

**MISCELLANEOUS - LAND USE BYLAW AMENDMENT
FOR SECONDARY SUITE PERMITTED USE DEVELOPMENT
PERMIT EXEMPTION
CITY WIDE
BYLAW 26P2015**

EXECUTIVE SUMMARY

On 2015 March 30, Council directed Administration to prepare a Land Use Bylaw (LUB) amendment that would allow for an 18 month exemption from a Development Permit for secondary suites where they are already a permitted use. This report responds to that direction and provides the proposed amending bylaw to implement the change.

The simplest approach to undertaking this change is with a textual amendment to Section 25 of the Land Use Bylaw.

PREVIOUS COUNCIL DIRECTION

Administration met with a working group that was established at the direction of Council. The working group was comprised of Councillors Chabot, Pootmans, Woolley, Sutherland and members of Administration. Their mandate was to consider options on how existing illegal suites can be made safe. The group met on 2015 January 13 and again on 2015 February 05. The actions developed by the Working Group to address the safety concerns of existing suites included:

- A proposal to have an 18 month exemption from a Development Permit for suites in areas where they are already a permitted use;
- Establish a Secondary Suite registry where secondary suites that have completed all required permits and have received permission to occupy from The City can be readily identified; and
- Pilot a safety campaign targeted at existing secondary suite owners with the goal of informing and encouraging those owners to bring their suites up to acceptable safety standards

On 2015 March 30, Council approved the recommendations in PUD2015-0229 which endorsed the actions identified by the working group and specifically directed Administration to prepare an amendment to the Land Use Bylaw (LUB) to allow for an 18 month exemption from a Development Permit for suites where they are already permitted. The timeframe for the exemption is proposed to commence 2015 September 01 and conclude 2017 March 03.

ADMINISTRATION RECOMMENDATION(S)

2015 June 04

That Calgary Planning Commission recommends **APPROVAL** of the proposed Land Use Bylaw (1P2007) Amendment.

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RECOMMENDATION(S) OF THE CALGARY PLANNING COMMISSION

That Council hold a Public Hearing on Bylaw 26P2015; and

1. **ADOPT** the proposed amendments to the Land Use Bylaw 1P2007, in accordance with Administration's recommendation; and
2. Give three readings to the proposed Bylaw 26P2015.

REASON(S) FOR RECOMMENDATION:

The recommendation of this report responds to the direction of Council from 2015 March 30, requesting Land Use Bylaw amendments to exempt secondary suites from the requirement to obtain a development permit if it is already listed as a permitted use.

Administration conducted a pilot to review a sample group of suites, from May 2012 to April 2013, the Suite Safety Approach Pilot. The pilot reviewed 50 illegal suites (no Development Permit, no Building Permit) in land use districts where secondary suites were a listed use and where they were not a listed use for Fire and Building Code compliance. The pilot identified significant safety concerns in 80 percent of the suites, leading to the concern that suites without permits are at a high likelihood of being unsafe. The pilot also identified disincentives to existing secondary suite owners to legalize their suite.

The objectives of the pilot were to:

- Determine whether safety issues were present in existing suites;
- Bring suites into compliance through remaining Secondary Suites Grant Program funds; and
- Document the successes, opportunities, and challenges arising from the current regulatory environment.

The findings from the pilot identified three main reasons for why owners do not legalize their suites:

- General lack of awareness of what constitutes a safe suite and the impact of having an unsafe suite,
- Financial disincentives which range from costs to upgrade a suite to increased taxes, and
- Fear of refusal by The City through the permitting processes.

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Generally speaking the findings of the pilot indicated that there is a need to change permitting processes where appropriate to encourage more existing suite owners to legalize their suite. The DP exemption is a way to simplify the process.

The Building Permit process would still examine a proposal for a suite on a site-specific basis, and ensure that it is compliant with the Alberta Building Code (ABC) or the Alberta Fire Code (AFC). A simplified process is more likely to motivate a landowner to work through the appropriate permits to achieve a safe and legal suite. A bylaw check would be completed on each application and any site that does not meet the rules of the LUB would then be required to apply for a Development Permit to allow for any relaxation.

The 18 month DP exemption will be coupled with a registry, communication strategy and safety campaign targeted in neighbourhoods where secondary suites are suspected to exist. The intention of the DP exemption is to encourage as many existing illegal secondary suites to comply with life safety requirements as possible.

Broadly speaking, encouraging safe and legal suites in communities helps to meet the policies of the Municipal Development Plan to provide housing choices and tenures for all ages, income groups, family types and lifestyles, while retaining housing stock in Developed Areas and accommodating moderate intensification in a form and nature that respects the scale and character of a neighbourhood.

ATTACHMENT

1. Proposed Bylaw 26P2015

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ADMINISTRATIONS RECOMMENDATION TO CALGARY PLANNING COMMISSION

Recommend that Council **ADOPT**, by bylaw, the proposed amendment to Land Use Bylaw 1P2007 (APPENDIX I).

Moved by: C. Friesen

Carried: 6 – 0

Absent: G.-C. Carra and J. Gondek

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Background

The 2013 Canada Mortgage and Housing Corporation (CMHC) rental survey estimates that Calgary is currently home to approximately 16,000 secondary suites. The City has processed just over 600 applications in total for suites; this means that the vast majority of the existing stock of suites has not been reviewed for compliance with safety or land use rules. Having a more permissive approach to the legislation regulating secondary suites is a recognized remedy to this situation. This proposal allows for a simplified process to bring secondary suites up to minimum life safety standards.

