

Financial Considerations

Landlord's Self-Help Centre has developed **Financial Considerations: An Information Guide for Homeowners Thinking About Adding a Second Suite** as one of three educational guides for the Second Suites in Ontario project. The other two guides include **Creating a Second Suite: An Information Guide for Homeowners**, and the **Operating Guide: An Information Guide for Second Suite Landlords**. 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 **Financial Considerations** guide contains information about the financial benefits and challenges of owning and operating a Second Suite. It explains the financial aspects that should be considered when creating or upgrading a Second Suite in Ontario. It also includes five case studies from different geographic locations across Ontario, which are meant to explore and compare market considerations and costs related to the creation and operation of a Second Suite.

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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,

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 centers, 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 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.
- 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 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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Financial Benefits of Owning a Second Suite

The most obvious benefit as the owner of a legal or authorized Second Suite is the additional income. A **legal or authorized Second Suite** is a unit that is approved or permitted in the municipality in which it is located, and a unit that meets the required health, safety, housing and maintenance standards. Whether an individual currently owns a house or is thinking of buying one, operating a Second Suite in the home can help manage the increasing costs of home ownership. According to Canada Mortgage and Housing Corporation (CMHC), having a second unit can reduce the monthly carrying costs of the homeowner by 25%.

Additional benefits of operating a Second Suite:

- Creates a new income stream to help with the cost of homeownership (e.g., mortgage, utilities, property tax, insurance, maintenance).
- Assists first-time home buyers to qualify for a mortgage.
- Creates additional borrowing power.
- Allows seniors who may not have the income or savings required to remain in their home to “age in place.” The homeowner 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.
- Provides accommodation for a live-in caregiver or family member, such as a nanny, parent or adult child.
- Allows snowbirds to meet insurance occupancy requirements during periods of prolonged absences.
- Adding a Second Suite can increase the value of your house.*

Authorized Second Suites in Ontario

A Second Suite, also known as a secondary unit, basement or accessory apartment, granny flat in-law apartment or nanny suite, is a self-contained residential unit that may be located in a single detached, semi-detached or row house or it may be an ancillary structure such as coach house or garden suite. A Second Suite contains a private kitchen, bathroom facilities, sleeping areas and has its own entrance.

Second Suites have existed in municipalities across Ontario for many years. Some were created in accordance with provincial government legislation, such as the *Residents' Rights Act* in 1994, while other suites were created with the approval of local municipalities either in accordance with local policies or through an approval process requiring application to the Committee of Adjustments to permit the unit.

Unfortunately, there are many Second Suites that operate as unauthorized or illegal rental accommodation. An **illegal or unauthorized Second Suite** is a unit that is not approved or permitted in the municipality in which it is located, and/or a unit that does not meet the required health, safety, housing and maintenance standards. These suites operate under the radar, have not been inspected by officials, are not registered or licenced, and may be inadequately insured. Landlords found to be renting out illegal Second Suites may face negative financial consequences such as fines from the municipality and the requirement to terminate any existing tenancies.

On January 1, 2012, the *Planning Act* was amended to permit Second Suites across the province. Section 16(3) of this Act requires Ontario municipalities to amend official plans and establish policies and zoning bylaw provisions to allow Second Suites in detached, semi-detached and row houses, as well as in ancillary structures.

The information presented in this guide will focus on the financial considerations for legal and authorized Second Suites. The requirements for Second Suites may vary depending on the municipality in which the Second Suite is located.

Making Sure Your Second Suite is Permitted

Landlords need to protect themselves and their tenants by making sure their Second Suite is authorized and their home meets the basic health and safety requirements.

All Second Suites must be constructed in accordance with municipal and provincial regulations. These include, but are not limited to, the *Fire Code*, the *Ontario Building Code Act*, the *Ontario Electrical Safety Code* and the *Planning Act*. The rental unit must also comply with local property standards and zoning bylaws.

Landlords must ensure their Second Suite meets basic health and safety requirements. For a Second Suite to become an authorized unit, it must comply with:

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

The typical steps to authorizing an existing or new Second Suite are outlined below.



The landlord is responsible for ensuring that the property complies with the minimum requirements outlined in the provisions of the *Fire Code*. Failure to do so may result in the owner receiving a penalty under the *Fire Prevention and Protection Act* for violations (up to \$50,000 for individuals and up to \$500,000 for corporations), a one-year prison term, or both. The Electrical Safety Authority (ESA) must also perform an inspection of the unit and issue a Certificate of Inspection.

Landlords are required to obtain approval and permits for construction, plumbing and electrical work. Prior to securing permits, detailed drawings and plans must be submitted and approved by the Building Department of the local municipality. Fees for each application vary depending on the type of work being done, the amount of work and square footage involved.

If construction has started without the necessary permits, a landlord will be required to stop work or remove work that has already been done. If these matters are not able to be resolved, the landlord may be subject to prosecution.

For information on whether a permit is needed for a particular project, landlords should contact the Building Department for their municipality.

Creating a Second Suite

When creating a new Second Suite, landlords must apply for a building permit to ensure the new construction complies with the *Ontario Building Code*, *Fire Code*, *Ontario Electrical Safety Code*, municipal zoning bylaws and property standards. The new construction of a unit will always require a building permit and the scheduling of several inspections throughout the construction project.

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

Homeowners constructing a new suite should consider hiring a general contractor, unless they are experienced in small construction or renovation jobs, in which case it can be a cost effective option to do part of the work personally, acting as one's own general contractor. Homeowners who take on the responsibility of a contractor must also coordinate the work of several tradespeople and arrange for inspectors to come in and see the work at the right times.

Municipal building inspectors are professionals with extensive hands-on experience and will review projects during key stages of construction to ensure the work complies with the Building Code and the approved plans. Inspectors may visit several times depending on the project, and they must be able to see the work that is under inspection. In some municipalities, inspectors require a minimum of 48 hours' notice to book an inspection. It is recommended that homeowners be present while unit inspections are taking place.

Detailed information on the process of creating a Second Suite can be found in the Landlord's Self-Help Centre's "**Creating a Second Suite: An Information Guide for Homeowners**" which is available online at www.secondsuites.info

Existing Second Suite

When buying a home that contains a Second Suite, purchasers need to confirm whether the Second Suite is authorized by requesting and carefully reviewing all the documentation relating to the plans, permits and inspections from when the unit was constructed. Existing Second Suites that do not comply with standards or meet regulations are considered unauthorized units and could be a significant financial liability for the purchaser.

Homeowners are not advised to rent an illegal or unauthorized Second Suite until it has been upgraded and approved for occupancy. If the unit is rented and a fire, flood or other catastrophic event occurs, the landlord's insurance coverage could be void and the landlord could be personally responsible for the losses, including tenant losses, fines, and any legal action for violations.

If an unauthorized Second Suite exists and is tenanted, the tenancy is governed by the *Residential Tenancies Act*. If the municipality orders the removal of an illegal Second Suite that is tenanted, the landlord will be required to terminate the tenancy in accordance with the *Residential Tenancies Act*. This process may be very difficult and could result in costs to terminate the tenancy in addition to costs to remove the unit.

Landlords who are purchasing a home with an existing unauthorized Second Suite should contact their municipal property standards and building departments to determine what needs to be done in order to upgrade the existing suite into an authorized suite. The best way to

establish a positive working relationship with municipal services is to request an inspection of the unit personally to identify any deficiencies.

Anyone with concerns as to whether a Second Suite is legal or safe can report it to the local authorities. That means a tenant or a neighbour could contact the municipality with a complaint about the operation of a Second Suite or the safety or maintenance of it, and the municipality would have to respond to the complaint with an inspection to ensure the rental unit is safe and in compliance with established standards.

Regardless of whether a Second Suite already exists or is newly created, every residential landlord in Ontario must comply with Section 20 of the *Residential Tenancies Act*.

Section 20: Landlord's Responsibility to Repair

20. (1) A landlord is responsible for providing and maintaining a residential complex, including the rental units in it, in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards. 2006, c. 17, s. 20 (1).

(2) Subsection (1) applies even if the tenant was aware of a state of non-repair or a contravention of a standard before entering into the tenancy agreement. 2006, c. 17, s. 20 (2).

