intended to ensure that your suite meets the standards for getting authorization.

Once a Second Suite passes the municipal inspection, the homeowner will be referred to the fire department for an inspection of life safety systems compliance. The department you have to contact throughout this process may vary depending on the municipality in which your Second Suite is located. Generally, there is no cost for the inspection; however, this may vary from one municipality to another.

ADDRESS ANY COMPLIANCE ISSUES

A charge or notice of violation may vary depending on the nature of the infraction. Offences under the *Ontario Building Code Act* may result in a fine of up to \$50,000 for an individual's first offence (up to \$100,000 for corporations) and up to \$100,000 for any subsequent offences (up to \$200,000 for corporations). If a homeowner is provided with a

charge or notice of violation after an inspection, he or she may also receive a **compliance order** (or work order). A compliance order is an order from a municipal official that outlines the infraction and lists the ways in which the infraction can be corrected. A specified date may be attached to this compliance order.

Compliance may be obtained in several ways:

- Renovating the property so it fits within established standards.
- Addressing zoning variances through the Committee of Adjustment.
- Closing the Second Suite by removing it from the rental market.

NOTICE OF VIOLATION

In order to operate an authorized Second Suite, homeowners must comply with any recommendations made by municipal officials and do so at their own cost. The possibility of achieving compliance depends on the nature of the violation and the time and cost to correct the deficiency. Most

minor deficiencies are correctable. If a municipal official finds that the Second Suite does not comply with the zoning bylaw, the homeowner may apply for a variance through the Committee of Adjustment.

THE COMMITTEE OF ADJUSTMENT

The **Committee of Adjustment** consists of citizen members who regularly hold public hearings to consider applications for minor variances, permissions and consents. The Committee is required to ensure that the intent and purpose of both the zoning bylaw and the *Official Plan* are maintained and that the proposal is appropriate for the development and use of the subject land or building.

When homeowners apply to the Committee, all registered owners of land located within 60 metres of the property will be notified of the application. The Committee will then set a time and date for a public hearing. All interested persons are invited to attend the public hearing to express their views and concerns. If the homeowner disagrees with the Committee's decision, he or she will have 20 days to appeal the decision to the city.

NON-PERMITTING USE CHARGE

If the inspector finds a deficiency that poses a significant risk to the safety of tenants (current or future) or the household, the homeowner may be required to shut down the Second Suite immediately and remove the elements that make it a separate unit within the house. The homeowner may be asked to remove any doors, locks or walls that separate the rental unit from the rest of the house, along with kitchen equipment such as the refrigerator or stove. It is up to the inspector to decide whether or not to issue a request to remove tenants and components of the apartment.

If a Second Suite has existing tenants, the landlord may be in a difficult position if the suite is required

to be shut down. A tenancy can only be terminated for one of the grounds set out in the *Residential Tenancies Act, 2006* (RTA), and only if proper notice has been given. Landlords who are told by the municipality to remove tenants from an unauthorized Second Suite should not look to the RTA for help in evicting the tenant. The Act does not allow termination of a tenancy due to a building's non-compliance with local zoning or property standards bylaws. For this reason, it is crucial that the steps to compliance are followed **before** the unit is rented out. The Landlord and Tenant Board (LTB) provides information to landlords and tenants about their rights and responsibilities under the RTA.

WORKING ON YOUR SECOND SUITE

GENERAL INFORMATION ABOUT WORKING WITH A CONTRACTOR

Whether you are creating a new Second Suite, or carrying out renovations to upgrade an existing Second Suite, it is your responsibility to ensure all work is completed according to legal requirements. You are also responsible for calling the municipality to arrange for an inspection at certain stages of construction.

Hiring a contractor with the relevant experience and the proper insurance is a good way to be sure that you meet these responsibilities.

A general contractor is mainly responsible for:

- The quality and completion of all work set out in your contract;
- Paying public liability and property damage insurance to cover workers; and
- Removing debris and cleaning up the site after construction.

A general contractor will often hire a subcontractor to complete specialized jobs such as wiring, plumbing, carpentry, dry walling or general labour.

FINDING A CONTRACTOR

Information about contractors can be obtained from a variety of sources, such as:

- Recommendations from people who have had similar work done.
- The local Home Builders' Association.

- Hardware and building supply outlets that do contract work and offer the same guarantee they do for retail goods.
- Online forums and directories (search for General Contracting or the specialized trade required).

