
City of Kelowna

MEMORANDUM

DATE: March 20, 2007
FILE: 0550-01
TO: City Manager
FROM: Community Planning Manager
SUBJECT: Secondary Suites in Existing Buildings
REPORT PREPARED BY: Theresa Eichler

RECOMMENDATION:

THAT Council authorize staff to proceed with a text amendment to add a secondary suite in an existing building as a permitted use as follows:

1. Add new definition for a secondary suite in an existing building.
2. These suites **would only be allowed within existing buildings with building permits issued before July 20, 1993.**
3. A building permit is necessary in order for the suite to be recognized as legal;
4. Requirements for off-street parking must be met;
5. All existing or new toilet fixtures must meet low flow design standards or be replaced with fixtures meeting these standards;
6. The suite in existing building use would be added as a permitted secondary use in the following zones:

A1 – Agriculture 1

RR1 – Rural Residential 1
RR2 – Rural Residential 2
RR3 – Rural Residential 3
RU1 – Large Lot Housing
RU2 – Medium Lot Housing
RU3 – Small Lot Housing

AND THAT Council refer DCC charges for secondary suites in new subdivisions to the review of DCCs based on dwelling size to be conducted by the Finance Department.

REPORT:

The Task Force recommendation for secondary suites was as follows:

THAT Council authorize the preparation of text amendments to the zoning by-law to allow secondary suites, where they are not currently permitted, through a rezoning process that eliminates the need for a formal public hearing, subject to meeting all the following requirements:

- 1.1. Suites should be no larger than 90 square meters in area.
- 1.2. In developed areas (where a house and/or garage exist), suites would only be allowed **within existing buildings,**



- 1.3. *Bylaw officers will continue to enforce illegal suite regulations upon complaint of neighbours.*
- 1.4. *Suites must meet building code requirements.*
- 1.5. *Adequate water and sewer capacity must be available.*
- 1.6. *Each suite would require its own off street parking.*

AND THAT Council authorize the preparation of a procedure manual for rezoning without public hearing for suite in a house, where an applicant has received the written consent of the abutting property owners.

Rationale:

The rationale for the above recommendation was based on the community input on secondary suites, not only during the Task Force consultation process, but also based on feedback received by the City over several years. The primary source of concern over the last 8 years or so has been associated with "carriage home" style secondary suites.

Background:

Kelowna has permitted secondary suites in accessory buildings in its two dwelling-type zoning (now the RU6 zone) for many years. Regulations for secondary suites have continued to be reviewed and changed. In 1998, "s" re-zonings were introduced as a way to allow properties not currently zoned RU6 to apply for zoning that would allow only the addition of a secondary suite. The process was less costly and shorter, enabled by not referring "s" applications to the APC.

Secondary suites in accessory buildings continued to be allowed, but following consultation with the development sector, the maximum height was increased, primarily to allow for detached suites to be constructed above a garage. These buildings have become highly visible, and although they may meet the size limitations and other requirements of the zoning by-law, they differ from other suites in several ways, not the least of which is that they do change the character of the neighbourhood, as follows:

- Less open space
- Reduced privacy;
- Sunlight and view inhibitors.

They also have different servicing requirements from a secondary suite in a primary dwelling. Separate water and sewer connections are required, for example. While being an effective way of infilling older neighbourhoods, carriage home suites serve a different role than conventional suites within a main building or in a one-storey situation. With the success, in terms of the number of new carriage home suites that have been built, there is no need to introduce regulations to further encourage these types of suites.

The issues regarding carriage home suites were the reasons why the Task Force proposed that new suites be permitted *within existing buildings*, so that the neighbourhood would not be visibly affected by the addition of these types of suites. The Task Force, however, chose to retain a rezoning process for these types of suites for properties that are not already zoned RU6, or have an "s" zone.

Planning and CDRE staff strongly support increased provisions to allow secondary suites as an affordable housing option. The positive arguments for suites are many:

- The most practical way of increasing the supply of legal rental housing in terms of the timeframe of adding or legalizing suites.
- Legal suites within existing buildings minimize the effect on the neighbourhood;
- Overall, household sizes have decreased, meaning existing neighbourhoods are not making effective use of infrastructure designed for higher household occupancy. Suites

- can return the population of the neighbourhood to the levels they were designed to service;
- Suites can increase the safety of a neighbourhood by ensuring that more people are watching over the neighbourhood and individual properties while occupants of other dwellings are absent.
 - Suites are an ideal form of housing for households in specific circumstances including:
 - Seniors and residents with disabilities can live in one of the dwellings, either the suite or the main home, and receive support from the other household sufficient to allow them to live with relative independence;
 - Provides a housing choice for younger households who are in the process of establishing themselves;
 - Provide access to private open (outdoor) space for households, which is particularly good for children, compared to apartment buildings;
 - Ideal for family circumstances, such as parents or younger adults who wish to share costs and assist each other without living in the same dwelling.
 - The mortgage helper role of a secondary suite can facilitate home ownership.
 - If inadequate means are available to allow suites legally, they will be created illegally and a proportion of the illegal suites will consist of unsafe and/or unhealthy housing, which is unacceptable.