Detailed information and a step-by-step overview of the process owners should follow for upgrading and authorizing an existing Second Suite can be found in the Landlord's Self-Help Centre's "**Creating a Second Suite: An Information Guide for Homeowners**" which is available online at www.secondsuites.info

Determining Budget Requirements

Initial Financial Requirements

How a Second Suite can Reduce the Cost of Homeownership

There are many advantages to having an authorized Second Suite when it comes to financing the purchase of a home or refinancing an existing home. Having an approved or legal Second Suite will often allow a homeowner to qualify for a larger mortgage loan. Once it is confirmed

that the Second Suite conforms to all government standards and regulations, most lenders will take the income generated from the suite into account when calculating the amount of money a homeowner can borrow. The higher the total income, the more borrowing power the homeowner will have. Conversely, if a potential homeowner is buying a house containing a rental unit that fails to meet the required health, housing and safety standards, the individual may find lenders or mortgage brokers reluctant to provide funding.



Cost of Implementing Second Suite Requirements

The cost of creating an approved Second Suite can be substantial. Even the cost of converting an unapproved or illegal suite into an approved suite will vary depending on the conditions of the home, the size and extent of the improvements, and the labour required. This expense can be more than many people have in savings.

Existing homes may already have a number of standard building code requirements and other recommendations in place, which would lower the cost of creating a Second Suite. For new homes, more construction may be required, but the changes may be easier to make due to the benefits of new home design. Again, it is important to keep in mind that the total costs will vary depending on the home and the choice of construction. New construction or renovation projects will also require appropriate permits.

Even though the property may be *partly* in compliance with requirements such as building code and fire code standards, homeowners should still expect to pay a significant amount of construction costs in order to bring the property into *full* compliance.

Financing Options

There are programs to help finance the cost of this work, often at very low interest rates and with very low monthly payments.

Many financial institutions offer programs that will allow homeowners to borrow up to 75% of their home's value¹ (including any existing mortgages secured against the home) to finance any worthwhile project. The cost of financing a \$30,000 renovation to create an approved Second Suite would typically carry for as little as \$100 per month. Since every situation is unique, homeowners should consult with a mortgage specialist to determine the best strategy for their individual circumstances.

To make Second Suite conversions financially attractive, various levels of government may offer programs that provide interest-free loans and forgivable grants. Eligibility requirements for such programs (such as the Ontario Renovates Program) typically require that the homeowner will ensure the rent charged for the unit will not exceed maximum market rents (including utilities), and that the incoming tenant will have a household income that is lower than the maximum tenant income rates. These rates are set annually through regulation by the Ministry of Municipal Affairs and Housing under the *Housing Services Act, 2011*.



Ongoing Financial Requirements

Good State of Repair

The landlord also has a responsibility to ensure all aspects of the property are kept in good working order. That includes structural items (e.g., the roof, foundation, doors and windows) as well as mechanical systems (e.g., electrical, plumbing, heating systems and lighting). Amenities

¹ CMHC Second Unit loan insurance program

that were part of the rental agreement must also be kept in good working order, such as laundry facilities and common areas such as the walkways, patio and stairs.

If a stove and refrigerator were provided as part of the rental agreement, the landlord is responsible for maintaining these appliances and ensuring they are in working order; that includes the repair or replacement of these items if they break down through ordinary use.

Many communities in Ontario have bylaws that are enforced by the municipal government to set minimum standards for the upkeep and maintenance of a rental property. In communities that do not have municipal bylaws regarding minimum maintenance standards, the landlord must follow the provincial standards set out in the regulations under the *Residential Tenancies Act*. The Investigation and Enforcement Unit of the Ontario Ministry of Municipal Affairs and Housing enforces these maintenance standards in areas where there are no municipal property standards bylaws.

If a landlord refuses to make the necessary repairs, such as fixing a broken door lock or window, the tenant may register a complaint with the local property standards authority. The municipality will typically dispatch an inspector to investigate the complaint, and if the inspector finds that repairs are necessary, a work order will be issued to the landlord detailing the deficiencies and specifying a date by which repairs must be completed.

If damage occurs, either willfully or as the result of neglect by the tenant or a person the tenant permitted on the premises, the *tenant* is responsible for repairing the damage, the tenant must have the damage repaired to ensure good working order or pay the landlord for the cost of repairs. Tenants should otherwise not become involved in undertaking minor repairs.

If the landlord fails to make the necessary repairs to the property, the tenant may apply to the Landlord and Tenant Board for an order that the landlord complete the repairs and for an order that the landlord provide a rent abatement (reduction in rent) as compensation for the loss of use due to disrepair.

Rather than file an application with the Landlord and Tenant Board, a tenant might attempt to withhold payment of rent as a means to force the landlord to make repairs. However, tenants are not permitted to do so. If this occurs, the landlord can issue a notice for nonpayment of rent. Ensuring that proper maintenance of the rental unit and property is conducted will reduce the possibility of this happening and incurring costs associated with a Board hearing.

Cleanliness and Pest Control

The tenant is responsible for the ordinary cleanliness of the premises. Matters such as pest control (e.g., mice and cockroaches) are the responsibility of the landlord, as this relates to the maintenance of the rented premises. In the case of a bed bug infestation, the landlord will face significant costs as this type of infestation requires a proactive and multipronged pest-management strategy. The tenant has a responsibility to cooperate with the landlord's pest control efforts—a responsibility that is especially important in the case of bed bugs.

Planning for the Unexpected

Emergency Repairs

An **emergency repair** is required when something in the rental unit has broken and the health or safety of anyone in the building is in danger, or the building or property is at risk until repairs can be made. Should this situation arise, the landlord must pay for emergency repairs. If it is later determined that the need for repair occurred due to the tenant's actions, the landlord may apply to the LTB for an order that the tenant compensate the landlord for the repairs.

The following examples are not exhaustive but can be used to gauge whether or not a repair is an emergency.

Emergency Repairs	Non-Emergency Repairs
Broken pipe(s) resulting in flooding of the premises.	An interior door does not close properly.
The heating system is not functioning when it is cold outside.	A stove element is burnt out.
The sewage system is backing up into the premises.	The kitchen sink has a slow drain.
The refrigerator supplied by the landlord is not working.	There is a minor leak in the roof.
	The bathroom tap is dripping.

	There is a cracked pane in an upper window.
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Record Keeping

Landlords are encouraged to keep records and receipts for all financial transactions relating to their business. Landlords who are not familiar with business bookkeeping should consult with an accountant.

It is important to document and track the condition of the rental premises. When a tenant moves in, landlords should complete an initial inspection of the premises and have both parties sign and keep a copy of the inspection worksheet. It is also a good idea to take pictures to document the condition of the Second Suite prior to occupancy.

Accessibility for Ontarians with Disabilities Act (AODA)

Most Second Suite landlords are not impacted by the *Accessibility for Ontarians with Disabilities Act* (AODA) of 2005, as its provisions apply to landlords with at least one employee. However, there may be an exception if the landlord is incorporated, in which case the landlord is likely subject to AODA requirements.

What is the AODA?

The goal of the AODA legislation is to ensure an accessible Ontario by 2025. The AODA will help obligated businesses and organizations to identify, remove and prevent barriers for people with disabilities.

Ontario has standards for accessibility under the AODA. The standards have requirements that will help Ontario businesses become more accessible and help Ontario reach its accessibility goal. The requirements are legal rules that obligated organizations must follow in order to create an accessible environment. All organizations with one or more employees in Ontario have obligations under the accessibility standards.

Ontario's accessibility standards require landlords to think about barriers that may be created by the way they interact with, communicate with, and provide services to their tenants. The accessibility standards encourage landlords to proactively take steps to overcome these barriers and increase accessibility for tenants with disabilities.

It is important for landlords to fully understand the AODA and its requirements. An online guide and toolkit called “Unlocking the AODA – Guide for Landlords” is available on the Canadian Centre for Housing Rights [website](#).

