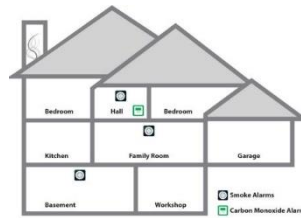




# Owners Guide to Two Dwelling Units in Your Home



## Procedure for Legalizing Your Two-Dwelling Unit Home

There may be the existence of two dwelling units often referred to as a basement apartment within your home. It is your responsibility as the owner, to comply with the Ontario Fire Code (“Code”), the Ontario Building Code and City of Markham By-Laws as applicable. The information included in this package provides you with resources so that you will be able to legalize your two dwelling unit home and achieve code compliance.

Identify which of the following condition exists within your home and refer to the appropriate Appendix for further instruction:

- Two dwelling units that existed on or before July 14, 1994 - See “Appendix A”.
- Two dwelling units that existed on July 15, 1994 or after or the date of dwelling unit that came in to existence is unknown - See "Appendix B".



## Appendix A

### **Legal Non-Conforming Two-Dwelling unit Home that came into existence on or before July 14, 1994.**

**These two-dwelling unit homes are a permitted use through "Grandfathering" of prior laws. It does not mean that your home is in compliance with the Fire Code it only means that your use is permitted by the City's Zoning By-laws. You will require to provide proof to Building Department the date the second unit was constructed. You must still have your home inspected by a Fire Prevention Officer.**

The Ontario Fire Code, Division B, Section 9.8 defines a dwelling unit as a room or suite of rooms operated as a housekeeping dwelling unit that is used as a domicile by one or more persons and that contains cooking, eating, living, sleeping and sanitary facilities.

The home must comply with the requirements Section 9.8, "Two Unit Residential Occupancies" of the Ontario Fire Code.

In order to comply, the following steps must be taken:

1. The Fire Prevention Officer will inspect your home and may issue a Fire Department Inspection Order for smoke and carbon monoxide alarms, including kitchen and dryer exhaust duct vents. See Appendix C, "Installation Requirements for Smoke and Co (Carbon Monoxide) Alarms", "Cloth Dryer Exhaust Duct Vent Installation" and "Residential Kitchen Hood Exhaust Duct". During the inspection, the Fire Prevention Officer will make notes, take photographs and discuss the compliance options and will inform you on the next steps in the process as outlined below.
2. Approval must be obtained from City of Markham Building Department to confirm the date the second dwelling unit came in to existence/constructed. Complete the attached "Second Dwelling Unit Home Declaration" form located at the end of this package and with supporting documentation (evidence) visit Legislative Services front counter at Markham Civic Centre main level to be signed before a Commissioner of Oaths.  
For information, contact Legislative Services at 905-475-4744.
3. Drop off the completed "Second Dwelling Unit Home Declaration" form with supporting documentation to Building Department front counter located on the main floor near Legislative Services. The Building Department will consider the information and will advise you via email of the outcome.



4. If the application is approved a Fire Prevention Officer will visit your home and issue a Fire Department Inspection Order with work required to be completed to make your home safe and legalize the second dwelling unit. You have 120 days to complete the work identified on the Fire Department Inspection Order. During the time allotment, you are also required to apply and obtain a building permit for the work outlined in the Fire Department Inspection Order. See Appendix C, "Building Department Application for Building or Change of Use Permit". Mention that you have received an Order from Markham Fire and Emergency Services.
5. Once a building permit has been issued, co-ordinate with the Building Department to complete all the work required and obtain approval for occupancy.
6. When all construction has been completed and the Building Department issues approval for occupancy, you are then required to register your home with Markham Fire and Emergency Services. Contact your Fire Prevention Officer shown on your Fire Department Inspection Order or Fire Prevention Division at (905) 477-7000 x 3420 and arrange for an appointment inspection.  
For information, see Appendix C, "Second Dwelling Unit Home Registration with Fire Department".
7. If Building Dept. mentioned in item 3 & 4 above does not approve your application, you have the option to convert back to one dwelling unit home, see appendix C, "Converting Back to One-Dwelling Unit Home" or follow directions in Appendix B for additional options to legalize your second dwelling unit. Refer to item 2 through to item 6 in Appendix B.



## Appendix B

### **Two dwelling units that came into existence on July 15, 1994 or after, or date of existence of dwelling unit unknown to owner, or an application to Committee of Adjustment is required - illegal use.**

More than one dwelling unit is not permitted and is not safe. The property must be returned to one dwelling unit home. However, the Owner has the option to apply to the Committee of Adjustment for a minor variance for approval of the second dwelling unit.

Definition of dwelling unit as per Ontario Building Code "Dwelling Unit means a suite operated as a housekeeping unit, used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping, and sanitary facilities".

The home must comply with the requirements of Part 9 and/or Part 11 of the Ontario Building Code. Contact Building Department for additional information on how to apply for a Building Permit.

