

# **Town of Niagara-on-the-Lake Official Plan Review**

## **Discussion Paper: Second Residential Units**



Prepared for:  
The Town of Niagara-on-the-Lake

October 15, 2015



PLANSCAPE INC.  
*Building Community through Planning*  
Bracebridge, Ontario



**Town of Niagara-on-the-Lake**  
**Official Plan Review**

Second Residential Units Discussion Paper

Table of Contents

1.0	Introduction .....	1
1.1	Background .....	1
1.2	Legislative Framework .....	2
2.0	Current Policies/Practice .....	3
2.1	Niagara Regional Official Plan .....	3
2.2	Existing Niagara-on-the-Lake Official Plan.....	3
3.0	Issues and Options .....	4
3.1	Policy Formulation .....	4
3.2	Questions/Options.....	5
4.0	Conclusion.....	7

Appendices

Appendix A – Town of Niagara-on-the-Lake Official Plan (OPA 43)



# **Town of Niagara-on-the-Lake Official Plan Review**

## **Second Residential Units Discussion Paper**

### **1.0 Introduction**

The purpose of this Discussion Paper is to present a review of Official Plan policy approaches to the establishment of second residential units where residential uses are permitted in the Town. As part of the Official Plan Review process, the Town will need to consider an appropriate policy approach for the establishment of second units on residential properties.

This Paper will review the legislative framework for second residential units, the Town's approach in the existing Official Plan, and provide a summary of issues and options that may be considered for revisions to the policies.

### **1.1 Background**

Second residential units, often referred to as basement apartments, secondary suites, "granny flats" or in-law apartments, are self-contained residential units that provide independent entrance, kitchen and bathroom facilities.

The Town adopted policies for second residential units in 2011 as part of Official Plan Amendment No. 43, (Growth Plan Compliance).

The Town re-confirmed its commitment to addressing issues related to affordable housing as part of the Official Plan review in the 2014 Strategic Plan.

Encouraging the development of second residential units provides opportunities to increase the supply of affordable rental accommodation in an area. In addition, second residential units can provide other benefits such as:

- provide homeowners with an opportunity to earn additional income to help meet the costs of homeownership;
- support changing demographics by providing more housing options for extended families or elderly parents, or for a live-in caregiver;
- help create income-integrated communities;
- support and enhance public transit and make more efficient use of infrastructure and community facilities and services;
- create jobs in the construction/renovation industry.

It is recognized that second residential units may also have an impact on the surrounding area and may not be appropriate in all cases. It is important to identify the circumstances where second residential units are appropriate, and to establish guidelines for their approval.

## 1.2 Legislative Framework

From a Provincial policy perspective, the adequate provision of affordable housing is recognized as a matter of Provincial Interest. Second residential units are viewed as a component of the municipality's affordable housing stock.<sup>1</sup>

The most recent legislative changes occurred in 2011 with approval of the "Strong Communities through Affordable Housing Act". The Act made changes to the Planning Act, to mandate that municipal Official Plans provide policies for second units. Section 16 (3) of the Planning Act provides the following:

**... an official plan shall contain policies that authorize the use of a second residential unit by authorizing,**

- (a) The use of two residential units in a detached house, semi-detached house or rowhouse if no building or structure ancillary to the detached house, semi-detached house, or rowhouse contains a residential unit; and**
- (b) The use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse if the detached house, semi-detached house or rowhouse contains a single residential unit.**

An important feature of the legislation under Sections 17 (24.1) and 17 (36.1) states that:

**... there is no appeal in respect of the policies described in subsection 16(3), including, for greater certainty, any requirements or standards that are part of such policies.**

It is noted that Section 17 (36.2) does not apply this appeal restriction to Official Plans and amendments approved under Section 26 (1) of the Act (5 year review):

**Subsection (36.1) does not apply to an official plan or official plan amendment adopted in accordance with subsection 26 (1).**

The Planning Act continues to recognize the establishment of garden suites (separate from other forms of second residential units) through approval of Temporary Use Zoning By-laws (Section 39.1). The temporary use may be for a period up to 20 years, increased from a maximum of ten years prior to 2011.

Policy 1.4.3 of the 2014 Provincial Policy Statement provides for second units to form part of the required residential intensification strategies in Official Plans in order to provide for an appropriate range and mix of housing. The section reads, in part:

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

**b) Permitting and facilitating: ...**

- 2. all forms of residential intensification, including second units, and redevelopment in accordance with policy 1.1.3.3; ...**

---

<sup>1</sup> Section 2.(j), Planning Act, RSO 1990, as amended.

