

SECONDARY SUITES - WORKING GROUP

EXECUTIVE SUMMARY

The Working Group was established at the direction of Council and is 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 5. The focus of this report is the Suite Safety Campaign that was developed by the Working Group to address the safety concerns of existing suites. The key points of the campaign, as outlined in Attachment 1, include:

- A proposal to have an 18 month exemption from a Development Permit for suites in areas where they are already permitted;
- 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.

ADMINISTRATION RECOMMENDATION(S)

That the SPC on Planning and Urban Development recommends Council:

1. Endorse the Suite Safety Campaign as outlined in Attachment 1; and
2. Direct Administration to prepare an amendment to the Land Use Bylaw to allow for an 18 month exemption from a Development Permit for suites where they are already permitted.

RECOMMENDATION OF THE SPC ON PLANNING AND URBAN DEVELOPMENT, DATED 2015 MARCH 11:

That the Administration Recommendations contained in Report PUD2015-0229 be approved.

PREVIOUS COUNCIL DIRECTION / POLICY

On 2014 September 22, during its deliberation of PUD2014-0671, Council directed Administration through a Motion Arising, Moved by Councillor Demong, Seconded by Councillor Colley-Urquhart, that with respect to Report PUD2014-0671, that:

1. Administration establish a Working Group to explore all issues related to existing illegal/unsafe secondary suites, including compliance enforcement, reporting, incentives and penalties and that
 - a. the Working Group be comprised of three members of Council and include key Administrative support, and
 - b. City Clerk's consult with all Members of Council to seek their interest in participating on the Working Group; and
2. The Working Group report back directly to Council no later than December 2014 with recommendations on compliance and enforcement matters.

On 2014 September 22, Councillor Farrell, Seconded by Councillor Carra, Moved that Councillor Farrell, Pincott, Woolley, Carra and Mayor Nenshi's Motion, NM2014-27, be referred to the Working Group adopted in the Motion Arising with respect to Report PUD2014-0671, for inclusion in their considerations for a report to Council returning no later than 2014 December.

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On 2014 November 17, Council Adopted, Moved by Councillor Chabot, Seconded by Councillor Demong, that Councillor Chabot's Revised Motion, Secondary Suite Implementation Initiative, NM2014-42, be adopted, after amendment, as follows:

- That Council direct Administration to investigate the possibility of establishing an 18 month relaxation for homeowners with current suites to meet with City Officials to determine if their suite is legal and/or make application to bring it into compliance;
- Administration and Law be directed to review the potential to fine owners for a first offence following the 18 month relaxation;
- Administration identify properties with legal secondary suites on Calgary.ca's interactive map for the creation of a centralized database where renters can find safe secondary suites to rent;
- that any surplus revenue from enforcement fines be put towards affordable housing initiatives; and
- Administration report back on all these items, through the Working Group on Secondary Suites Enforcement no later than Q1 2015.

BACKGROUND

In 2013 The City initiated a study on secondary suite safety (the Suite Safety Approach pilot) which found that when there are no permits in place basement suites tend to be unsafe. The safety of the occupants is the highest priority for City building, fire and health officials. The 2013 Canada Mortgage and Housing Corporation (CMHC) rental survey estimates that Calgary is home to approximately 16,000 secondary suites, the vast majority of which do not have permits in place. As a result of striking up the Working Group, Administration is recommending specific actions that could be taken to address the suspected safety concerns of existing secondary suites.

The Land Use Bylaw defines two different types of accessory suites: secondary suites and backyard suites. A secondary suite must be contained within the building envelope of the primary dwelling unit and therefore does not significantly alter the nature of the main house that contains it. A backyard suite introduces a new living space in the rear yard and therefore may result in impacts associated with a new structure or new use of an existing structure. The bulk of this report, and of the planned actions, is focused on existing secondary suites.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

Two meetings of the Working Group occurred to discuss the options available for dealing with the existing stock of illegal secondary suites. Based on the discussions, the following areas of focus to address compliance/enforcement, reporting, incentives and penalties were identified:

- Public education and information program;
- Regulatory amendments; and
- Procedural changes

Public Education and Information Program

This program should provide information on secondary suites to homeowners and homebuilders on the process for constructing legal suites, realistic cost considerations in meeting Alberta

Approval(s): Stanley, Rollin concurs with this report. Author: De Jong, Cliff
City Clerk's: D. Williams

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safety standards, and implications of maintaining an illegal suite. The program will also provide information to prospective renters and homebuyers on identifying homes with suites that have met City and safety standards and have been issued a Building Permit for a Secondary Suite as well as homes that have been constructed as "suite-ready" and where a Secondary Suite may be added without costly retrofitting.

