

C2017-1249 Secondary Suite Process Reform

EXECUTIVE SUMMARY

On 2017 December 11, through Notice of Motion C2017-1249 (Secondary Suite Process Reform) Council directed Administration to implement several items:

1. Land Use Bylaw (LUB) amendments that add Secondary Suite and Backyard Suite as discretionary uses in the R-1, R-C1 and R-C1L districts.
2. Develop a policy to guide Administration's discretion when reviewing Development Permits for suites.
3. Reinstate application fees for suites.
4. Changes to the Suite Registry Program requiring mandatory registration.
5. Develop implementation plans for an illegal suite amnesty, registry fees, rebate program, application guidebook, and guidelines on advertising and engagement.

This report will address all of Council's direction in one report. To clearly distinguish and simplify the discussion for each item, detailed information on each directive is contained in the respective attachment.

ADMINISTRATION RECOMMENDATION:

That Council hold a Public Hearing on Proposed Bylaw 24P2018; and

1. Adopt the proposed amendments to Land Use Bylaw 1P2007; and
2. Give three readings to Bylaw 24P2018 (Attachment 10);
3. Adopt by resolution the proposed Policy to Guide Discretion for Secondary Suites and Backyard Suites (Attachment 3);
4. Give three readings to Bylaw 11M2018 (Attachment 4);
5. Adopt by resolution the 2018 Land Use Amendment Fee Schedule (Attachment 5);
6. Adopt by resolution the 2018 Planning Applications Fee Schedule (Attachment 6) to reintroduce fees; and,
7. Adopt by resolution the 2018 Planning Applications Fee Schedule (Attachment 7) to support the two-year amnesty.

PREVIOUS COUNCIL DIRECTION / POLICY

On 2018 January 22 Council adopted Bylaw 2M2018 as follows:

That with respect to Report C2018-0023 the following be adopted as amended:

That Council:

1. Receive this Report and Attachment 1 for information;
2. Adopt Option 3 as outlined in this Report; and
3. Give three readings to the proposed Secondary Suites Land Use Amendment Advertising Bylaw (Bylaw 2M2018).

C2017-1249 Secondary Suite Process Reform

This bylaw enabled The City to advertise the Land Use Bylaw amendments contained in this report through a newspaper advertisement that directs citizens to a City of Calgary website that provides information on the amendments in an accessible and searchable format.

On 2017 December 11 Council adopted Notice of Motion C2017-1249 as follows:

City Council directs Administration to:

1. Bring forward amendments to the Land Use Bylaw 1P2007 to include secondary suites as discretionary uses within R-1, R-C1, and R-C1L land use districts no later than 2018 Q1;
2. Bring forward changes to the Secondary Suite Registry that makes enrolment in the Registry mandatory (with a visible registration tag) for new secondary suites;
3. Reinstate fees for secondary suite and laneway unit applications;
4. Develop a policy on how discretion will be applied on secondary suite applications, including but not limited to:
 - a. Additional parking requirements on cul-de-sacs
 - b. Rules on properties that do not have back lanes, and
 - c. Rules around restrictions on relaxations be allowed for suite applications;
5. Investigate using the registry to help enforce Council's goals of safety and enforcement, including but not limited to the development of the registry bylaw;
6. Develop recommendations and possible implementation plans on:
 - a. A temporary amnesty for illegal suites and increased illegal suite penalties after the amnesty expires;
 - b. Fees to be charged for the registry, due on renewal every two years, with fee revenue being directed to increased bylaw enforcement for suites;
 - c. A fee rebate program for homeowner occupied properties;
 - d. An application "guide-book" to provide information for applicants on how to effectively navigate the process.
 - e. Inclusion of all suites, new and existing, in the mandatory registry.
 - f. Guidelines on Advertising and engagement.
7. Consider holding new applications and not schedule any land use redesignation applications for secondary suites, for consideration by Council, until March 2018 public hearing.
8. Abandon work which was directed on 2017 July 21, through Notice of Motion NM2017-24.

And return to Council directly with bylaw amendments in Q1 2018.