- e) **establishing development standards for residential intensification, redevelopment and new residential development which minimize the cost of housing and facilitate compact form, while maintaining appropriate levels of public health and safety.**

Policy 1.1.3.3 requires that planning authorities identify appropriate locations and promote opportunities for intensification and redevelopment, taking into account existing building stock or areas, and the availability of suitable infrastructure.

## **2.0 Current Policies/Practice**

For the Town of Niagara-on-the-Lake, second residential units are viewed as part of the Town's affordable housing strategy. The current Regional and Local Official Plan policy framework is outlined below.

### **2.1 Niagara Regional Official Plan**

The Regional Plan does not provide a significant amount of policy direction, however, the following is noted in Policy 11.A.6:

**Policy 11.A.6 The Region will encourage the local municipalities to adopt policies and zoning by-laws facilitating the creation of secondary suites throughout the urban area.**

It is noted that although the Regional policy specifies the "Urban Area", this is likely to enforce the notion that second units are more appropriately directed to urban areas where residential intensification is to occur and where efficiencies in services and infrastructure can be realized. That said, the Regional policy does not prevent local municipalities from providing for second units in rural areas or hamlets. It is understood that the Region is supportive of second units outside the urban areas.

### **2.2 Existing Niagara-on-the-Lake Official Plan**

The Town's current approach to second units is addressed in the Official Plan through amendments which were approved by the Region in 2011 (OPA #43). Second units need to be clearly residential, and not used for short term accommodations such as a Bed & Breakfast or vacation rental purposes (which are regulated separately by the Town).

As part of the overall strategy for residential intensification, the Official Plan states the following under Section 6A Growth Management Policies, Policy 4.3 (Intensification Strategy):

**... The Town also supports the intensification through providing for the potential for second dwelling units within a detached house, semi-detached house or townhouse located in areas where residential use is permitted provided the development is consistent with the applicable residential policies of the Plan and meets the requirement of the Ontario Building Code and Fire Code and provided that sufficient public services are available.**

Additional policies related to second units are provided in Policy 4.5 (Second Dwelling Units), which are appended to this report as Appendix "A". These provisions support the potential for adaptive reuse of existing buildings, including garden suites and accessory dwelling units provided that:

- The development is consistent with applicable residential policies of the Official Plan;
- The requirements of the Ontario Building Code and Fire Code are met;
- Sufficient public services are available;
- The overall character and stability of the surrounding neighbourhood is maintained;
- There is no adverse impact on heritage resources on the property or on adjacent heritage resources;
- Other matters such as streetscape, location and sufficiency of parking, private amenity space, existing landscape, environmental features and loss of privacy are considered.

There are also specific restrictions provided for accessory dwellings in existing single detached and semi-detached dwellings (not including rowhouse or townhouse dwellings), which also include a requirement for a zoning amendment.

Separate provisions are noted for garden suites, which may be permitted on a lot zoned for a single detached dwelling, as a detached building, and permitted as a temporary use through approval of a Temporary Use Zoning By-law under Section 39 of the Planning Act.

Generally, the Official Plan permits units in existing single detached and semi-detached dwellings, subject to a zoning amendment, and subject to a variety of development criteria. Garden suites (separate buildings) are only permitted as temporary uses (up to 10 years) and with approval of a Temporary Use Zoning By-law.

The current policy provisions reflect the character of Niagara-on-the-Lake, and are designed to address some of the common issues and design considerations applicable to second residential units. The current policy predates the 2011 Planning Act revisions, and does not provide for a second unit within townhouse forms of housing or as detached structures (with the exception of temporary garden suites). There are no specific provisions for second units as part of new residential developments.

The existing policy will need to be reviewed and potentially modified to remove the requirement for a zoning by-law amendment for second units under specific circumstances, and establish reasonable development standards for such uses.

### **3.0 Issues and Options**

#### **3.1 Policy Formulation**

The existing policy approach by the Town recognizes the benefits of second residential units, but requires a public process (Zoning Amendment or Temporary Use Zoning By-law) before any use can be established. It is appropriate to consider expanding the policy framework for the establishment of second residential units, and to establish the standards and criteria in the Official Plan (and subsequently in the Zoning By-law).