In order to comply, the following steps must be taken:

1. The Fire Prevention Officer will inspect your home and may issue a Fire Department Inspection Order for smoke and carbon monoxide alarms, including kitchen and dryer exhaust vents. See Appendix C, "Installation Requirements for Smoke and Co (Carbon Monoxide) Alarms", "Cloth Dryer Exhaust Duct Vent Installation" and "Residential Kitchen Hood Exhaust Duct". During the inspection, the Fire Prevention Officer will make notes, take photographs and discuss the compliance options and will inform you on the next steps in the process as outlined below.
2. Your file will be forwarded to the Building Department to determine compliance with the second dwelling unit. You are asked to contact the Building Department, See Appendix C, "Building Department Application for Building or Change of Use Permit" and obtain information on how to apply to Committee of Adjustment, see Appendix C, "Committee of Adjustment Application for Minor Variance" to permit a second dwelling unit.
3. Once your minor variance by the Committee of Adjustment has been approved, you will be required to apply for a building permit, See Appendix C, "Building Department Application for Building or Change of Use Permit".
4. Once a building permit has been issued, work can commence on any upgrades required by the building permit. Co-ordinate with the Building Department to complete all the work required on the building permit and obtain approval.



5. When all construction has been completed and the Building Department issues approval for occupancy, you are then required to register your home with Markham Fire and Emergency Services. Contact your Fire Prevention Officer shown on your Fire Department Inspection Order or Fire Prevention Division at (905) 477-7000 x 3420 and arrange for an appointment inspection. For information, see Appendix C, “Second Dwelling Unit Registration with Fire Department”.
  
6. If Committee of Adjustment in item 2 above does not approve your application, you must convert back to one dwelling unit home. For information, see Appendix C, “Converting Back to One-Dwelling Unit Home”.



## Appendix C

### **Installation Requirements for Smoke and CO (Carbon Monoxide) Alarms**

Ontario Fire Code Division B requires operating smoke alarms on every storey near the stairway and in floor areas where sleeping areas are served by a hallway, in the hallway, and if the sleeping area is not served by a hallway, between the sleeping area and the remainder of the dwelling unit.

Ontario Fire Code Division B requires a Carbon Monoxide alarm (CO alarm) installed adjacent to each sleeping area that contains an attached garage, fireplace or fuel-fired appliance (e.g. gas, oil, wood).

### **Converting Back to One-Dwelling Unit Home**

You have the option to convert back to one dwelling unit home at any time and not go through the process of legalizing your second dwelling unit, by completing ALL of the following:

- all tenants/occupants must be removed from one of the dwelling units,
- The locks separating the two dwelling units shall be removed and replaced with passage sets,
- Stove in the second unit is to be removed,
- Contact your Fire Prevention officer for a site visit to confirm the above,
- Complete the “Single Family Dwelling Unit Declaration” form in Appendix C and provide to the Fire Prevention Officer.

### **Committee of Adjustment Application for Minor Variance**

The Committee of Adjustment is an independent body comprised of seven members and authorized to consider applications for minor variance, permission and consent. For example, a minor variance may be required to permit two dwelling units in your home.

For information, contact Committee of Adjustment at (905) 475-4721 and City of Markham website.



## **Building Department Application for Building or Change of Use Permit**

A building permit or change of use permit is required before starting construction, demolition, a renovation project or changing the use of a building. A home built as a single-family dwelling unit that has been converted to two dwelling units is a change of use and will require a building permit. Contact the Building Department Permit Administrator at 905-475-4870 or visit City of Markham website for information. Inform Building Dept. that an Order has been issued by Markham Fire and Emergency Services.

## **Home Electrical Inspection**

A licensed electrician is to conduct a general inspection of the entire house. Any deficiencies associated with the inspection to be repaired. The electrician is to provide a report on their letterhead with their Electrical Safety Authority (ESA) license that there are no outstanding deficiencies for both units. If a certificate of completion is obtained from ESA it is to be provided to the Fire Prevention Officer with the electricians letter.

## **Second Dwelling Unit Home Registration with Fire Department**

1. You must have the following documentation ready to be submitted to the Fire Prevention Officer:
  - See Appendix C, "Home Electrical Inspection"
  - A copy of your home insurance policy showing coverage for both dwelling units.
  
2. When the above mentioned documentation has been received and there are no code deficiencies your address will be placed in the registry as a two dwelling unit home. Registered two dwelling unit homes will require periodic re-inspections every five years to maintain the registered status. An inspection fee for the five year registration maintenance will apply. A fee of \$357.50 for the inspection process and a registration fee of \$204.50 is applicable and fees will be invoiced upon registration.



## **Cloth Dryer Exhaust Duct Vent Installation**

Install only rigid or semi-rigid heavy metal vent for exhausting.