The success of the education and information program will be measured by how many existing illegal suites come in for permits and comply with both the City requirements (for things such as parking and providing amenity space) and safety code requirements. A significant reason that homeowners choose to keep their suite illegal are the costs associated with code required upgrades. In order to ease the cost of meeting safety standards for new suites, older suites are allowed to meet less stringent code requirements. Suites that were in existence prior to 2007 January 1 will be permitted to meet the code requirements of the Alberta Fire Code (AFC) as opposed to newer suites which have to meet the requirements of the Alberta Building Code (ABC).

There are significant cost advantages to this approach that do not compromise the key life safety features of a safe suite. For secondary suites, the key differences between complying with the ABC versus the AFC include, but are not limited to:

- Height of rooms, and spaces - The ABC requires that rooms and spaces be a minimum of 1.95m high, the AFC allows for less if it is acceptable to a Safety Codes Officer;
- Separate Heating & Ventilation (HVAC) System - The ABC requires separate HVAC systems for each unit, whereas the AFC does not;
- Smoke alarms - The ABC requires that smoke alarms must be hardwired and interconnected between both dwelling units, the AFC allows for wireless interconnection.

For suites that obtain all of the required permits and approvals, Administration will be identifying those suites through the development of a Secondary Suite Registry including the following actions:

- Safe suite sticker program;
 - Once a suite receives its final building inspection, an easily identifiable sticker noting that the suite is code compliant and ready for occupancy will be placed in a conspicuous place;
 - The prospective renters and buyers will be able to obtain further information on the suite by scanning the sticker with a smart phone or by contacting Planning and Development.
- Placing legal and safe suites onto the City website so that renters and homebuyers can easily reference whether a suite has the required permits in place;
- Work with the local realty industry to actively discourage the promotion of illegal suites and to promote legal and safe suites.

Regulatory Amendments

As part of the suite safety pilot project from 2012 May to 2013 April involving a sample group of existing illegal suites, Administration found that a motivating factor for owners to keep suites

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illegal were concerns over the City processes required. For existing suites in areas that do not allow a suite, owners would need to obtain approvals on applications for a Land Use Amendment, Development Permit and Building Permits. In support of creating more legal and safe suites, City Council waived the fees for the Land Use Amendment and Development Permits on 2014 January 1.

The fee for Land Use Amendments was a significant deterrent for owners. As a result of waiving the \$4,889 fee, 70 home owners made Land Use Amendment applications in 2014 for suites, compared to an average of less than five per year historically. The Working Group determined that this incentive should continue.

For existing suites in areas that do allow for a suite, owners currently need to obtain an approved Development Permit and then a Building Permit. As a way to further encourage owners of existing suites to make them safe, the Working Group discussed the option of temporarily exempting suites from the need for a Development Permit when they are in areas that allow for them as a permitted use.

Through discussions with Law and the Land Use Bylaw team, it is technically possible to temporarily exempt the need for a Development Permit in areas where the suite is already a permitted use. Administration proposes a city wide Land Use Bylaw Amendment for an 18 month exemption from Development Permits for secondary suites where they are already permitted. The proposed timeframe to return to Council with a Land Use Bylaw amendment would be no later than July with an effective start date of 2015 September 1.

Owners of Secondary suites would still have to meet the requirements of the Land Use Bylaw (e.g. parking requirements, amenity space) which would be confirmed as part of the Building Permit review. This would allow for a secondary suite application, that meets the requirements, to be processed at the permit counter while the customer waits. This would remove uncertainty and reduce the application time from weeks to less than an hour.