Description of Amendment

The proposed amendment to LUB 1P2007 would mean that a Secondary Suite would not require a Development Permit when:

- Secondary Suite is listed as a permitted use in the district, and
- The use has commenced or for which an application for a Building Permit has been received prior to 2017 March 03.

A textual amendment is the simplest way to accomplish the proposed temporary DP exemption.

APPENDIX I contains the proposed amendment.

Planning Evaluation

Coupled with a concerted communication and safety campaign, the proposed amendment will test the theory that simplifying the process will entice owners of existing illegal suites to comply with minimum life safety standards. The City has processed and approved approximately 150 suite applications annually for the last three years. As the exemption will be available to both existing and new secondary suites it is anticipated to generate much higher levels of activity than previously experienced. This is due in part to the time and cost savings (no need to produce DP level plans) of the DP exemption.

This proposal would reduce the amount of time required to achieve a suite by several weeks as a Building Permit could be issued once a bylaw check has been completed. Since Permitted Use Development Permits are not circulated or notice posted, there is no change in terms of process for the Community Associations or for the surrounding neighbourhoods. Standard inspection processes would be commenced once the Building Permit was issued and construction starts.

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Risks

There is a risk associated with this proposed amendment to highlight for Council, as outlined below.

Enforcement of Suites Rules

Effective enforcement is an important component of implementing any regulations. Administration has a history of successful enforcement of existing unpermitted suites, however it is limited in the number that can be addressed in a given year because of resources. Should this amendment be approved, existing resources may need to be dedicated to ensure a successful program. A more intensive and focused enforcement program may help alleviate concerns represented by community members.

It is likely that as a result of enforcement and the safety campaign that some suite owners will elect to decommission the suite as opposed to investing in the necessary upgrades. However, it is anticipated that there will be more safe suites created than unsafe suites being decommissioned so the supply of suites will not diminish.

Legislation and Policy

Alberta Safety Codes Act

The Alberta Safety Codes Act includes requirements in both the Alberta Building Code (ABC) and the Alberta Fire Code (AFC) that apply to suites. These requirements ensure that the suite is built safely for residents, primarily through the Building Permit process. These requirements will be applied to any application made for a suite, and are in addition to any rules that The City has within the Land Use Bylaw.

Municipal Development Plan Policy

Municipal Development Plan (MDP) policies support the retention of housing stock in Developed Areas and moderate intensification that respects the scale and character of existing development. The MDP generally suggests that households in Calgary have the opportunity to live in diverse forms of housing, including compact and efficient forms such as semi-detached dwellings, row houses and townhouses.

Section 2.2.5

- a. "Encourage growth and change in low-density neighbourhoods through development and redevelopment that is similar in scale and built form and increases the mix of housing types such as accessory suites, semi-detached, townhouses, cottage housing, row or other ground-oriented housing."

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Section 2.3.1

- a. "Provide for a wide range of housing types, tenures (rental and ownership) and densities to create diverse neighbourhoods that include:
 - i. A mix of housing types and tenures, including single detached, ground-oriented (e.g. duplexes, row houses, attached housing, accessory dwelling units and secondary suites), medium- and higher-density and mixed-use residential developments; and,
 - ii. A range of housing choices, in terms of the mix of housing sizes and types to meet affordability, accessibility, life cycle and lifestyle needs of different groups."
- b. "Promote a broader range of housing choice for all ages, income groups, family types and lifestyles by:
 - i. Encouraging housing opportunities for low- and moderate-income households in all communities;
 - ii. Promoting innovative housing types, such as co-housing, live/work and cottage and carriage housing and accessory dwelling units, as alternative means of accommodating residential growth and providing affordable housing options; and,
 - iii. Including supportive land use policies and development strategies in Local Area Plans that encourage the provisions of a broader range of housing affordable to all income levels."
- f. Create affordable housing by encouraging:
 - vi. "The provision of an adequate supply of rental accommodation across the city that is affordable to low- and moderate-income households"

Section 3.5.1

- a. "Recognize the predominantly low density, residential nature of Developed Residential Areas and support retention of housing stock, or moderate intensification in a form and nature that respects the scale and character of the neighbourhood."

Community Consultation

As part of the Information Sessions held in late February and early March on the LUB Amendments for Secondary and Backyard Suites in Wards 7, 8, 9 and 11, some concerns were expressed about the permitted development permit process for secondary suites, with respect to the limited ability for residents and communities to influence the outcome of an application. This proposal does not create opportunity for input as the existing process will largely remain the same. Throughout the 18 month DP exemption period, Administration will be able to monitor trends and issues related to the exemption and will be able to provide detailed information on successes, challenges and opportunities on how best to regulate suites.

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APPENDIX I

PROPOSED AMENDMENT TO THE LAND USE BYLAW (1P2007)

(a) Insert new subsection 25 (1) (s) as follows:

- “25 (1)** The following ***developments*** do not require a ***development permit*** if the conditions of section 24 are met:
- (s) a **Secondary Suite**, when listed as a ***permitted use*** in the district, for which an application for a permit pursuant to the Building Permit Bylaw was received prior to 2017 March 03.”

(b) This bylaw comes in to effect 2015 September 01.