Find a licensed contractor with:

Experience and formal training in the area of work in which they specialize.

An affiliation with a credible association or agency.

Liability insurance coverage. Confirm that either the company the contractor works for or the individual contractor has liability insurance coverage.

At least three references. Take the time to check each reference thoroughly, and ask thoughtful questions about their work ethic. For example, whether work was completed on schedule, how the job site was managed or whether there were costs over runs.

Do not select a contractor who:

Gives an estimate without seeing the job site.

Asks for a large down payment for materials.

Refuses to provide a written contract stating the exact work to be done.

Homeowners should ask at least three contractors to bid on any work required. Contractors should be approached when plans have been drawn up, so all estimates are based on the same information and both the homeowner and the contractor are clear about the work that is required.

It is recommended to wait until all the estimates have been received before making a decision. All

estimates should have a detailed breakdown of labour and material costs. The lowest estimate is not necessarily the best. Make sure the contractor has considered all the work to be completed and is bidding on the same work as the others. Always ask for a receipt for payments and do not pay for work that has not been completed, except special orders for materials.

HOLDBACKS

A homeowner should not make a final payment or sign a certificate of completion until all work is completed to the homeowner's satisfaction. Homeowners should hold back 10 percent of each interim (partial) payment to ensure that a lien cannot be placed on the property by suppliers or workers whom the contractor may not have paid. You can check at the Land Registry Office to ensure that no lien has already been registered against the

property. Holdbacks should be released after 45 days, when the time limit for creditors to register a lien has expired.

The Licensing Tribunal for the various trades in the municipality will provide information about any previous complaints about a contractor and can later offer mediation services for any disputes that may come up.

THE CONTRACT

The only way to make sure the contractor will do the work as expected is to have a contract that includes:

- The names and addresses of both parties.
- A description of the work to be done.
- Materials to be used and workers to be hired.
- Identification of responsibilities such as obtaining necessary permits and other paperwork, or removal of debris.
- A statement of warranties, along with details of property damage insurance and

public liability.

- The start date and the completion date including prices and payment schedules.

The homeowner can write up the contract if both parties agree to its terms and sign it. The same applies if the homeowner or contractor needs to make any changes to reflect unexpected situations that arise.

IF YOU HAVE PROBLEMS WITH A CONTRACTOR

A homeowner can file a complaint against a contractor or subcontractors with a municipal official, provided the individual hired is a licensed contractor. A representative will then meet with the homeowner to investigate the complaint.

If the representative determines that the complaint has serious implications for the contractor's license, he or she will file a report with the Licensing Tribunal. The tribunal will then hold a meeting to hear the complaint and make a judgment as to whether or not the contractor's license should be retained, revoked or have conditions placed on it.

BUILDING INSPECTIONS

To ensure the Second Suite is built according to the plans and meets established standards, building inspections are scheduled at key stages of

construction. Scheduling these inspections is key to avoiding delays.

KEY STAGES OF CONSTRUCTION

Depending on the plans or drawings for the Second Suite, the following are key stages of construction during which inspections should be completed:

- When the Second Suite is first being constructed.
- After the substantial completion of:
 - Plumbing and drainage.
 - Installation of insulation and vapour barriers.
 - Rough-in of heating, ventilation, and air-conditioning equipment.
 - Interior fire separations and fire protection systems.
- Before occupancy occurs, but after a substantial amount of the construction is completed.
- A final inspection when the construction of the Second Suite is complete.



FIRE INSPECTION

Before embarking on any change or construction, the homeowner must contact the Plans Examination Section of the local fire department. This simple step can save time and money.

The homeowner will be asked to prepare floor drawings of the property and to arrange for a

preliminary planning review. Three sets of drawings must be provided for each floor of the property containing the Second Suite. The drawings should be a general site plan that shows the location of all walls, doors, transoms, windows (interior and exterior), stairways, fire escapes and balconies.

PREPARING FOR A FIRE INSPECTION

The plan examiner will review the drawings and give you feedback on specific details and any required changes that may be required to make sure your Second Suite complies with established codes. Ultimately, the onus is on you to ensure that your Second Suite complies with provisions set out in the

Fire Code. In all cases, minimum fire safety requirements must be met. The penalty for *Fire Code* violations under the *Fire Protection and Prevention Act* is a fine of up to \$50,000 for individuals (up to \$100,000 for corporations), or a prison term of up to one year, or both.