There are several benefits of proceeding with the proposed temporary exemption. The main benefit is that Administration could focus homeowners and landlords on the benefits and ease of process in making their existing suites legal and safe. There would be a significant amount of effort that would be needed up front as part of the educational campaign. This could include targeting specific communities for a door knocking campaign where suspected suites exist; conducting workshops on the key safety elements of constructing or upgrading your suite and utilizing traditional and social media outlets to promote the benefits of legalizing your suite during the temporary Development Permit exemption.

Administration would report back after the 18 month Development Permit exemption period. As part of the Development Permit exemption proposal, suites that become legal would be monitored for performance. This would include an assessment of what the main concerns are from a community perspective, such as the number and nature of complaints vs. the number and nature of complaints related to illegal suites.

It is important to note that the Development Permit exemption excludes suites that currently have legal non-conforming status. These are suites that were built legally at the time of

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construction however; they do not meet the present day Land Use Bylaw rules. This term is often referred to as “legal” non-conforming because they are considered to be legal. This status is lost if a building is destroyed or damaged or structurally altered. Ultimately, for a property to be able to participate in the Development Permit exemption, they would need to be listed as a Permitted Use in the Land Use District which they are in. This proposal would not exclude new suites.

Procedural Changes

It is imperative that The City enables an arrangement whereby suites can be easily monitored without adding unnecessary regulatory oversight. In consultation with Business Licence and in consideration to how other municipalities operate, Administration is proposing that a Secondary Suite Registry be established.

The advantage to The City is that a registration is simple to set up, inexpensive to manage and easy to administer while allowing for a way to monitor the individual performance of each suite. The benefits to the community are that suite owners would not face a complex a registration process and consumers would be provided assurances that a suite would be legal and that it is safety code compliant.

The disadvantage to The City is that a registration is not usually a good enforcement tool and there would be an ongoing obligation for Administration to take measures to ensure the suite maintains its original level of safety. For the community, the disadvantage is that a registry in and of itself, would not require landlords to act responsibly.

Establishing a registry would be an important step should Council direct Administration to proceed with a Land Use Bylaw amendment to temporarily exempt suites from permitted Development Permits. The basic premise of a registry would be to have an accessible list of properties where suites exist that have a valid Building Permit allowing for occupancy of the suite. There may be opportunity for some limited enforcement options as part of the registry but this will be explored in more depth prior to implementation.

Other Enforcement Considerations

For the most part, the actions contained in this report are aimed at encouraging cooperation to gain compliance with safety codes. However, The City recognizes that a deterrence model forms part of an effective compliance strategy. Enforcement strategies that encourage “voluntary compliance” can improve regulatory efficiency by reducing unnecessary enforcement and compliance costs associated with legal confrontation. An effective deterrence strategy will require The City to be reasonable toward homeowners seeking compliance, and intolerant toward those homeowners who are non-compliant.

Currently, most enforcement efforts are focused on the Land Use. If the suite is not listed as an allowable use, then the suite must be dismantled or an application must be submitted to make the suite legal. Repeat offenders are given a fine and prosecuted in court. This strategy is effective at reducing the number of chronic offenders over time and will continue to be utilized.

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Should Council approve the recommendations in this report, then there will be an increased ability for Administration to turn its enforcement focus on safety code violations. For the most serious safety code violations, charges and court appearances will be part of the enforcement strategy.

Notice of Motion 2014-27

As part of Notice of Motion NM2014-27, which was referred to the Working Group, Administration was directed to respond to the following issues relating to secondary suites:

- a) Parking issues;
- b) Suites on narrow lots including in semi-detached dwellings;
- c) Suite size considerations;
- d) Overshadowing and overlooking for garden/laneway suites;
- e) Landlord responsibility (including possible business licence); and
- f) Other considerations.

All of these items are being dealt with separately or are coming forward to Council at a later date with the exception of suites in semi-detached dwellings which Administration recommends further investigation. An update on each of these issues is outlined in Attachment 2.

Stakeholder Engagement, Research and Communication

The results of research conducted in 2012 and 2013 as part of the suite safety pilot show that the public's understanding of what is considered a safe suite is very low. This is demonstrated by the findings that safety issues were prevalent in the majority of the suites in the pilot. The highest risk deficiencies commonly found were:

- No interconnected smoke alarms or non-operable smoke alarms; and
- Non-compliant bedroom windows (not large enough, unable to open, and in some cases, no bedroom windows to provide an escape route during an emergency).