BACKGROUND

Land Use Bylaw and Policy

Land Use Bylaw 1P2007 (LUB) currently has two uses for suites: 1) Secondary Suites and 2) Backyard Suites. Secondary Suites are located within the primary dwelling unit. They are typically located in the basement but may also occur on the main floor or above an attached garage. Secondary Suites are a permitted use in most of the residential districts, with the exception of R-1, R-C1 and R-C1L. Secondary Suites that meet the rules of the Bylaw do not require a Development Permit when they are a permitted use in the district.

C2017-1249 Secondary Suite Process Reform

Backyard Suites are a discretionary use in most residential districts and are located in the backyard of the parcel, apart from the primary dwelling, for example on top of a detached garage. A Development Permit is required to develop a Backyard Suite when it is a discretionary use in the district. The application is notice posted to solicit comments from adjacent landowners.

Of the 309,149 residentially designated parcels in Calgary, 138,833 or 45 per cent currently allow for suites, either as a permitted or discretionary use. Attachment 1 contains a table that details where suites are currently allowed. In the districts where suites are not listed, Council approval of a Land Use Amendment (redesignation) to a district that allows for suites is required. Typically, that means changing a district from R-C1 to R-C1s. The “s” districts are not being amended as part of this report. Please refer to Attachment 1 for more information.

Currently there is no policy for Administration to use to manage issues such as parking and access when reviewing a Development Permit application for a suite that is a discretionary use. Administration currently uses generally accepted planning principles and experiences with other types of development to guide their discretion.

Secondary Suite Registry

Currently, the Registry is voluntary and no fee is charged. It is a user-friendly database of safe suites that have met The City’s requirements. When the Registry was created in September 2015, it started with 431 suites. That number has more than doubled over the last two years, with over 910 suites on the Registry today. Factors contributing to this growth include the following initiatives: Secondary Suite Registry and sticker program, waived Land Use Amendment and Development Permit fees, Development Permit exemptions for suites that comply with the rules of the Land Use Bylaw, and an easier experience for owners to comply with Alberta Safety Code requirements for existing suites that existed prior to 2006. The voluntary Registry netted, on average, 20 suites registered per month. These were automatically registered as soon as occupancy was granted. Owners had the option to opt out of the Registry; however, no one did so.

Fee Waiver

On 2013 September 16, Council directed Administration to amend the Fee Bylaw to remove the Land Use Amendment and Development Permit fees associated with suites. This was put into effect as of 2014 January 01.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

Land Use Bylaw Amendments

The proposed Bylaw amendments (Attachment 2) add Secondary Suite and Backyard Suite as discretionary uses in the R-1, R-C1, and R-C1L districts. Currently suites are allowed either as permitted or discretionary uses in every residential district except R-1, R-C1 and R-C1L. There are 170,316 parcels that have one of these three land use districts and collectively they comprise 55 per cent of all residentially designated parcels in Calgary.

Adding suites to these districts allows suites in every residential district city-wide and eliminates the need for parcel owners to apply for a redesignation to accommodate a suite. This means a parcel owner can proceed directly to a Development Permit and Building Permit.

C2017-1249 Secondary Suite Process Reform

Administration is also recommending that Development Permits for suites in these districts be notice posted to solicit comments from the adjacent properties at the time of Development Permit application. As both types are suites are discretionary uses this creates consistency in terms of the level of participation the public is afforded in the Development Permit process. Examples of comments the Development Authority may receive to consider are the parking impacts of a suite, or privacy concerns with a balcony attached to a Backyard Suite. These comments help in the decision-making process.

Policy to Guide Discretionary Suite Applications

The proposed policy (Attachment 3) will guide Administration when reviewing Development Permit applications for suites when listed as a discretionary use in the district. Guidance is provided on items such as parking, amenity space, and privacy for Backyard Suites. Attachment 1 provides more details on both the Land Use Bylaw amendments and the proposed policy.