Contingency Plan- Have a Reserve Fund

Non-payment of Rent

Landlords may find that their tenant has difficulty paying the rent on time or perhaps paying the rent at all. Nonpayment of rent is the most common conflict among landlords and tenants and represents an average of 51.5%% of the applications (L1 & L9) filed province-wide with the Landlord and Tenant Board from 2022 -2023.² Rather than having to rely on credit card cash advances to cover mortgage payments, all landlords should have a contingency or reserve fund they can use should the tenant default on the rent or be late in paying the rent.

If the tenant stops paying the rent entirely, the law in Ontario requires the tenant be given notice of their default and the opportunity to correct the situation by bringing the rent into good standing. If the tenant fails to correct the issue by paying the outstanding rent, the landlord may file an application with the Landlord and Tenant Board.

If the tenancy must be terminated, the process can take approximately five months and the landlord will face additional costs in the form of filing fees and fees paid to the Court Enforcement (Sheriff’s) Office for an eviction (if required), as well as unpaid rent, possible legal fees and lost time.



² Tribunals Ontario 2022-23 Annual Report

The landlord and tenant relationship does not always run smoothly, and there may be occasions when the landlord must take legal action to address an issue or behaviour. To do so, the landlord will need to have an understanding of the process used to address conflict with a tenant.

Sometimes landlords are able to navigate this process themselves, having researched and secured the legal advice that is needed. There may also be occasions when the issue is complicated and requires the assistance of a legal service provider, such as a paralegal or a lawyer.

Tenant Appeal to Divisional Court

An unwanted scenario for any landlord is when a tenant who is the subject of a Landlord and Tenant Board order files an appeal to the Divisional Court. Filing an appeal means that the order issued by the Board is stayed (put on hold), pending the outcome of the appeal.

The appeal process will generally take anywhere from several weeks to several months before the appeal is heard. During this time, the tenant remains in the unit without paying rent while the tenancy continues under the same terms. This means the landlord must continue to provide rental accommodation including all amenities. The landlord cannot interfere with vital services and amenities that the tenant is entitled to use (e.g., laundry facilities), which may have been included in the rent.

When a tenant files an appeal, the landlord should enlist the services of a lawyer to navigate the appeal process, as the appeal process could be a very complicated process and paralegals are not permitted to act on Divisional Court matters.

Rent Losses

Landlords should prepare for a variety of situations that could result in the loss of rental income, including

- Rent abatements
- Abandonment
- Insufficient notice from a tenant

- Tenant bankruptcy
- Death of the tenant
- Delay in re-renting the unit, leaving it vacant until a suitable tenant is found

It is recommended that the landlord have reserve funds in the event of a possible loss of rental income. Often, landlords operate on a narrow margin and must use their line of credit or take cash advances against their credit cards when unexpected interruptions in income or expenses arise.

Duty to Accommodate

The *Ontario Human Rights Code* (the *Code*) governs key aspects of housing accommodation and provides protection from discrimination and the right to be free from harassment. According to the *Ontario Human Rights Code*, every person has the right to equal treatment with respect to the occupancy of accommodation without discrimination due to race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status, disability or the receipt of public assistance.

Landlords are responsible for making sure their tenant's human rights are respected. The *Ontario Human Rights Code* impacts rental housing providers in a variety of ways; for example

- Tenant selection must assure equal treatment and prohibit discrimination based on Code-related grounds.
- Vacancy advertising requires the use of inclusive language that does not make discriminatory assumptions about who might live in the unit or describe the unit in a way that would exclude certain people or groups of people either discreetly or openly.
- The Code allows landlords to request credit references and rental history information from prospective tenants but restricts how this information is used.
- The Code prohibits harassment by a landlord, an agent of the landlord or an occupant of the same building. This conduct is defined in the Human Rights Code as “engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.”
- Housing providers have the duty to accommodate the Code-related needs of tenants, with the cooperation and assistance of the tenant.

Accommodating the code-related needs of a tenant includes taking steps to remove any barriers that may exist (e.g., making changes to a unit, the building entrance, sidewalks or parking areas) unless doing so would cause undue hardship based on cost, the availability of

outside sources of funding, or raise health and safety concerns. In cases where providing the most appropriate accommodation would cause undue hardship landlords should examine the next best, phased-in or temporary accommodations.

Flex Design Options

Flexible house design³ is housing that allows homeowners to convert space to meet their changing needs. Homeowners who are in the design stage of building or renovating a Second Suite may want to consider incorporating flexible or universal housing features at this stage. With forethought and careful consideration early on, homeowners can avoid or reduce the costs and disruption of having to carry out separate conversions and home renovations down the road. Flexible housing design features can be incorporated in rental housing as well as in the main house.



³ See CMHC's Website <https://www.cmhc-schl.gc.ca/>

Examples of flexible design features:

- On-grade entrances, ramps or lift access from the parking space to the entrance.
- Covered entrances with level landings and adequate lighting.
- A main floor that contains a kitchen, living and dining space, bathroom and a space suitable for a future bedroom.
- Floor plan, building services, exit paths and fire safety requirements designed to facilitate future conversion of the house into two separate dwellings.
- Floor space or vertical alignment of closet spaces for a future elevator or the provision of straight-run stairways that are at least 1,000 mm (39 in) wide for the installation of a chairlift.
- Easily movable or removable partition walls to repurpose floor areas.
- Allowances to permit the easy installation of an exterior door that would permit conversion of a bedroom or other living space into a home office.
- Adequate basement with floor-to-ceiling clearance and window sizes, separate mechanical and electrical services, and a separate entrance to allow for the inclusion of a Second Suite.

FlexHousing™ is an approach to flexible house design developed by the CMHC. By including specific accessible and adaptable features during the design and construction stage, FlexHousing™ allows people to more easily and economically adapt their houses to their changing circumstances over time, giving them the option of remaining in their homes rather than moving.⁴



FlexHousing™ was originally based on four basic principles of flexible design⁵:

⁴ Used with permission from CMHC

⁵ <https://www.cmhc-schl.gc.ca/en>

1. Adaptability	Incorporating adaptable features such as convertible living spaces, a pre-designed space for a home elevator or features that allow for an easy conversion to a secondary suite with a private entrance. Occupants are provided with a house that meets the current needs while offering the potential to more easily meet their future needs.
2. Accessibility	Incorporating design features such as on-grade access and wider doorways and hallways, and providing housing that is more convenient for a person with a walker, baby carriage or armload of groceries, as well as individuals in wheelchairs or scooters. Safety features such as non-slip flooring and lower-height light switches make housing safer and more accessible for everyone.
3. Affordability	The design and construction of FlexHousing™ is intended to be no more expensive than conventional housing over the long-run. Lower renovation costs and avoided moving costs can more than offset the initial moderately higher costs.
4. Occupant Health	FlexHousing™ incorporates low-emission building materials and finishes as well as efficient heat recovery ventilation equipment to help ensure a good quality indoor environment.

Secondary Suites⁶	<p>Secondary suites are self-contained dwellings that have their own kitchen and bathroom, separate from the main dwelling.⁷ Also known as “accessory apartments” or “in-law suites”, secondary suites offer affordable housing for extended family or non-family member renters and can provide an income stream for the homeowner. They can also be potentially beneficial to the homeowner in other ways. From a broader planning perspective, secondary suites help optimize the use of existing housing stock and neighbourhood infrastructure and can help increase housing and options in existing neighbourhoods.</p> <p>Secondary suites must conform to all municipal zoning requirements and the provincial/territorial building and fire codes. Requirements for secondary suites vary from one province or territory to another and sometimes between cities. For those provinces/territories adopting the</p>
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⁶ <https://www.cmhc-schl.gc.ca/en>

⁷ <https://www.cmhc-schl.gc.ca/en>

	2010 National Building Code, the size of a secondary suite is limited to 80 m ² or no more than 80% of the floor area of the main dwelling unit, whichever is less.
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RentSafe Initiative

The **RentSafe initiative** seeks to improve knowledge, capacity and responsiveness within the social service sector on housing-related risks to the health of low-income tenants. The initiative addresses indoor environmental health risks that commonly affect low-income tenants (e.g., exposure to mold, lead, pesticides, pests, inadequate ventilation and excessive temperatures), which can have adverse effects on a resident's physical and mental health.