Do not install a clothes dryer with flexible plastic venting materials or flexible metal foil duct. Flexible metal foil exhaust ducts are not listed for use in Ontario and therefore not permitted. Flexible venting materials are known to collapse, be easily crushed, and trap lint. These conditions will obstruct clothes dryer airflow and increase the risk of fire.

Exhaust ducts must not be connected or secured with screws or other fastening devices that extend into the interior of the duct and catch lint.

Follow your dryer manufacturer's installation instructions for a complete guide on proper use and installation.

## **Residential Kitchen Hood Exhaust Duct**

Install only rigid or semi-rigid heavy metal vent for exhausting.

## **Legal Considerations**

As per the requirements of the Ontario Fire Code Division A, 1.2.1.1., the owner is responsible for carrying out the provisions of the Code. If anything should happen, such as a fire, the homeowner will be held liable for failing to meet Code requirements.

Further, failure to comply with the Code may result in fines of up to \$50,000 and/or not more than one year in prison for each violation of the code. Additionally, having more than one dwelling unit in your home may make your homeowner's insurance coverage null and void.

**In order to comply you must start this process immediately as it may take the full time allotted to gain compliance.**

Be advised that under the authority of Section 28 (1)(d) of the Fire Protection and Prevention Act, 1997, every person is guilty of an offence if he or she, refuses or neglects to obey or carry out the directives of the Fire Marshal, an Assistant to the Fire Marshal or a Fire Chief given under the authority of the Fire Protection and Prevention Act.

An individual convicted of an offence is liable to a fine of not more than \$20,000 or imprisonment for a term of not more than one year, or both.

Further, any person who removes a copy of a Fire Department Inspection Order posted without the approval of the Fire Marshal, an assistant to the Fire Marshal or a fire chief is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year or both.





**SINGLE FAMILY DWELLING DECLARATION**

**Address:** \_\_\_\_\_

**File #:** \_\_\_\_\_

\_\_\_\_\_

**I declare that the above referenced property is a single-family dwelling. No areas within the dwelling unit will be used as a separate apartment. The occupants have free access to the entire dwelling. If the basement or any other area of the dwelling is to be used as an apartment in the future, I understand that a permit under the Building Code Act must be obtained prior to occupancy of a second dwelling unit.**

**OWNER:** (print) \_\_\_\_\_

(Sign) \_\_\_\_\_

**DATE:** \_\_\_\_\_

**WITNESS:** (print) \_\_\_\_\_

(Sign) \_\_\_\_\_

**DATE:** \_\_\_\_\_

**(One copy to be retained by owner)**



### SECOND DWELLING UNIT HOME DECLARATION

Address of Property with Two-Unit Home \_\_\_\_\_

File # \_\_\_\_\_

Dwelling Type:  Detached  Semi-Detached  Rowhouse

**A Second Dwelling Unit House** can be a detached home, semidetached home and rowhouse containing a maximum of two dwelling units within each residential unit:

- consisting of a self-contained set of rooms located within a residential structure;
- used as a residential premise;
- containing kitchen and bathroom facilities designated for the exclusive use of its occupants; and
- having a means of egress to the outside of the building or structure in which it is located, which may be a means of egress through another residential unit.

I, \_\_\_\_\_ of \_\_\_\_\_ **DO SOLEMNLY DECLARE THAT:**  
(name of declarant) (address of declarant)

1. Two residential units were in existence on the property at the above noted address on July 14, 1994.

2. On \_\_\_\_\_ I was:  
(day/month/year)

- the registered owner of the property with the two unit house
- the tenant of the second residential unit
- the contractor who completed the construction of the second residential unit
- the lawyer involved with the title history search for the property with the two unit house
- the mortgage holder who dealt with mortgage for the property with the two unit house
- the insurance broker who dealt with policy for the property with the two unit house
- the independent property assessor who assessed the property with the two unit house
- the real estate agent involved with previously listing the property with the two unit house
- other \_\_\_\_\_

3. In support of this declaration, I am submitting one or more of the following pieces of evidence as further proof of the existence of the two unit house at the above noted property on July 14, 1994:

- a cancelled rent cheque or receipt for cheque for the two unit house
- a lease or rental contract for the two unit house
- an income tax return showing source of income from the two unit house
- a utility bill or meter hook up for gas, hydro, phone service related to the two unit house
- a receipt for contractor's service charge for construction of the second residential unit
- a photograph, video or real estate listing of the two unit house with date reference
- a City record of permit and/or inspection of the two unit house either by request or complaint
- other \_\_\_\_\_



**AND I MAKE THIS SOLEMN DECLARATION CONSCIENTIOUSLY BELIEVING IT TO BE TRUE, AND KNOWING THAT IT IS OF THE SAME FORCE AND EFFECT AS IF MADE UNDER OATH**

DECLARED before me at the

\_\_\_\_\_

\_\_\_\_\_

Signature of Declarant

in \_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_

Print Name of Declarant

\_\_\_\_\_

A Commissioner for taking affidavits, etc.