Additional information obtained as part of that research and engagement concluded that the list of disincentives to comply with safety requirements included:

- The cost to construct, renovate or upgrade to meet safety requirements - This is being mitigated by allowing older suites to comply with the requirements of the Alberta Fire Code as opposed to the Alberta Building Code
- The perception of a lengthy and complex Development Permit approval process - The recommendations of this report would direct Administration to temporarily exempt permitted use suites from the need to obtain a Development Permit
- The cost of permits and approvals, particularly land use re-designation - Council waived the fees for land use re-designation and Development Permits as of January 1, 2014
- Increased income taxes, if rental income is reported to the Government of Canada - The City of Calgary will reach out to the Government to see if there is any possibility of a federal tax incentive;
- Perceived increased property taxes - Because properties are assessed at fair market value, it is unclear how properties with a suite differ from properties with a basement development. With a greater number of legalized suites there would be a greater data set to analyze.

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The recommendations in this report would round out a City wide strategy that addresses three of the five concerns noted from previous research. Further city wide engagement would become an integral part of a communication plan and implementation system should Council approve the recommendations contained in this report.

Strategic Alignment

This process supports Council's Fiscal Plan for Calgary to address the safety of tenants residing in suites within the context of two of its key pillars:

- Ensuring every Calgarian lives in a safe community and has the opportunity to succeed;
- Investing in great communities and a vibrant urban fabric.

MDP policies support the retention of the housing stock in Developed Areas and moderate intensification that respects the scale and character of existing development. Supporting secondary suites within the existing building envelope does promote the retention of the housing stock.

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."

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 provision of a broader range of housing affordable to all income levels."

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f. Create affordable housing by encouraging:

- iv. “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.”

Social, Environmental, Economic (External)

Social

Secondary and backyard suites are one of many housing choices that can accommodate a wide range of households (i.e. ages, income, family size and lifestyles). Expanding the opportunities through policy and rules in the low density residential districts could provide sensitive intensification and more housing options to help address the lack of affordable housing currently available in the city.

Environmental

Policy and rules on secondary and backyard suites provides opportunities to use existing community infrastructure and to meet the varied needs of households.

Economic

Secondary Suites provide an investment opportunity for home owners and investors to assist in revitalizing and reinvigorating older neighbourhoods. The creation of new or the upgrading of existing secondary suites can enable the primary home owners to generate additional legitimate income towards their mortgage that is recognized by lending institutions. It may enable prospective home purchasers to buy a home, when their incomes would have otherwise limited them to renting.

Financial Capacity

Current and Future Operating Budget:

Because the fee for a secondary suite Development Permit was waived, there is no cost to exempting suites from the need for a Development Permit. This will allow for efficiencies to be gained during the approval process. Permits could be processed and released the same day they are submitted and require much less City resources than the current processes require.

Building Permits are still required for all secondary suite applications with the fees set at approximate cost recovery levels for permit review and inspections.

The safe suite sticker and education campaign will require dedicated staff to ensure its success. Administration believes the timing for this proposed campaign is ideal given the current economic climate where workloads can be adjusted based on incoming applications and inspection volumes. All efforts will be made to operate within existing financial capacity.

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Costs associated with a registry are undetermined at this time, however there is no indication that the cost of setting up and administering a registry cannot be accommodated within existing financial and staff resources. As part of initiating this program, the analysis of a fee structure to offset costs will be investigated. If a fee is required, a bylaw amendment will be brought to Council for consideration.

Current and Future Capital Budget:

No impacts

Risk Assessment

The proliferation of illegal secondary suites has inadvertently created a safety issue for both the occupants of secondary suites and of the primary dwelling. Without clear policy direction on where suites should be located, The City must take action to address a key safety issue for the public.

REASON(S) FOR RECOMMENDATION(S):

Research and findings from the 2012 - 2013 suite safety pilot identified significant disincentives to existing secondary suite owners seeking compliance with required bylaws and regulations and highlighted opportunities to address these issues. The recommendations in this report continue to remove real and perceived barriers that impede homeowners from legalizing their suite.

ATTACHMENT(S)

1. Proposed Suite Safety Campaign
2. Administrations Response to Notice of Motion NM2014-27