NEW SECOND SUITES



When creating a new Second Suite, the homeowner will have to consult the Building Department. The conversion of a single home to a two unit residential occupancy will require a building permit regardless of the need for construction. When the application to create a new Second Suite is submitted to the Building Department, plan examiners will review the fire safety systems and ensure compliance with the *Fire Code*.

EXISTING SECOND SUITES

Fire safety requirements for an existing suite are found in the *Fire Code*, Section 9.8: Two Unit Residential Occupancies (Ontario Regulation 213/07). Any Second Suite in existence on July 14, 1994 requires a general inspection for *Fire Code* compliance, carried out by the municipal fire service. Homeowners should carry out their own initial assessment before calling for an inspection, and check the *Fire Code* to determine if anything needs to be upgraded in the home to meet Code requirements.



WHERE CAN I GET INFORMATION ON FIRE REGULATIONS?

In addition to the simplified chart in this guide, homeowners can get information on fire regulations from several sources:

- The *Fire Code* can be found at <https://www.ontario.ca/laws> or downloaded from the Landlord’s Self-Help Centre’s <http://www.lshc.host/>
- *Fire Code* regulations with visual examples are detailed on a video entitled “Fire Safety for Apartments in Houses,” available at

public libraries.

- Fire regulations with commentary can be purchased directly from [ServiceOntario Publications](#).

The quality of living conditions and the protection of every resident living in a house with a Second Suite are very important. All Second Suites must comply with the basic life safety systems defined in the *Fire Code*.

Homeowners should take the time to review the following requirements:

| Principle #1 | Definition | Fire Code Requirements and Examples* |
|--------------|--|--|
| Containment | <p>Creating a "box" around the Second Suite by having horizontal and vertical fire separations will confine and restrict a fire.</p> <p>Ensuring that all walls, ceiling and flooring fit within regulation helps limit the spread of smoke and controls the size of a fire within a Second Suite.</p> | <p>Any wall or floor assembly required as a fire separation shall be constructed as a continuous barrier against the spread of fire.</p> <p>Each dwelling unit shall be separated from other rooms and areas by a fire separation with assured fire-resistance rating. For example:</p> <ul style="list-style-type: none"> • Any walls between a common corridor and dwelling units should have a 30-minute fire-resistance rating. • Doors that are part of a fire separation shall have a 20-minute fire-protection rating and be equipped with a self-closing device. • Existing wall and floor assemblies consisting of membranes of lath and plaster or gypsum board are acceptable. • 20-minute fire-resistant doors, including any existing 1¾ inch solid wood core, hollow metal or kalamein doors, are acceptable. <p>Examples of items less than 15-minute fire-resistance rating include wood panelling, non-rated ceiling tiles, and open wood joists.</p> |
| | <p>Installing doors with a self-closing mechanism to contain fire and prevent spreading may allow</p> | <p>These self-closing mechanisms should be installed on select doors in a Second Suite.</p> |

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| | occupants to evacuate the unit safely while preventing the fire from spreading. | <ul style="list-style-type: none"> • They are strictly required for doors that share a common space or exit. <p>They are required only when a door opens into a common area or into someone else's unit.</p> |
|--|---|---|

| Principle #2 | Definition | Fire Code Requirements and Examples* |
|-----------------------------|--|--|
| Detection and early warning | Having a smoke alarm system in the home will enable occupants to know that there is danger. Providing early warning signs of a fire enables homeowners and tenants enough time to evacuate safely. | <p>Smoke alarms shall be installed and in working order in each dwelling unit.</p> <ul style="list-style-type: none"> • "Listed" interconnected smoke alarms shall be installed on or near the ceiling on each floor within a dwelling unit including every basement. • "Listed" hard-wired or battery-operated smoke alarms shall be installed near bedrooms ("hard-wired" refers to permanent wiring from the device to the hydro panel). <p>Interconnected fire alarms are required when a common exit is shared. If a Second Suite exit is accessed through another suite, the smoke alarms are required to be interconnected.</p> <p>Amendments to the <i>Fire Code</i> suggest that each bedroom have a smoke alarm, in addition to a smoke alarm being placed in the hallways outside the bedrooms.</p> <p>Effective January 1, 2015, homes being built or renovated after obtaining a building permit are required to comply with the amendment to the 2014 <i>Ontario Building Code</i> O.Reg.332/12. This amendment requires that all newly installed smoke alarms have a visual signaling component (strobe light) that meets the <i>National Fire Alarm and Signaling Code</i> (NFPA 72) requirements.</p> |
| | Carbon Monoxide Detectors | <p>As of October 15, 2014, carbon monoxide alarms are mandatory in all residential homes, and are required to be installed near the sleeping areas. This is a requirement of both the <i>Ontario Building Code</i> and the <i>Fire Code</i>.</p> <p>Carbon monoxide alarms must be installed on the</p> |