Mandatory Suite Registry and Development of a Suite Registry Bylaw

Administration has drafted the proposed Suite Registry Bylaw (Attachment 4) in order to convert the existing voluntary Suite Registry into a mandatory Registry. The Registry provides citizens with a user-friendly database of suites that have been approved and inspected by The City. A suite will only be listed on the Registry once it has obtained the required permits and passed inspection. Any suite that is made available to the public to rent that is not on the Registry is subject to a fine.

The Registry is successful in assisting the public in identifying suites that are legal and safe. With a mandatory Registry, if a member of the public does not see the City Suite Registry sticker posted within the suite, or if the suite is not on the Registry, then it will be very clear that a suite is not legal. This will influence renter behaviour in their choice of housing and will make it easier for the public to identify and report potentially unsafe suites being offered for rent.

The proposed Registry Bylaw only includes Secondary Suites and Backyard Suites. No other rental types are included because suites have safety characteristics that other forms of rental accommodations do not have, thus making it necessary to be part of the Registry to ensure life safety standards are met.

The Registry Bylaw aligns with, but does not intrude into areas already regulated by existing City Bylaws, such as the Land Use Bylaw or the Community Standards Bylaw. The Registry Bylaw is also aligned with the provincial Residential Tenancies Act, which regulates landlord-tenant matters. Issues related to land use, life safety, community standards, or landlord-tenant disputes would be dealt with under other appropriate existing Bylaws.

Fee Reinstatement

If suites are introduced as discretionary uses in the proposed districts, there may still be a rare occasion where an owner prefers to apply for a Land Use Amendment that requires Council approval. The advantage to an owner for doing this would be redesignating to a land use district where Secondary Suites are a permitted use, meaning a Development Permit would not be required. Administration recommends reinstating the Land Use Amendment fees at a similar rate to other Residential and Special Purpose Districts, Group A level, which amounts to \$5,050. Attachment 5 contains the updated 2018 Land Use Amendment Fee Schedule.

C2017-1249 Secondary Suite Process Reform

Administration also recommends reinstating the Development Permit fee to the 2013 fee prior to Council approving the initiative to waive Development Permit fees for suites. Attachment 6 contains the 2018 Planning Application Fee Schedule, which reintroduces fees. This amounts to \$471 for the Development Permit to encourage more homeowners to apply. Similar permits under the current fee schedule are approximately \$570.

Fees for Building Permits will be collected for all suites, which includes inspections to verify that the suite complies with the minimum life safety standards.

Implementation Plans

Administration was directed to develop recommendations for the items listed below.

1. Amnesty

Administration is recommending a two-year amnesty period where enforcement would be focused on encouraging as many owners of existing illegal suites to apply for the required permits to bring the suites up to the minimum life safety standards of the Alberta Safety Codes. Attachment 7 contains the 2018 Planning Application Fee Schedule that allows Council to waive the fees for this amnesty period (after they are reintroduced through Attachment 6).

As part of the amnesty period, Administration recommends waiving the Development Permit fee for all existing and proposed suites, as well as not prosecuting a suite owner for not being registered for the duration of the amnesty. This is to encourage the creation of as many safe and legal suites as possible. A Building Permit and its fee will still be required in all cases.

Council asked for a Registry fee to be introduced (detailed below in item no. 2). Enforcing an immediate Registry fee may discourage owners from legalizing illegal suites and would unfairly add a fee to those who are already on the voluntary registry. Administration recommends that the Registry fee also be waived during the amnesty period, and for those who are already on the voluntary Registry so that they would not need to pay the registration fee even after the amnesty period.

Upon conclusion of the amnesty, future suites would be subject to the fees for a Development Permit, Building Permit, Electrical Permit, Plumbing and Gas Permits, and the Registry.

The amnesty strategy description (contained in Attachment 8) explains the process that Administration will take to:

- Make it easier for owners of suites to comply with the Land Use Bylaw and the Alberta Safety Codes;
- Provide clear information for citizens to effectively navigate the processes to develop a compliant suite; and
- Encourage owners of existing suites to legalize and register their suites during the amnesty period.