If Council is supportive of creating more rental housing opportunities and affordable housing choices, opportunities for legal secondary suites should be increased. Legal suites are less likely to create neighbourhood concern, and are a good source of appropriate rental housing. Over the decades that the City has been dealing with secondary suites, the other main source of public feedback has been complaints about illegal suites. With the acute shortage of rental housing, the City is put in a difficult position if it is faced with shutting down an illegal suite. More opportunity for legal suites and to legalize existing ones is needed.

There is evidence to indicate that with or without the City's approval secondary suites will continue to be created and rented, based on the level of demand and need in the community. This is consistent for most cities (see appendix attached to this report for research).

Enforcement:

A comprehensive enforcement program for secondary suites is not being recommended at this time. Staff introduced such a process previously and this was approved by a past Council, then rescinded a year or so later. The pressing priority is seen as encouraging an increase in the supply of legal rental housing, not pursuing illegal suites. To systematically pursue illegal suites may threaten an important source of housing. Also, staff would not recommend legalizing suites that cannot be confirmed to meet the Building Code, which is relaxed for suites in principal dwellings.

The new provisions, if they are enacted, would be publicized and people would be encouraged to come forward with existing suites or convert existing building space for a suite. The proposed text amendment would also benefit those who have an illegal suite, particularly when a complaint is pursued by the City, by providing an additional option to legalize the suite without the need to rezone the property.

Servicing:

Concerns have been expressed by staff, through the former Affordable and Special Needs Housing Task Force process and by members of the Social Planning and Housing Committee, that opening up the regulations to allow more suites would result in higher dwelling counts and greater servicing demands than were planned for in newer development. If no re-zoning is required in new development situations, then there is inadequate opportunity to address potential servicing issues. One way of addressing this concern is to consider allowing suites in existing

buildings that were built prior to a certain date, thereby not providing this opportunity in new development situations. The latter can still proceed to apply for "s" or RU6 zoning as part of the overall development process, thereby allowing for proper consideration of servicing needs. Wastewater management staff has advised that on July 20, 1993, Council approved new water flow design standards for dwellings, based on water saving appliances being installed in new homes. This has resulted in situations where an older home with a 2-person occupancy might consume more water than a newer home with 4 people living in it. The main difference is the older toilets¹.

An idea is now proposed that suites in existing buildings might only be allowed without rezoning in buildings that were built prior to the new water flow design standards (prior to July 20, 1993). In addition, a reasonable requirement at building permit stage for such a suite might be to require replacement of existing toilet fixtures that do not meet these standards, thereby potentially reducing, or at least not increasing water usage, even when a suite is added. This seems to be a very sustainable approach, will save the landowner on water bills, and has a relatively low cost. An estimated \$200 for each new toilet fixture is still less than a rezoning application fee.

Electrical service implications of secondary suites are primarily generated when the suite is in a separate building from the main dwelling. A home requires a 200 amp service in order to allow for upgrades to add a secondary suite. In existing single detached dwellings, this level of service may already exist. Where electrical upgrades are needed, a charge will be applied, based on fair cost recovery for the utility company (and/or the City). A review is currently underway regarding \$500,000 worth of upgrades in older parts of the city, which result primarily from the infill activity of adding carriage homes in the form of secondary suites or second houses on existing lots. Any electrical upgrades needed for a secondary suite within a main dwelling structure will be subsidized as much as possible. All electricity billing is paid based on the level of use.

Impact:

Broadening the zoning provisions to allow the creation of suites within existing buildings on properties with single detached homes will have little or no negative impact on neighbourhoods. CMHC research demonstrates that typically 10 to 20 percent of all single detached dwellings will have secondary suites, regardless of zoning, in most regions of the country. This specific change would be very unlikely to shift these percentages upward significantly. Any impact is largely there already and, should, in fact, be lessened, once the City can assure that properties that are obtaining a building permit to recognize a legal suite would have adequate parking and meet the City's requirements. Design criteria should be minimal as no external alterations would be made, with the exception of possible new doors or windows. The priority is to take positive action to increase the supply of legal rental dwellings. A procedures manual and input from neighbours is not seen as necessary for proceeding with this change.

Development Cost Charges:

Under the Local Government Act, Sections 933(1) a municipality can impose development cost charges (DCCs) against new development in a plan of subdivision or in the construction of alteration or addition to a building or structure. Section 933(4) provides an exemption to the DCCs for new buildings or additions and alterations to such buildings if they are on existing lots and contain less than 4 dwellings units. This creates an inequity for secondary suites in older neighbourhoods versus suites in new subdivisions. However, staff has confirmed that there are servicing issues in new areas where sewer and water services must be extended, as suites in the majority of homes would alter servicing forecasted needs. It has already been determined that rezonings for suites in such areas should be required in order to evaluate servicing requirements.