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| | | <p>same floor as any fuel-burning appliance or fireplace and two floors above it. It is the landlord's responsibility to maintain all detection devices to ensure they are in good working order.</p> <p>Carbon monoxide alarms and smoke alarms must be audible from the bedroom of the Second Suite, even with the door closed.</p> |
|--|--|---|

| Principle #3 | Definition | Fire Code Requirements and Examples* |
|-----------------|--|--|
| Means of egress | Providing an acceptable and adequate way to get outside the home is a key safety feature if a fire occurs. Ensuring that access to these exits is clear and unobstructed allows occupants a safe environment for evacuation. | <p>Each dwelling unit shall be served by at least one means of escape consisting of a door that serves only that dwelling unit, opens directly to the exterior from that dwelling unit, and has direct access to the ground level.</p> <ul style="list-style-type: none"> • A continuous path of travel must be provided for the escape of persons from any point in a building to an exit. • Windows may serve as a second means to escape, but they have specific requirements, some include: <ul style="list-style-type: none"> ○ The ability to open the window from inside the unit easily ○ A clear unobstructed opening ○ A minimum area of 0.35m² (3.8sqft) and a dimension of at least 380mm (15") • Fire escapes may be used. • The exit must lead to a safe location outside the building. • Protection of exits consists of a fire-separated shared interior wall or stairway. |

| Principle #4 | Definition | Fire Code Requirements and Examples* |
|--------------|---|--|
| Suppression | Using specialized equipment to slow down or stop a fire can protect the lives and property of a homeowner and tenant. The ability to control and extinguish fires throughout the home will also | <p>A fire extinguisher should be provided in each dwelling unit. Routes to facilitate access for firefighting operations shall not be obstructed by vehicles, gates, fences, building materials, vegetation, signs or any other obstruction.</p> <ul style="list-style-type: none"> • Provide a minimum of a 2A (large aluminum |

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| | <p>ensure better access to the building for the fire department.</p> | <p>extinguisher) or a 2ABC (small red extinguisher) portable fire extinguisher.</p> <ul style="list-style-type: none"> • Provide unobstructed walkways from the street to the principal entrance of the building. • Ensure fire hydrants near your residence are accessible to fire fighters at all times. <p>Look for ULC and CSA codes on fire alarms and smoke detectors, these are listed products that are “licensed, tried, tested and true”, they are devices that insurance companies recognize.</p> |
|--|--|--|

***Refer to the *Ontario Fire Code*, Section 9.8 for all requirements of two unit residential occupancies.**

Homeowners and potential homeowners should take the time to learn about their obligations relating to owning a home containing a Second

Suite. The time spent planning ahead will better equip homeowners handle any situations that may arise.

SCHEDULING AN ELECTRICAL SAFETY AUTHORITY (ESA) INSPECTION

Confirming that the electrical service for the home is safe and useable is a good practice for all homeowners, and is especially important when operating a Second Suite. Not only will the inspection help homeowners obtain insurance, but it can also benefit homeowners if and when they decide to resell their property. Most importantly, though, it will reduce hazards for landlords and their tenant.

Any home containing a Second Suite will need a General Inspection for Compliance of Two Unit Residential Dwelling to be considered an authorized Second Suite. This will guarantee the electrical service is safe and useable for the number of people who will be living in the house and for the appliances in the home.

Homeowners must use a Licensed Electrical Contractor if they are hiring someone to perform the electrical work. A repair person or other service provider is only able to carry out electrical work if he

or she has been issued an ESA/ECRA license number, which must be presented before any electrical work begins. To find a local Licensed Electrical Contractor, a directory is available on the [ESA website](#).

If a homeowner is using a general contractor, the homeowner should ensure all electrical work will be carried out by a licensed subcontractor. Homeowners can also perform their own electrical work, as long as they adhere to the *Ontario Electrical Safety Code* and are aware of the responsibilities and risks involved. The ESA has information on their website about safety measures and steps to follow before an electrical project begins.