The initiative is led by the Canadian Partnership for Children's Health and Environment (CPCHE), which aims to address housing-related environmental health risks for low-income populations. Information about RentSafe can be found at <https://rentsafe.ca/>.

Green Initiative

The ideal time to implement greening initiatives and strategies is during a construction phase—whether this is to create a new unit or renovate an existing unit. Homeowners may also be eligible for government or industry-sponsored loans or grants that are offered as incentives to green older properties (e.g., increasing the insulation or installing an instantaneous hot water heater). There are several programs that offer financial assistance, and a good place for homeowners to start their research is the “Green Housing” section of the [Canada Mortgage and Housing Corporation \(CMHC\) website](#). CMHC provides information to help homeowners understand green building and renovating practices; ways to save energy and water; and how to create a healthier indoor environment.

Help for Low Income Households

Tenants who meet certain criteria may qualify for any of the following special programs available in Ontario to help low-income energy consumers.

Ontario Electricity Support Program (OESP)

In 2016, the Ontario government created the OESP program to assist low-income consumers by providing them with a reduction in their electricity bill in the form of a monthly on-bill credit. On March 1, 2024, the Ontario government has changed the household income amounts needed to qualify for OESP. This change makes more households eligible for electricity bill relief. More information can be found here; <https://ontarioelectricitysupport.ca/>

Low-Income Energy Assistance Program (LEAP)

If an emergency situation arises and the landlord is unable to temporarily make ends meet, LEAP provides a one-time grant towards a landlord's electricity or natural gas bill. This assistance program also provides utility companies with a set of special rules to follow in cases where they are dealing with landlords that have limited funds. Some of these special rules include providing longer payment deadlines or waiving security deposits. More information can be found here; <https://www.oeb.ca/consumer-information-and-protection/bill-assistance-programs/low-income-energy-assistance-program>

Energy Conservation Programs Offered by Utility Companies

Utility companies offer conservation programs that can help landlords reduce their energy use and lower their overall household costs.⁸ These energy conservation “programs offer energy savings kits and equipment that can be installed to help improve energy efficiency, which can result in ongoing savings for households.”⁹

Natural gas providers: Enbridge and Union Gas are two of Ontario's largest gas utility companies, and they offer free conservation programs to their customers who qualify as low income. Information about these programs is available through [Enbridge Gas Distribution](#) or [Union Gas](#).

Electricity providers: Homeowners in search of additional information about electricity conservation programs available in their area are encouraged to visit the [saveONenergy website](#) or contact their utility provider directly.

⁸ <http://www.ontarioenergyboard.ca>

⁹ [Ibid](#)



Tax Considerations

Rental income is usually a welcome supplement to the cost of home ownership; however, it is important that landlords keep in mind that this extra income is taxable. Landlords must report the net rental income received. A landlord is permitted to make certain deductions for housing-related expenses from the gross rent, which means that if the landlord is renting out one-third of a home, the landlord is allowed to subtract one-third of certain expenses from the rent collected. Landlords are also entitled to deduct expenses that relate specifically to the rental unit.

Additional contribution room for a landlord's Registered Retirement Savings Plan (RRSP) is another tax benefit derived from Second Suite rental income. The RRSP deduction limit for a year is equal to 18% of the earned income from the previous year (to a maximum annual contribution limit). Earned income includes salary or wages, alimony received, and rental income (among other income sources), but does not include items such as investment income.

Unfortunately, there are some disadvantages that may result from the additional income received from a Second Suite. The increased income may leave the landlord ineligible for certain government benefits, including

- Child tax benefit
- GST credit
- Guaranteed income supplement

These benefits may be reduced as a result of having a higher income level.

It is advisable that landlords use the services of a professional tax accountant to prepare the personal tax return in the first year of building or renting out a Second Suite. The decisions made on this first income tax return will impact taxes a landlord will pay in the future depending on personal circumstances. An accountant can explain and help setup a simple filing and bookkeeping system for the transactions related to the operation of the Second Suite.

What can be Deducted?

Some of the expenses that can be deducted from the gross rental income include utilities (heat, water, electricity), mortgage interest, property taxes, maintenance and repair costs. Expenses that landlords are not allowed to deduct include the cost of land and the principal portion of a loan or mortgage.

The expenses landlords are allowed to deduct fall into two general categories:

- **Direct expenses**, expenses that apply only to the Second Suite are 100% deductible from rental income.
- **Indirect expenses**, expenses that are general in nature and benefit the entire property. These expenses would be incurred regardless of whether or not the home contained a Second Suite (e.g., annual exterior landscaping). The amount that can be claimed in this category is proportionate to the area of the Second Suite compared to the entire home. For example, if the Second Suite occupies 500 square feet of the property and the total area of the home is 2,000 square feet, then 25% of indirect expenses can be claimed as a deduction from the rental income received from the Second Suite.

Once landlords have made all the allowable deductions, they are left with the net income. This is the amount that is reported to Revenue Canada.

Expenses a homeowner can deduct	
100% Deductible	Partial deduction (% based on area of suite in relation to home)

<ul style="list-style-type: none"> • vacancy advertising costs • accounting costs • legal expenses (e.g., preparing leases or solving landlord-tenant matters) • interest on last month's rent 	<ul style="list-style-type: none"> • property taxes • mortgage interest • heat, electricity and water (unless the tenant pays separately) • insurance premiums • some maintenance and repair items • some landscaping costs • legal fees of a sale (if the property was purchased with the intention to rent a Second Suite)
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Landlords must back up all purchases and operating expenses with invoices, receipts, contracts or other documents. Any questions about claiming rental income on income tax can be directed to the Canada Revenue Agency or consulting the Rental Income Tax Guide available free of charge from the [Canada Customs and Revenue Agency website](#).

Deducting Capital Costs from Rental Income

Capital costs are non-recurring expenditures, the benefits of which are long-term. Purchasing a fridge, stove or washing machine counts as a capital cost. These costs, if relating to the Second Suite, are claimed against a landlord's rental income over a period of years, the rate of which depends on the type of capital expenditure through capital costs allowance (CCA). The CCA rate depends on the type of capital expenditure.

Change of use for a principal residence:

Landlords are usually considered to have changed the use of part of their principal residence when they start to use that part for rental purposes. However, a landlord is not considered to have changed its use if:

- The part used for rental purposes is small in relation to the whole property.
- The landlord did not make any structural changes to the property to make it more suitable for rental purposes.
- The landlord did not deduct any CCA on the part being used for rental purposes.

Tax consequences may result when creating rental units in a principal residence. Before creating a Second Suite, landlords are encouraged to consult with an accountant.

Property Tax

Creating a Second Suite could have a small impact on a landlord's property tax. Usually, the Current Value Assessment (CVA) for the property does not increase unless there is a 5% increase in the total property value. Depending on where the property is located, a Second Suite would generally increase the value of a home. Refer to the Municipal Property Assessment Corporation (MPAC) for up to date information.

An exception to this situation would be if a Second Suite was created by building an addition. An addition could significantly affect the total value of the property and result in the property being reassessed. Information on how a Second Suite affects a homeowner's property tax can be found on the [Municipal Property Assessment Corporation website](#).

The *Residential Tenancies Act* requires any significant decrease in the municipal property tax for a residential complex be passed on to the tenant in the form of a rent reduction. Information about automatic rent reduction for a property tax decrease can be found [here](#).

Capital Gains Tax

Landlords who sell their property for more than its original cost have to report a capital gain to the extent that the proceeds exceed that cost. A landlord who has a capital gain may be able to pursue one of the following options:

- Defer part of the capital gain by claiming a [reserve](#).
- Reduce or offset all or a part of the gain by claiming a [capital gains deduction](#).

If the property was purchased before February 1994, some or all of this gain may be eligible for a capital gains deduction. To take advantage of this, however, the landlord should have made a special election when the 1994 return was filed.

Landlords may also have to pay tax on income that represents previously claimed depreciation. If proceeds from the sale of a property exceed the undepreciated capital cost (UCC) of the property, the excess up to the original cost is taxed as recaptured depreciation in the year of sale.