¹ See this CMHC publication for more information: http://www.cmhc-schl.gc.ca/en/inpr/bude/himu/waensati/waensati_002.cfm

Prior to the existing DCC By-law, DCCs for suites in new subdivisions were charged an apartment rate, which was less than that of single detached dwellings. However, since the density gradient approach has been in place, DCCs for houses and suites are the same. Finance staff has advised that suites in new subdivisions would be included in the commitment that has already been made to Council to investigate DCC rate changes to reflect dwelling size. The best option for new subdivision with secondary suites would be to introduce a lower charge based on the smaller size of a suite (90 m² is the maximum size under the Building Code for a suite in a house).

Summary and Recommendation:

The staff recommendation for Council is that secondary suites *within existing buildings* be added as a permitted use to the following zones (the same zones that now provide for "s" rezonings):

- A1 – Agriculture 1
- RR1 – Rural Residential 1
- RR2 – Rural Residential 2
- RR3 – Rural Residential 3
- RU1 – Large Lot Housing
- RU2 – Medium Lot Housing
- RU3 – Small Lot Housing

In order to be confirmed as legal, suites would need a building permit from the City.

It is important to note that the Building Code already contains relaxed requirements for secondary suites in existing buildings (S. 9.36.1.2) in order to facilitate this kind of accommodation. For example;

- Ceiling height of 2 m. (6 ft.7 in.) instead of 2.1 m (6 ft. 11 in.)
- Lesser sound controls between the units
- Lesser fire separation requirements for the walls between the dwellings.

The Inspection Services Manager has confirmed that a building permit is required in every situation to confirm that a secondary suite is legal. There may be conceivable situations where an illegal suite actually meets Building Code requirements and no additional work is required. In such cases, a minimum building permit fee of \$40 would be applicable. Simply by reporting building permits issued, the City would be able to monitor the number of suites that are recognized under the new provisions. Applicants would be served on a first-come, first serve basis and building staff would monitor the activity. Need for additional resources could be determined over time.

The Agricultural Land Commission is reviewing the issue of second residences for farm help on agricultural land. However, planning staff has advised that suites in existing buildings are not an issue with the Commission where zoning allows it.

Section 8.3 of the OCP provides development permit guidelines for secondary suite and two dwelling housing development. The purpose of the guidelines refer to situations where buildings are being added onto or new buildings are being built on a property. A specific clause identifying properties qualifying for a waiver reads as follows:

- *The addition of a second dwelling within a building, provided construction of the new dwelling does not require a physical addition to the building and provide that the building was approved for construction before June 1, 2004*

The OCP therefore already provides the opportunity for suites in existing buildings to be able to proceed without the need for a development permit.

Standard requirements for new suites in existing buildings would be:

- *Suites should be no larger than 90 square meters in area.*

- o Suites would only be allowed **within existing buildings, built before July 20, 1993;**
- o Suites require a building permit in order to be recognized as legal;
- o Existing toilet fixtures must be replaced;
- o Each suite would require its own off street parking.

A lower DCC for suites in new subdivisions, based on application of a charge that relates to dwelling size, is to be referred to work that Finance has already committed to conduct.



Theresa Eichler
Community Planning Manager

Approved for Inclusion



David L. Shipclark
Director of Corporate Services

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Appendix: Research on Illegal Suites:

Research conducted by CDRE staff during the work of the Task Force revealed that MLS listings for Kelowna over a three year timeframe showed that 77% of all MLS listings for homes with secondary suites were for illegal suite situations. Also 6.7% of all listings were for homes with suites. See the table below for the details. CMHC research on secondary suites offers the following information:

- In Toronto and in the province of BC, secondary suites make up about one fifth of the rental housing stock.
- Surveys in the Toronto and Vancouver regions indicate that 10 to 20 per cent of single detached dwellings contain accessory apartments². The proportion is higher in the centres of cities and in older districts.
- Nationally, it appears that anywhere from 10 to 20 per cent of a region's detached housing stock, and anywhere from five to ten per cent of its total housing stock, contains accessory apartments.

The research conducted by CMHC, combined with MLS information, showed that secondary suites will be provided illegally if not allowed by local by-laws.

Total # of Homes with Suites Listed for Kelowna on MLS 2003 to June 2006				
AREA	Total	Listed with Suite	Legal	Not Legal
Black Mountain	969	79	4	69
Dilworth Mountain	995	46	0	45
Glenmore	3040	167	23	138
Kelowna North	1548	95	54	34
Kelowna South	2566	245	98	137
Lower Mission	2499	91	9	75
North Glenmore	2222	142	14	124
Rutland North	2726	255	42	209
Rutland South	2082	233	16	215
South East Kelowna	1283	67	4	47
Springfield/Spall	592	34	10	24
Upper Mission	2236	71	4	59
Total	22758	1525 (6.7% of all listings)	278 (18.2 % of all suites)	1176 (77.1 % of all suites)

Another characteristic of suites, based on the above table of MLS listings and on the vast array of research that has been done on this topic, is that they exist in every neighbourhood rather than only occurring in central areas versus suburban areas, for example.

² Secondary suites are referred to by over 24 different names in both English and French across Canada. e.g. accessory apartments, in-law suites, granny flats, etc..