Requirements for electrical installations and electrical equipment can be found in various sections of the *Ontario Electrical Safety Code* (Ontario Regulation 10/02). Note that the *Ontario Electrical Safety Code* is updated every three years to reflect any changes in technology and safety practices.

WHAT IS THE ESA LOOKING FOR?

The ESA will conduct a general inspection of the property to determine if there are any defects that need to be corrected. This involves a visual inspection of the property to assess the existing wiring and electrical services and ensure both are safe and up to code. A general inspection will also include inspections of any outbuildings and associated equipment, such as a pool.

The ESA general inspection includes:

- Ensuring that electrical installations meet the requirements of the *Ontario Electrical Safety Code*.
- Checking whether these installations are in good shape.
- Testing outlets, depending on the type of outlet and how accessible they are at the

time of the inspection.

- Looking for exposed wiring.
- Ensuring there is proper fusing throughout the property.
- Assessing whether there is misuse of electrical equipment, such as extension cords.
- Checking that electrical equipment used in the home is approved for use in Ontario.

A general inspection will not include any electrical devices and wiring that the inspector cannot access at the time of inspection (e.g., behind walls, in attics and crawl spaces or area obscured from view).

OBTAINING AN ESA CERTIFICATE OF INSPECTION

If no electrical defects are identified, or if all defects during the general inspection have been corrected, the ESA will issue a General Inspection Report to the

applicant. The homeowner may then request a Certificate of Inspection as a record of compliance.

APPLY FOR AN INSPECTION

Requests for an electrical inspection should be filed before the start of or within 48 hours of the start of any electrical work on the house. If possible, the application should be made by the company or individual planning to carry out the work. All requests for electrical inspection are documented, tracked and forwarded to an ESA electrical inspector

to respond. There are fees associated with this kind of inspection. The ESA certificate of inspection will be issued to the person who took out the permit. If the contractor took out the permit, the homeowner should request a copy either from the contractor or the ESA.

Different types of residential electrical inspections:

- Trench: An inspection of underground wiring.
- Service or connection: An inspection of wiring to meter, inspection of main disconnect means (e.g., fuses or breakers) and inspection of grounding to service.
- Rough-in: Takes place when all branch circuit wiring and outlet boxes are installed and prior to any wiring being concealed by insulation, vapour barrier, drywall, etc.
- Final: The final inspection shall be requested as soon as possible after completion of the electrical installation.

Source: [How to Arrange for an Electrical Inspection, ESA website](#)

RESPOND TO NOTIFICATION

Unless the Electrical Safety Authority is responding to a hazardous or emergency situation (i.e., a Fire Marshal or Electrical Inspection Order), notice of the request for inspection will be provided in writing,

and arrangements will be made to schedule an inspection. Both the homeowner's unit and the Second Suite will be inspected.

CORRECT ANY DEFECTS

If the inspection has revealed any deficiencies, the ESA will issue a Notice of Deficiency to the property owner detailing what needs to be corrected. It will also include a deadline for correcting the defects based on the hazard associated with each specific defect. A **defect or deficiency** is any electrical installation or condition that does not comply with the *Ontario Electrical Safety Code*. Before making the necessary changes, the homeowner must submit a

Wiring Application for Inspection to address any electrical wiring work. The applicable fees vary with the type and quantity of electrical installations being done.

Under the *Freedom of Information and Protection of Privacy Act*, tenants have the right to request a copy of the Notice of Deficiency.

CONTACTING YOUR INSURANCE BROKER TO UPGRADE YOUR POLICY

INSURANCE CONSIDERATIONS

There are special insurance requirements for homeowner-occupied dwellings with rental units. If the landlord decides to create a Second Suite, the coverage will need to increase and the type of insurance carried by the landlord will need to change. Landlords should also be prepared to pay an increased insurance premium, although the cost of coverage will vary depending on a variety of factors,

such as location of the property. It is especially wise for landlords to increase their personal liability insurance to reflect their new role as a landlord. Homeowners should also properly insure all workers and subcontractors during construction. See the Landlord's Self-Help Centre's "Financial Considerations Guide" for more detailed information.

OCCUPANCY PERMIT

When the construction of the Second Suite is complete and the homeowner has obtained the necessary building permits and completed the required fire and ESA inspections, the homeowner will receive a **final occupancy permit**. This permit

certifies that the suite is built according to established health, safety, housing and maintenance standards, and allows the Second Suite to be occupied.