There are a number of factors which should be considered as part of the review of the Official Plan policies:

- New development areas offer the opportunity to plan proactively for second residential units. This includes the design of the actual houses on the lot, and in the lot fabric or neighbourhood layout where ancillary structures like laneway garages could be integrally incorporated into the



design. The Town and development proponents can specifically consider second units in the planning of new developments.

- While the Act directs municipalities to permit second units, there may be inherent constraints depending on where the dwelling is situated and some locations may not be considered appropriate for second units. One example would include areas that are constrained with private sewage system services, or that are not able to satisfy minimum standards. Similarly, it is appropriate to prohibit the establishment of second units in areas prone to flooding, or where the unit would conflict with municipal priorities related to heritage conservation.
- There may be design issues related to permitting second units in a townhouse complex, related primarily to the availability of parking areas and private amenity spaces, and potential impact on adjacent uses.
- To the extent practical, the Official Plan should identify where second residential units may be permitted in the Zoning By-law, without the need for a zoning amendment.

It is important to recognize that the Zoning By-law will need to be amended to conform to any new Official Plan policies for second residential units. More detailed provisions and performance standards can similarly be included in the implementing Zoning By-law.

### **3.2 Questions/Options**

For the purpose of helping to inform the policy discussion, the following questions/options are presented for discussion purposes. This will guide Official Plan policy development to address second residential units.

#### **Should second units be permitted in detached buildings on residential properties?**

The existing policy provides for temporary garden suites in separate detached buildings. It may be appropriate to permit second units above detached garages (coach houses) or as free standing structures provided other requirements are respected (e.g. with respect to lot coverage, amenity space, or maintaining the character of the area).

#### **Should second units be limited to certain types of residential buildings?**

As noted with the current Official Plan policy, second units are not permitted in townhouse forms of residential development. Should this prohibition be maintained, or should performance criteria be developed to recognize these in particular circumstances (e.g. on corner units with larger frontages, parking availability and amenity space)?

#### **Should second units be permitted within Heritage Conservation Districts or heritage structures, and, if so, what additional development standards are appropriate?**

It may be appropriate to consider second units, both within existing heritage structures or in detached accessory structures provided the units do not compromise or conflict with the heritage features of the property.

Many heritage structures are located on large properties, with large accessory structures, and could accommodate second units without impact on the heritage features.

It is particularly important to ensure that the heritage features of the property and the District are not negatively impacted by the addition of second units. It is also important to ensure that the establishment of detached second units does not encourage the splitting of such properties contrary to the character policies for the area.

#### **Are the current parking requirements sufficient?**

The Town's current policy is the provision of one additional parking space for each second unit. Is this standard appropriate? Are there circumstances where no additional parking could be considered?

In general, the provision of on-site parking for second residential units is necessary, since many residents in second units will continue to have cars. The location of parking facilities will continue to need to be responsive to the Town's overall streetscape design features.

#### **Is it desirable to continue to establish floor area (size) limitations for second units?**

The existing policy requires that the second unit not be larger than the gross floor area of the principal unit. In many cases second units and apartments in houses, in particular, are subject to maximum floor areas expressed either in a percentage of the gross floor area of the dwelling or in absolute terms. This type of restriction is designed to ensure that the additional unit remains subordinate to the principal dwelling, and does not become so large as to overtax services and contribute to excessive densities for neighbourhoods.

#### **What standards are generally appropriate in all situations?**

The standards related to private amenity space may be onerous and difficult to implement for particular dwelling styles.

The design of units to ensure that they maintain the residential character of the property or neighbourhood may continue to be appropriate.

Compliance with Building Code and Fire Code provisions are important from a health and safety perspective.

#### **Should design considerations be added to the subdivision design component of the Plan to require consideration/design for second units for new development areas?**

It may be appropriate to consider policies for new development whereby "pre-planning" could be undertaken for new development to ensure that adequate parking and amenity space is provided in the event of future second unit development. In addition, consideration could be given to requiring that a portion of or percentage of new development units pre-planned or pre-approved for second units. This could be effective in the case of any new development with laneway access, detached garages where coach house units could be installed.

#### **Should second units be permitted in rural and agricultural areas?**

For rural areas on larger properties, there may be capacity for an accessory second unit within the principal dwelling, or in a detached building. Should there be additional development

requirements for second units in rural areas to demonstrate adequacy of private sewage systems, driveway access and parking, etc.?