In some cases, where the property was destroyed or expropriated and another property was purchased, the gain and/or recapture may be deferred.

If the landlord does not receive the full proceeds of the sale in the year of the sale, he or she may be able to claim a capital gains reserve. However, the landlord cannot claim any reserve against the recaptured depreciation.

Buying or Selling a Home with a Second Suite

A Second Suite can increase the resale value of a home, since the income potential of an existing suite will attract purchasers. The rental income potential can assist a homeowner to cover mortgage costs or generate extra income.

Landlords should keep all important documents regarding the Second Suite so that it is readily available to show interested buyers. If the documentation confirms the unit is an authorized Second Suite, this will also increase the marketability of the property and may assist the buyer in obtaining a larger mortgage. Landlords planning to sell a home containing a Second Suite that is not authorized should keep in mind that upgrading an existing unit to ensure it meets established standards as compliance may make the home easier to sell.

Selling or Purchasing a Home with Tenants in Possession

Purchasing a home with a Second Suite may mean that it comes with tenants in possession. The rules for ending a tenancy do not permit a rental agreement to be ended because the property is being sold, unless the purchaser or an immediate family member of the purchaser intend to occupy the unit. If this is the case, the landlord will need to become familiar with the process for terminating a tenant's rental agreement. More details about this process can be found in the **Operating Guide: An Information Guide for Second Suite Landlords** which is available online at www.secondsuites.info Selling a rental property with tenants in possession can be a challenge, and in some cases landlords cannot guarantee vacant possession on closing. Landlords must comply with the provisions of the *Residential Tenancies Act* with respect to a tenant's privacy and give the required notice to enter the rental unit when arranging for appraisers and showings for prospective purchasers to view the house.



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.

For landlords with a mortgage, the mortgage lender will require that the property is insured. Mortgage holders insist on receiving confirmation of coverage every year from the insurance company. If a landlord cancels or loses his or her coverage, the lender will quickly take action, which is likely to include cancelling the loan and demanding immediate repayment.

Operating an unauthorized or illegal Second Suite can result in the cancellation of an existing insurance policy, or at the very least limit recovery of damage by the homeowner, and can create difficulty in obtaining financing. Also, the income from an unauthorized Second Suite is not considered when the homeowner is trying to secure a mortgage. An authorized Second Suite, on the other hand, decreases the homeowner's liability.

Having the Right Coverage

In the insurance industry, the rent a landlord receives from a Second Suite is considered business income. Landlords will need to change the type of insurance from a homeowner's policy to rented dwellings insurance and increase the amount of coverage. The recommended minimum amount of liability insurance is \$2 million.

While an increase in coverage will mean that the premiums will rise, a portion of the insurance expenses will be tax deductible.

Landlords should notify the insurance company or broker as early as possible regarding the plan to add a Second Suite and adjust their policy before and after construction to reflect the changes in liability exposure and value of the house. The insurance company will probably be willing to continue coverage once a landlord rents the suite, but if not, coverage can always be arranged with another company. Property owners seeking to create a Second Suite should ensure that workers are insured while working at the property. If they are not insured, workers who are injured while working on a construction project could seek costs for damages or loss from the property owner.

Information about insurance coverage for landlords can be found through the Insurance Bureau of Canada.

Why landlords need to have the right coverage:

- **Risk of voiding the insurance policy:** Failure to provide full disclosure relating to insured risks may void the home insurance policy. If there was a fire in the rented Second Suite, for example, and the insurance provider was unaware of the tenant residing there, the policy could be voided, leaving the landlord without coverage at a time when it is needed most.
- **Possible liability for a tenant's belongings:** A home insurance policy only covers property, contents and personal liability for the landlord, spouse and dependants. The policy does not include the tenant's contents and personal liability. Should a fire damage or destroy the tenant's belongings, the landlord may be held responsible for compensation of the tenant's lost or damaged contents if the landlord is found liable for the fire.
- **Allows landlords to manage risk:** A landlord may have new tenants each year, thereby posing a different kind of insurable risk. It is the landlord's obligation to inform the insurance provider of any change in risk, such as a rental unit in the home.
- **Offers damage coverage:** An insurance policy will cover damage to the landlord's property, including walls, flooring, fixtures, appliances, heating and cooling systems and furniture (furnished rentals only), subject to the terms of the policy.
- **May allow landlords to recoup loss of rental income:** A landlord's insurance policy may cover lost rental income if tenants must vacate the premises due to damage from an insured loss.
- **May provide legal defence coverage:** An insurance policy may cover a landlord's defence costs, depending on the circumstances, in the event of a lawsuit where the tenants or their guests suffer injury or damages on the property.

Additional Insurance

Increasing personal liability insurance when becoming a landlord is strongly suggested. A landlord can buy additional insurance to protect against the loss of rental income if a fire or accident prevents the landlord from renting out the suite. A **landlord shield policy** is also available from some insurance companies, which protects landlords from loss of rent and often provides premium discounts if supervision, maintenance and security of the rental unit is provided by the landlord.

Not every insurance company will be able to provide the necessary additional insurance protection as part of the homeowners policy. Landlords may want to contact the [Insurance Bureau of Canada](#) to find a more suitable option. If a landlord needs to find another insurer, there may be difficulty if the landlord has had claims or has outdated

electrical, plumbing or heating systems. Landlords should consult with an insurance broker to discuss available options.

Tenant Insurance

Landlords should make sure their tenancy agreement requires tenants to secure their own insurance coverage and that the tenant must provide the landlord with a certificate confirming insurance coverage has been obtained.

By requesting tenants to obtain their own insurance, landlords are protecting themselves and limiting their liability if anything were to happen in the Second Suite that affects the tenant's belongings.

Exotic pets:

Most Ontario municipalities have implemented policies that prohibit the possession of a non-domestic or exotic pet. The tenancy agreement should also prohibit the presence of exotic pets in the tenant's rental unit, as the presence of such a pet may void insurance coverage.

Tenant insurance can offer tenants protection in several ways:

- By providing insurance for the tenant's belongings and contents.
- By protecting the tenant from liability; for example, if there is an accident in the unit in which the tenant's guest is injured.
- By providing the tenant with additional living expenses should the apartment become uninhabitable.

Tenants are generally required to purchase insurance for their contents as well as liability coverage. The cost of insurance coverage for a tenant is generally in the range of \$250 per year.

Liability of Operating an Unauthorized Suite

Many of the unauthorized Second Suites that exist today fail to meet current health, safety, property or maintenance standards. By renting out an illegal or unauthorized Second Suite, the landlord can face very serious consequences. The following table lists

the benefits of operating an authorized suite compared to the risks of operating an unauthorized suite:

Benefits of an authorized suite	Risks of an unauthorized suite
Decreased liability: There is additional liability exposure when operating a rental unit. Getting the right type of insurance policy will ensure that a homeowner is covered accordingly.	Limited recovery of damage: An insurance policy is not responsible for rebuilding costs related to meeting current established standards. The insurance company is only required to cover the costs of fixing the home back to the state that existed at the time the policy was made prior to any damage.
Proper coverage: Any construction work done will increase the replacement value of the home. Getting the right insurance on the building should reflect this increase.	Loss of coverage/Voiding insurance: Any undisclosed material changes made to a home could make a landlord's existing insurance agreement null and void. There is a potential for personal liability if the insurer denies a claim.
Additional security: The insurance company is required to rebuild to the same state if something should happen in which damage occurs.	Reduced security: Creates difficulty in securing financing.
Eliminates lender reluctance: Enables a homebuyer to qualify for a larger mortgage loan.	No mortgage-lending benefits: The income from an unauthorized Second Suite is generally not considered when qualifying for a mortgage loan.