2. Fees for Registry

Administration recommends the Registry fee be set at a one-time fee of \$232. The Registry fee will go towards funding ongoing enforcement actions to encourage non-compliant suite owners to adhere to the Land Use Bylaw, Safety Codes Act, and the Registry Bylaw.

C2017-1249 Secondary Suite Process Reform

Administration is also recommending that the Registry should not penalize legal suite owners with ongoing Registry renewal fees. Rather, charging a one-time only Registry fee would provide an owner the flexibility to decide if they want to rent out their suite in the future. All suite owners would be directed to complete an annual self-declaration to declare if anything related to the suite has changed. If changes are made, a new Building Permit may be required.

3. Fee rebate for owner occupied properties

The primary objective of the registry is to encourage legal and safe suites in communities. Suites, when legal and safe, help to meet the policies of the Municipal Development Plan by providing housing choices and tenures for all ages, income groups, family types, and lifestyles. In order to accomplish the objective, it is imperative that all suites are expected to meet the same level of compliance with the Land Use Bylaw and the Safety Codes Act. There are financial barriers to legalizing and making suites safe. A common complaint from owners who have upgraded their suite is that it is not a level playing field when other owners who choose to remain illegal, continue to operate with impunity. If there is no deterrent to operating an unregistered suite, it is logical to assume that few owners will come forward to upgrade an existing suite or choose to develop new legal and safe suites. Administration will be working towards a more level playing field so that owners of illegal suites comply with the same regulations as owners who have chosen to become a registered suite. Administration; therefore, recommends charging the same one-time Registry fee to all properties with suites with no rebates.

4. Suite Application Guide

Once Council has determined the changes to the suite process, Administration will enhance the existing online information. This will enable citizens to research property information, and to understand The City's requirements for having a legal and safe suite. This information could include illustrations of possible suite design options, including potential Backyard Suite lot patterns and styles.

A communications and information strategy will be developed as part of the operational implementation process that will support these changes. This strategy will include updates to existing online tools and checklists, outline clear and precise instructions for the suites process, and inform citizens of the changes and how they can apply for suites. The goal is to ensure that there is clear information for citizens to effectively navigate the processes and successfully develop a compliant suite.

5. Inclusion of all suites, new and existing, in the mandatory Registry

All suites that are currently registered on the voluntary Registry will carry over into the mandatory Registry. The Registry stickers that were previously issued will still be valid. Administration recommends that these existing suites not be penalized with the Registry fee after the amnesty period concludes. They will however, be required to complete the annual self-declaration on whether anything related to the suite has changed.

6. Guidelines on advertising and engagement

Development Permits for suites when listed as a discretionary use will be notice posted on the subject site for a period of two weeks; adjacent neighbours will be advised by letter of the proposed suite; the Community Association will receive a Development Permit circulation package and the decision of the Development Authority will be advertised and subject to a three-

C2017-1249 Secondary Suite Process Reform

week appeal period. Administration is not recommending that formal engagement be required. Informal discussions between property owners is still encouraged when developing a suite.

Stakeholder Engagement, Research and Communication

No specific consultation was undertaken to respond to this Notice of Motion. Council's direction has been informed by numerous public hearings for Land Use Amendments (redesignations) and Calgary Planning Commission recommendations to allow for suites.

Limited research was conducted with municipalities who have existing Registry or licensing regimes. Administration has learned that a successful program requires ongoing support throughout the organization and a consistent and straightforward approach towards fostering suites as a safe housing option for its citizens.

The communications plan for the Land Use Bylaw amendments is contained in Attachment 9.

Strategic Alignment

Adding suites to the remaining residential districts provides consistency across Calgary in terms of where a suite may be developed.

The proposed Land Use Bylaw amendments are consistent with the Municipal Development Plan policies including:

- Strong Residential Neighbourhood policies (subsection 2.2.5) that “encourage growth and change in low-density neighbourhoods” and “increases the mix of housing types such as accessory suites”.
- Housing policies (subsection 2.3.1) that support modest intensification, and “provide for a wide range of housing types, tenures and densities to create diverse neighbourhoods” and promote “a broader range of housing choice for all ages, income groups, family types and lifestyles”.
- Developed Residential Areas policies (subsection 3.5.1), that support “moderate intensification in a form and nature that respects the scale and character of the neighbourhood” and that “support the revitalization of local communities by adding population”.