Where detached second units are permitted outside the urban areas, it is important that they not lead to pressure to subdivide the property based on two dwelling units on a lot.

#### **Should second units be regulated through a licensing process or registry system?**

Some municipalities have developed a licensing or permitting system where an application process is required, together with a fee to address inspection costs and the submission of drawings or any other information to address any requirements set out by the municipality. Licensing systems have benefits to ensure periodic inspections to ensure public safety is addressed (e.g., Building and Fire Code requirements) but should be considered against the administrative costs to the Town.

In other cases, a registry system is implemented primarily to track the number and location of second units.

#### **Should Site Plan Approval be required for second units?**

The Town may consider establishing a streamlined Site Plan application process to evaluate and regulate second unit proposals. This type of approach may be useful to address matter such as parking and amenity space requirements which are part of the current policy framework. In addition, the Site Plan approach might more effectively address exterior finishes or building alterations which would be of particular importance in heritage areas.

Site Plan Approval has the potential to add to the costs of establishing the second units, which may run counter to the objective of providing affordable housing options in the Town.

Site Plan Approval could be limited to specific locations (e.g. within Heritage Conservation Districts or heritage properties).

## **4.0 Conclusion**

The Town's current policies on second residential units provide a starting point for revisions to the policies to reflect changes in provincial legislation and the Town's approach to the establishment of second residential units.

This paper outlines potential approaches to dealing with second units, and will form the basis for developing policy options for the Town. The options will then be refined and incorporated into the revisions to the Official Plan.

## Appendix A

### Town of Niagara-on-the-Lake Official Plan (as amended by OPA 43)

#### Section 6A Growth Management

#### Section 4 Intensification

#### Section 4.5 Second Dwelling Units

The Town also supports the potential for adaptive reuse of existing buildings, including garden suites and accessory dwelling units provided the development is consistent with the applicable residential policies of this plan, meets requirements of the Ontario Building Code and Fire Code, that sufficient public services are available, that the overall character and stability of the surrounding neighbourhood is maintained and there is no adverse impact on adjacent heritage resources and/or heritage resources on the property. Also to be considered are such matters as: streetscape, location and sufficiency of parking, private amenity space, existing landscape, environmental features, loss of privacy associated with adjacent outdoor amenity space, and other factors.

##### Accessory dwellings

One (1) additional accessory dwelling unit may be permitted, within an existing or planned single-detached and semi-detached dwellings, provided:

- a) That the floor area of the accessory unit is equal to or less than the gross floor area of the principal unit, without modification to the building's bulk or massing and does not negatively impact existing heritage resources of the property.
- b) Sufficient, useable outdoor amenity space and an additional (1) onsite parking space shall be provided exclusively for the accessory dwelling unit. An amenity space is an area designed for outdoor active or passive recreational uses and may include landscaped areas, walkways, patios, swimming pools, play areas and similar uses but does not include parking areas, parking lots, parking aisle ways or access driveways.
- c) Accessory dwelling units must meet the Ontario Building Code and Fire Code.
- d) A lot may not have both an accessory dwelling unit and a garden suite.
- e) A zoning amendment is required to establish the use.

##### Garden Suites

One (1) garden suite may be permitted but only on a lot zoned for a single-detached dwelling provided:

- a) The subject parcel is sufficient in size to appropriately accommodate the second unit and sufficient useable outdoor amenity space and one parking space for the exclusive use of the garden suite, and shall have adequate screening and buffering from adjacent properties. An amenity space is an area designed for outdoor active or passive recreational uses and may include landscaped areas, walkways, patios, swimming pools, play areas and similar uses but does not include parking areas, parking lots, parking aisle ways or access driveways.
- b) The garden suite will be a temporary building/use which is physically separate from the principal dwelling unit and will be subject to a Temporary Use By-law.

- c) That the unit will be adequately serviced by the primary residence.
- d) The exterior design of the garden suite will be in character with the design of the principle dwelling unit and will be located behind the front facade of the principle dwelling unit.
- e) The location of the garden suite on the lot will not adversely impact adjacent land uses, the character of the property and the surrounding area and adjacent heritage resources and/or heritage resources on the property.
- f) Meets the regulations of the Fire Code and Ontario Building Code.
- g) A lot may not have both an accessory dwelling unit and a garden suite.
- h) A garden suite shall not be permitted a consent to separate it from the main dwelling lot.