Smoke-Free Housing

The table below shows the compelling reasons for landlords to adopt a no-smoking policy:

Second-hand smoke costs money	Landlords report that it typically costs two to three times more to turn over a unit where heavy smoking has occurred compared to a non-smoking unit. A no-smoking policy also eliminates the risk of burn marks in carpets and countertops, reduces costs related to frequent repainting and general maintenance, and alleviates the problem of lingering second-hand smoke odours, which can affect the attractiveness of a unit when it is shown to prospective tenants.
Increased marketability	A smoke-free environment is a valuable amenity to offer prospective tenants. The majority of Ontarians (83%) do not smoke, and smoke-free homes are already a social norm (at least 75% of all Canadian households do not permit smoking indoors). Market research also shows that, given a choice, 8/10 Ontarians would choose a smoke-free building.
Reduced risk of fire	According to fire loss statistics from the Ontario Office of the Fire Marshall and Emergency Management, during the 5 year period 2009-2013, cigarettes, pipes, and cigars ranked as the #1 ignition source for residential fire fatalities. 1 in 4 home fire fatalities are caused by smoking articles. ¹⁰
A healthier indoor environment	Over 70 cancer-causing chemicals have been found in second-hand smoke. It causes respiratory & heart problems and is associated with Sudden Infant Death Syndrome (SIDS). Smoke also has negative health effects on pets such as dogs and cats. The only means of effectively eliminating health risks associated with indoor exposure is to ban smoking activity according to engineering standards group, the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE).

The easiest way to go smoke-free is to start smoke-free. If the building is empty (either because it is new or newly renovated), a landlord can declare it 100% smoke-free from the beginning and have all new tenants sign a lease that includes the no-smoking policy. As part of the policy, the landlord will need to decide if there will be a smoke-free buffer zone around doorways, operable windows and air intakes or if the entire property will be non-smoking.

¹⁰ Information provided by the Fire Marshall and Emergency Management office.

Landlords who wish to have a smoke-free policy should advertise the units as non-smoking, include the policy in the lease and be sure to post ample signage reminding tenants of the rules. If there is a waiting list, future tenants will need to be informed of the policy too.

If a landlord would like to introduce a no-smoking policy and the building has existing tenants, unless tenants agree to sign an addendum to their leases, the landlord will have to gradually go smoke-free through attrition. In other words, if there are current tenants who smoke and are not supportive of the policy, their ability to smoke would be grandfathered and therefore permitted to continue as long as they live in the building. If the tenant has a lease and it expires, the landlord cannot require the existing tenant to sign a new lease containing the no-smoking policy, as per Section 38 (1) of the *Residential Tenancies Act*.

If a tenancy agreement for a fixed term ends and has not been renewed or terminated, the landlord and tenant shall be deemed to have renewed it as a monthly tenancy agreement containing the same terms and conditions that are in the expired tenancy agreement.

All new tenants will sign a lease that includes the no-smoking policy. As existing tenants move out, their units can be cleaned up and declared non-smoking too. Through this process, eventually, the entire building will be smoke-free.

If need be, no-smoking policies can be enforced at the Landlord and Tenant Board using grounds including reasonable enjoyment.

Rent

Setting the Rent

Ontario landlords have been subject to various forms of rent control since 1977. Issues relating to rent, such as rent increases, rent decreases, lawful rent and rent rebates are all governed by the *Residential Tenancies Act, 2006* (RTA).

Under the RTA, landlords receive some relief from rent controls, because they enjoy a provision called **vacancy de-control**, which means that landlords are allowed to charge a

new rent whenever a rental unit becomes vacant. That means the rent charged for the unit is linked to the tenant occupying it, rather than the rental unit itself.

When determining the rent for a vacant rental unit, landlords are able to set a new rent and charge whatever the market will allow. It is best for landlords to conduct research (e.g., newspaper or online advertisements) to determine the rent charged for similar rental units that are comparable in size, features and amenities. Typically, rent for Second Suites are less than rent charged for high-rise units. It is also important for a landlord to factor in room to negotiate, should the landlord need to negotiate with prospective tenants. If a landlord receives a poor response to a rental listing, this may be an indication that the rent is set too high.

Increasing the Rent

Once a tenancy has been established, rules under the *Residential Tenancies Act, 2006* limit how often a landlord can increase the rent and by how much. In most cases, a landlord can increase the rent only once a year by the guideline that is set by the Minister of Housing. A landlord must give a tenant at least 90 days' notice in writing.

Guideline Rent Increase

The rent increase guideline is calculated annually using a formula based on the Ontario Consumer Price Index, which averages the monthly Index over a twelve-month period concluding at the end of May of the previous calendar year. The rent increase guideline is capped so that an increase can be no higher than 2.5%.

Each year, the provincial government announces the rent increase guideline by August 31 for increases that will take effect on or after January 1 of the following year. Landlords are permitted to increase the rent as long as twelve months have passed since the day the Second Suite was first rented to the same tenant, or the date of the last rent increase to the same tenant.

There are [exemptions](#) to units that fall under Section 6.1 of the *Residential Tenancies Act*, that don't have to follow rent control. One example is if you purchased a house built after November 15, 2018, and created Second Suite within that home.

Giving Notice of Rent Increase

The *Residential Tenancies Act* requires landlords to give their tenant 90 days' written notice of a rent increase using the prescribed Form N1 or N2 available online from the Landlord and Tenant Board. Landlords must deliver the form to their tenant by fax, mail, personal delivery, or left where the mail is collected, in the tenant's mailbox or under the tenant's door. The form can also be sent to the tenant by email as long as the landlord and the tenant agreed to service by email in writing. This agreement can be recorded in the Standard Form of Lease Agreement or the Landlord and Tenant Board form Consent to Service by Email. However, this agreement can be revoked at any time in writing to the other party.

It is not acceptable for a landlord to deliver the notice by posting it on the tenant's door.

Rent Increase Above the Guideline: November 15, 2018 Exemption

Section 6.1 of the RTA provides details of the rent control exemption and refers to two types of rental units:

1. A building, mobile home park or land leased community, no part of which was occupied for residential purposes on or before November 15, 2018; and
2. Rental units located in detached, semi-detached and row houses which meet and are subject to specific requirements.

The exemption for new rental units located in detached houses, semi-detached houses or row houses, not occupied for residential purposes on or before Nov. 15, 2018, are subject to the following:

- The detached, semi-detached or row house contained not more than two residential units on or any time before November 15, 2018;
- The residential unit has its own bathroom and kitchen facilities; has one or more exterior and interior entrances; at each entrance the unit has a door equipped so it can be secured from the inside of the unit; and at least one door is capable of being locked from the outside;
- The owner, or one of the owners, lived in another residential unit in the house; or the house was unfinished space immediately before the rental unit became a residential unit.

See section 6.1 of the *Residential Tenancies Act, 2006*, for more information.

Rent Increase Above the Guideline

Where a landlord has a significant increase in costs, an above guideline rent increase may be sought. Landlords must get approval from the Landlord and Tenant Board before they can charge an increase above the guideline.

Applications to the Board can be made for eligible capital expenditures (major repairs or renovations such as a roof replacement), extraordinary increases in the cost for municipal taxes and charges, or for security services operating costs. The above guideline increase (AGI) for the capital expenditures component is capped at 3% above the guideline for a maximum of 3 years.

Rent increases for capital expenditures or security services cannot be more than 3% above the guideline each year. If a landlord justifies to the Board an increase that is more than 3% above the guideline, the increase can be taken over three years, at a rate of up to 3% above the guideline per year. For increases in the cost of municipal taxes and charges, there is no limit on the amount of rent increase that can be approved.

Note: Above Guideline Increase vs. Vacancy De-control

Due to the complexity of the AGI application process, and the great amount of detailed information required by the Board from applicants, most small landlords will find this option to be too expensive since it would usually require them to hire a paralegal or rent control consultant. Because such costs would likely be greater than the expected benefits, a landlord may consider waiting until the unit is vacant and then charge an increased rent amount for the new tenant which will cover the increased costs previously incurred.

Increasing the Rent by Agreement

The landlord and tenant can also mutually agree to a rent increase above the guideline under the agreement that the landlord will do specified capital repairs or renovations; buy new equipment for the rental unit; or add a new service for the tenant.

When increasing the rent by agreement, it cannot be more than 3% above the guideline. This agreement must be in writing using Form N10: Agreement to Increase the Rent Above the Guideline, available from the Landlord and Tenant Board.