LICENSING OR REGISTRATION APPLICATION AND APPLICABLE FEE(S)

This process is different depending on the municipality in which the Second Suite is located. Some municipalities have different licensing and registration procedures for Second Suites that are **owner occupied dwellings** and those that are

investment dwellings. *Owner occupied dwellings* exist when a landlord lives in one unit of the home and they are renting out the second unit. A property is regarded as an *investment dwelling* when tenants occupy both units.

RUNNING A SECOND SUITE BUSINESS

Having a Second Suite in the home is considered the same as operating a small business. There are

advantages and disadvantages, and naturally, landlords will want to maximize their gains.

WHAT ABOUT MY INCOME TAX?

Keeping good financial records is important. Under the *Income Tax Act* and its regulations, landlords must declare all of the rent collected as income. Any reasonable expenses made in operating a Second

Suite may be deducted from the rental income under certain conditions. See the Landlord's Self-Help Centre's "Financial Considerations Guide" for more detailed information.

WILL MY PROPERTY TAXES INCREASE?

Overall, the property tax impact of Second Suites will likely be small. Usually, a property's Current Value Assessment (CVA) does not increase unless there is a five percent increase in the total property value, or at least \$10,000. Depending on the location, a

Second Suite generally increases the value of a home by only two to five percent, usually not enough to result in a CVA increase. See the Landlord's Self-Help Centre's "Financial Considerations Guide" for more detailed information.



QUICK REFERENCE CHECKLIST FOR LANDLORDS

To ensure the safety of a house when creating or upgrading a Second Suite, it is important for homeowners to confirm that the house meets the established health, safety, housing and maintenance

standards. In addition to this guide, a step-by-step checklist has been established to assist in the process.

CHECKLIST: Creating a Second Suite

* Check with your local municipality, as the steps in the overall process may differ from one municipality to another.

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|---|---|--|
| ✓ | Façade | The visible appearance of the exterior of the building cannot be significantly altered. |
| ✓ | Size | The Second Suite is a self-contained unit with a separate entrance and kitchen and bathroom facilities that occupies a smaller area than the rest of the house. |
| ✓ | Parking | The Second Suite has the appropriate number of designated parking spots according to the requirements of the municipality in which the Second Suite is located. |
| ✓ | Obtain zoning approval | In order to obtain an inspection by the fire department, the property must be approved for zoning by municipal officials. |
| ✓ | Get clearance from the Electrical Safety Authority | Homeowners must arrange for their home to be inspected by the Electrical Safety Authority and correct any identified deficiencies that result from this inspection before getting approval for a fire safety inspection. |
| ✓ | Work to meet <i>Fire Code</i> and <i>Building Code</i> requirements | After consulting with municipal licensing officials, homeowners will have a clearer idea of what needs to be done. Follow all recommendations to meet established standards in a proper manner before calling for an inspection. |
| ✓ | Arrange for a fire safety inspection | Once both dwelling units have been inspected and found to comply with the <i>Fire Code</i> , homeowners may request a Letter of Inspection as a record of the inspection. |
| ✓ | Keep in mind | Carbon monoxide detectors must be installed in all residential homes and must be audible from the bedroom of the Second Suite, even with the door closed. |

CHECKLIST: Upgrading an existing Second Suite

* Check with your local municipality, as steps in the overall process may differ from one municipality to another.

| | | |
|---|---|--|
| ✓ | Obtain zoning approval | In order to obtain an inspection by the fire department, the property must be approved for zoning by municipal officials. |
| ✓ | Get clearance from the Electrical Safety Authority | You must arrange for your home to be inspected by the Electrical Safety Authority and correct any identified deficiencies that result from this inspection before you get approval for a fire safety inspection. |
| ✓ | Work to meet <i>Fire Code</i> and <i>Building Code</i> requirements | After consulting with municipal licensing officials, homeowners will have a clearer idea of what needs to be done. Follow all recommendations to meet established standards in a proper manner before calling for an inspection. |
| ✓ | Arrange for a fire safety inspection | Once both dwelling units have been inspected and found to comply with the <i>Fire Code</i> , homeowners may request a Letter of Inspection as a record of the inspection. |
| ✓ | Keep in mind | Carbon monoxide detectors must be installed in all residential homes and must be audible from the bedroom of the Second Suite, even with the door closed. |

APPENDIX

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