The proposed amendments are consistent with the South Saskatchewan Regional Plan policies including the Land Use Patterns policies (subsection 8.14) that encourage “innovative housing designs, range of densities and housing types such as mixed-use, cluster developments, secondary suites, seniors' centres and affordable housing”.

Social, Environmental, Economic (External)

Social

Making the process clearer for suites will increase the supply and range of affordable accommodation and support changing demographics by providing more housing options for extended families, or for a live-in caregiver for elderly residents.

Environmental

C2017-1249 Secondary Suite Process Reform

Providing a range of housing types in Developed Areas supports public transit, cycling and walking and makes efficient use of existing infrastructure.

Economic

Making the process clearer for suites will help create more mixed income communities, which support local businesses and local labour markets. Reinstating fees for Development Permit applications and introducing a Registry fee may result in landowners choosing to not pursue City approvals to avoid paying fees that previously were not applicable. Waiving those fees and any land use penalties during the amnesty period may help to incentivize owners of existing illegal suites to come forward.

Financial Capacity

Current and Future Operating Budget:

Ongoing monitoring of the Land Use Bylaw is already part of Planning & Development's operating budget and completed through internal resources. No implications identified.

Monitoring of Safety Codes infractions is also part of the operating budget. Issues related to Secondary Suites comprise a significant component of the Planning & Development budget and this is expected to continue, regardless of whether there is a mandatory Registry or Land Use Bylaw amendments.

Any additional time by staff to encourage compliance during the amnesty period will be absorbed through existing internal resources. The Registry fee after the amnesty will be dedicated to ensuring resources are available to implement the Registry Bylaw. The costs of ensuring compliance after the amnesty period will be reflective of how successful Administration is during the amnesty period of creating legal and safe suites.

Current and Future Capital Budget:

No implications identified.

Risk Assessment

Making Secondary Suites a discretionary use in the proposed districts may increase the number of appeals seen at the Subdivision and Development Appeal Board (SDAB) and may reduce the number of new suite approvals should applicants not see the process as straightforward. This could result in more illegal suites, requiring more time to enforce and bring suites into compliance. Making Secondary Suites a discretionary use may also result in continued Land Use Amendment applications for the "s" districts, as Secondary Suites are a permitted use in those districts and do not require a Development Permit, and an approval cannot be appealed.

REASON(S) FOR RECOMMENDATION(S):

The proposed Land Use Bylaw amendments add suites to the remaining residential districts allowing suites citywide and creating consistency across the residential context. The proposed policy assists the Development Authority when making a decision on a Development Permit for a suite and reinforces the principles that a suite should provide parking, amenity space, and access. Encouraging safe and legal suites helps to achieve the goals of the Municipal Development Plan

C2017-1249 Secondary Suite Process Reform

to provide housing choice for a variety of ages, incomes and family types, while retaining housing stock and accommodating modest intensification in a form that respects the scale and character of a neighbourhood.

ATTACHMENT(S)

1. Attachment 1 – Additional Information on Land Use Bylaw Amendments and Policy to Guide Discretion
2. Attachment 2 – Proposed Amendments to Land Use Bylaw 1P2007
3. Attachment 3 – Proposed Policy to Guide Discretion for Secondary Suites and Backyard Suites
4. Attachment 4 – Proposed Suite Registry Bylaw 11M2018
5. Attachment 5 – Proposed 2018 Land Use Amendment Fee Schedule
6. Attachment 6 – Proposed 2018 Planning Applications Fee Schedule
7. Attachment 7 – Proposed 2018 Planning Applications Fee Schedule to support a two-year amnesty
8. Attachment 8 – Suite Reform Implementation Plan
9. Attachment 9 – Communications Plan
10. Attachment 10 – Bylaw 24P2018
11. Attachment 11 – Public Submissions