Where the landlord and tenant make this kind of agreement, the landlord does not have to apply to the board for approval of the increase. Tenants have five days after signing this agreement to change their mind and tell the landlord, in writing, that they no longer agree to the rent increase. Tenants may apply for relief within two years of the effective date of the increase if one of the following applies:

- The landlord failed in whole or in part to carry out the agreement.
- The agreement was based on work or services that the landlord claimed to have done but did not.

Agreements to Increase/Decrease Rent Related to Parking Space/Prescribed Service/Facility Being Added or Removed

Agreements to Increase Rent

The RTA also allows a landlord to increase the rent charged at any time if both parties agree that the landlord will add either of the following to the tenant's occupancy of the rental unit:

- A parking space.
- A prescribed service, facility, privilege, accommodation, or thing.

While there is no Board approved form available for this type of agreement, it is strongly suggested that landlords obtain this consent in writing.

Decrease of Services

The RTA also gives a landlord and tenant the ability to agree on a rent decrease where both the landlord and tenant agree that a parking space or a prescribed service, facility, privilege, accommodation or thing will no longer be provided to the tenant.

If a landlord took away a service or amenity that was provided without proper compensation to the tenant, the tenant may file a form T3 Tenant Application for a Rent

Reduction. The tenant has 12 months from when the service or facility was discontinued to file a T3 Application.

Rent Reduction

Tenants have the right to apply to the Board to have their rent reduced as a result of a reduction in services or taxes, or for the return of money collected illegally. Tenants who believe they have been charged an unlawful rent may apply to the Landlord and Tenant Board for a rebate of illegal rents paid by the tenant prior to the date of the application. If an application is filed, and proper documentation is lacking, the Board may consider the rent charged to the tenant at the beginning of the tenancy to be the lawful rent. To avoid illegal rent collection claims and lost increases, it is important for landlords to properly complete and serve the approved Forms N1 and N2.

Automatic Rent Reduction

The *Residential Tenancies Act* contains a provision that allows tenants to reduce their rent when the property taxes for their residential rental building have decreased when compared with the previous year. If the property tax decreases by more than 2.49%, a tenant's rent can be automatically reduced by the specified percentage. Rental properties that contain seven or more units receive notice from the municipality that informs both landlords and tenants of this automatic rent decrease.

Rents do not automatically increase if municipal property taxes increase. Landlords must apply to the Landlord and Tenant Board for a rent increase above the guideline to obtain approval to pass on the additional costs.

A landlord who disagrees with the percentage determined by the municipality has the option of filing an application with the Landlord and Tenant Board to seek a variance or change.

Automatic Rent Reduction for a Property Tax Decrease

The *Residential Tenancies Act* requires any significant decrease in the municipal property tax for a residential complex be passed on to the tenant in the form of a rent reduction. Landlords should be aware that if property taxes decrease, tenants who learn

of the decrease may seek a rent reduction based on the decreased municipal property tax.

For residential complexes *containing seven or more* units, it is the responsibility of the *municipality* to notify the tenants of the building of the automatic rent reduction between October 1 and December 15. The Residential Tenancies Act also requires municipalities to notify landlords and tenants of the percentage of rent reduction if the rental property contains seven or more units. The landlords must be notified between June 1 and September 15.

For properties *containing six and fewer* units, it is the *landlord's* responsibility to notify tenants of the automatic rent reduction between October 1 and December 15. Although municipalities are not required to notify landlords and tenants of residential complexes containing six or fewer rental units, many municipalities, such as the City of Toronto, provide notification letters on their own initiative.

The formula used to determine the amount of the rent reduction is established by the *Residential Tenancies Act*, which generally assumes that the amount of property tax the landlord pays is about 20% of the total rent revenue for buildings of seven or more units, and about 15% if the building has six units or fewer. The rent reduction is equal to the percentage decrease in taxes from the previous year to the current year, and then multiplied by either 20% for buildings of seven or more units or 15% if the building has six units or less.

Example 1: Property tax/rental income ratio of 15%

Annual Rental Income	\$10,000
2023 Property Taxes	\$1,668
2024 Property Taxes	\$1,502 (approximately 15% of rental income)
2024 Tax Decrease	\$167 (10.04% tax decrease)
Rent Reduction	1.51% (15% of 10.04% tax decrease)

Example 2: Property tax/rental income ratio of 10%

Annual Rental Income	\$15,000
2023 Property Taxes	\$1,750
2024 Property Taxes	\$1,500 (10% of rental income)

2024 Tax Decrease	\$250 (14.28% tax decrease)
Rent Reduction	2.14%* (15% of 14.28% tax decrease)

*If the property tax is less than 15% of the rental income, the landlord may file Form A4: Application to Vary the Amount of a Rent Reduction with the Landlord and Tenant Board for an order to vary (decrease) the rent reduction.

In Example 1, the amount of rent reduction to the tenant is correct, so no action is required other than figuring out the rent reduction amount for the coming year. In Example 2, the order would vary the rent reduction to the appropriate 1.43%, or 10% of the 14.28% tax decrease. In this example, the tenant would receive a rent reduction of \$321, which is more than the \$250 tax decrease for the year.

Rents do not automatically increase if municipal property taxes increase. Landlords must apply to the Landlord and Tenant Board for a rent increase above the guideline to obtain approval to pass on the additional costs.

If a landlord receives a notice of automatic rent reduction from the municipality, the landlord should

- Carefully review the notice, and check the amount of tax to ensure that it is the same as stated in the assessment received from the Municipal Property Assessment Corporation (MPAC).
- Check the calculation contained in the letter from the municipality to ensure it is correct.
- Determine whether there is a discrepancy either in the amount of tax (decrease or increase) or in the calculation. If so, the landlord can file Form A4: Application to Vary the Amount of a Rent Reduction with the Landlord and Tenant Board. The cost of filing this application is \$45. The filing deadline is March 31 of the following year.
- Check if the amount of tax is accurate and the calculations are correct. If so, and the rental property contains six or fewer rental units, the landlord can file Form A4: Application to Vary the Amount of a Rent Reduction with the Landlord and Tenant Board. Generally, the ratio of rental income to municipal property tax is close to 10% rather than the prescribed 15%.
- Write to the MPP if unhappy with the situation.

For tenants who have received notice from the municipality advising that they are entitled to an automatic rent reduction of 2.5% or more, this reduction is automatic and does not need to be approved by the Landlord and Tenant Board.

Tenants occupying rental units in properties that have experienced a municipal property decrease of 2.49% or less may also take action to have the rent reduced. The tenant would have to file an application with the Landlord and Tenant Board seeking a reduction due to the reduced municipal property tax.

Vital Services

Most tenancy agreements require the landlord to provide some, if not all, vital services to the tenants. The *Residential Tenancies Act* considers a **vital service** to be hot or cold water, fuel, electricity, gas and heat. If the tenancy agreement requires the landlord to provide heat, the landlord is required to do so from September 1 to June 15 unless the local municipal bylaw states differently.

A landlord is also strictly prohibited from withholding the reasonable supply of any vital service that is the landlord's obligation to supply under the tenancy agreement. A landlord also cannot deliberately interfere with the reasonable supply of any vital service during a tenant's occupancy of a rental unit before the day on which an order evicting the tenant is executed.

Utilities

According to the *Residential Tenancies Act*, utilities are considered to be heat, electricity and water. A landlord may include these services in the rent or charge for them separately depending on the agreement with the tenant or how such services to the Second Suite have been set up.

Although the *Residential Tenancies Act* does not clearly state that utilities are not rent, it is possible to apply to the Landlord and Tenant Board for an order to terminate a tenancy if the tenant defaults or refuses to pay his or her portion of the electricity or other utility cost. The Board may find that such non-payment constitutes substantial interference with the landlord's lawful right and may terminate the tenancy unless the

tenant resumes the obligation to pay utilities, and/or pays the landlord for losses incurred during the breach of contract.

Section 87(6) of the RTA allows landlords to not only apply to the LTB during the tenancy for utility charges incurred, they will also have up to one (1) year after a tenant moves out to file an application with the Landlord and Tenant Board for utility charges.

Landlords should also be aware that certain provisions of the *Municipal Act* give individual municipalities the ability to recover unpaid costs for utilities, such as water, by adding the outstanding arrears to the property taxes.

Electricity

The decision to include electricity should be made carefully given the ever-increasing rates and the fact that landlords have little recourse to recover increased electricity costs. Landlords should also keep in mind that if they include electricity in the rent, there is no incentive for conservation or for the tenant to shift their electricity use to take advantage of lower time-of-use rates.

When establishing the rent for the Second Suite, many landlords include the cost of electricity. If the cost of electricity is a separate charge, the landlord must decide how the electricity cost will be paid. The landlord can choose to either install a separate electricity meter; contract with a suite meter provider; or apportion the cost of electricity and collect it from the tenant.

Separate Electricity Meter

If the landlord equips the Second Suite with a separate electricity meter, the tenant is required to set up an account with the local electricity distributor so that the tenant can receive bills directly from the electricity distributor.

If the tenant is required to pay for their own electricity, the landlord must provide prospective tenants the Information to Prospective Tenant About Suite Meter or Meters form.

This form includes:

- Information on the electricity consumption for the rental unit, and in some cases the residential complex, on a form approved by the Landlord and Tenant Board

- for the 12-month period before the tenant and landlord entered into a proposed tenancy agreement.
- A statement respecting any vacancy during that period.
- Information about the refrigerator date of manufacture and efficiency information.

Contract a Suite Meter Provider

A **suite meter**, often called a sub-meter, measures the energy consumption of the tenant by a separate meter operated by a suite meter provider. The costs of electricity are then billed directly to the tenant.

If a suite meter is installed in the rental unit, the landlord must provide certain information to the tenant before entering into a tenancy agreement. This information can be provided using the Information to Prospective Tenant About Suite Meters or Meters form available from the Landlord and Tenant Board. The information on the form regarding suite meters includes the following:

- The most recent information available to the landlord for the prescribed period from the suite meter provider concerning electricity consumption in the rental unit.
- Whether the rental unit was vacant during any part of the aforementioned period, and if so, the dates that the rental unit was vacant.

Information about suite meters in rental residential units can be found on the [Ministry of Municipal Affairs and Housing website](#).

Apportioning the Cost

Apportioning the cost of electricity means that there will be one electricity bill for the property divided among the units, and each unit contributes their share when the bill is received. This practice is restricted to properties containing no more than six residential units.

When apportioning the cost, there are two options for calculating the amount owed:

Option 1	Divide the total monthly bill for all the residential units and the related common areas by the number of residential units in the property.
Option 2	Divide the total monthly bill for all the residential units and the related common areas by the total square footage of all residential units in the building, then multiply the resulting amount by the square footage of the tenant's rental unit.

If a landlord usually charges the tenant a portion of the utility bill, then before entering into a tenancy agreement with a prospective tenant the landlord must provide the tenant with written information about the following:

- The percentage of the utility costs the tenant would be expected to pay.
- The total building's utility costs for the most recent 12 months for which the landlord has information.
- A statement respecting any vacancy in the building during the aforementioned period, and the duration of the vacancy in the building over that same period.

Exception when apportioning the cost:

The utility cost apportionment rules and requirements do not apply where the landlord, prior to January 1, 2011, was already using a cost apportionment arrangement in the charging of that utility to any tenant in the building.

Transferring Responsibility

To terminate the landlord's obligation to supply electricity to a sitting tenant, the landlord must provide the tenant with specific information before obtaining the tenant's written consent to transfer responsibility. The information that the landlord is required to provide can be found in the *Residential Tenancies Act* Section 137 (4) and Ontario Regulation 394/10 Section 5.

If the tenant consents to the transfer, the landlord is required to provide the following information:

- Contact information for the suite meter provider and for the Ontario Energy Board
- A statement that the suite meter provider may require a security deposit and information about the security deposit policy

- A description of the fees charged by the suite meter provider, including:
 - Type and amount of fees
 - How the fees are calculated
 - Circumstances where the fees may increase
 - The amount of any planned fee increases

The landlord may use the prescribed Tenant Agreement to Pay Directly for Electricity Costs form to obtain the tenant's signature. The landlord must also provide a 30-day written notice by using the prescribed Landlord's Notice to Terminate Obligation to Supply Electricity form, and the rent must be reduced accordingly.

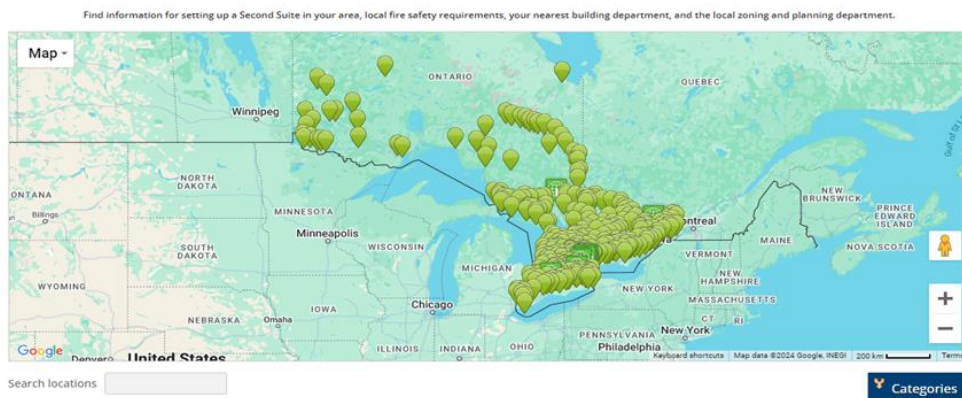
Electric Heat

When transferring the responsibility to pay for electricity there is an exemption for units that are heated electrically. If the rental unit is heated electrically, the tenant cannot be required to assume the responsibility to pay for heat. The landlord will have to separate the cost of heat from other electricity consumption.

Licensing and Registration

Landlord's Self-Help Centre has developed an interactive Service Directory where you can find local support, resources and contacts in your community. This interactive map has links to local Second Suites information, fire safety requirements, and your local building, zoning and planning departments. Visit <http://www.secondsuites.info/> to access our Service Directory.

Service Directory



Glossary

Apportioning the cost	Means that there will be one electricity bill for the property divided among the units, and each unit pays their share when the bill is received.
Capital costs	Large, non-recurring expenditures that have long-term benefits for a rental unit/property.
Direct expenses	Expenses that apply <u>only</u> to the Second Suite and are 100% deductible from rental income.
Emergency repair	Repairs that are required immediately when something in the rental unit has broken and the health or safety of anyone in the building is in danger, or the building or property is at risk until repairs can be made.
Flexible house design¹¹	Housing that allows homeowners to convert space to meet their changing needs.
Illegal or unauthorized Second Suite	A Second Suite that is not approved or allowed in the municipality in which it is located, and/or a unit that does not meet the required health, safety, housing and maintenance standards.
Indirect expenses	Expenses that are general in nature and benefit the entire property. They are not specific to the Second Suite.
Landlord shield policy	A policy available from some insurance companies, which protects landlords from loss of rent and often provides premium discounts if supervision, maintenance and security of the rental unit is provided by the landlord.
Legal or authorized Second Suite	A Second Suite that is approved or allowed in the municipality in which it is located, and a unit that meets the required health, safety, housing and maintenance standards.

¹¹ See CMHC's Website <https://www.cmhc-schl.gc.ca/en>

Municipal building inspectors	Professionals with extensive hands-on experience that will review projects during key stages of construction to ensure the work complies with the Building Code and the approved plans.
RentSafe initiative	An initiative which seeks to improve knowledge, capacity and responsiveness within the social service sector on housing-related risks to the health of low-income tenants.
Suite meter	Often called a sub-meter, measures the energy consumption of the tenant by a separate meter operated by a suite meter provider. The costs of electricity are then billed directly to the tenant.
Vacancy de-control	Landlords are allowed to charge a new rent whenever a rental unit becomes vacant. That means the rent charged for the unit is linked to the tenant occupying it, rather than the rental unit itself.
Vital Service	The <i>Residential Tenancies Act</i> considers hot or cold water, fuel, electricity, gas and heat to be important services which cannot be taken away or withheld from a tenant.