



Advisory

July 11, 2018

Subject:

Secondary Suites Questions & Answers - July 11, 2018

Background:

The provincial minimum construction requirements for secondary suites came into force on September 2, 2007 under the Alberta Building Code (ABC) 2006 and Alberta Fire Code (AFC) 2006. The 2014 edition of the AFC remains mostly the same with only minor revision. The 2014 ABC has reworked the secondary suite requirements to be contained throughout the body of the code to model after the National Building Code rather than being in a stand-alone section as it was in the 2006 edition. In accordance with the AFC 2014 a secondary suite constructed on or before December 31, 2006 shall conform to the requirements of the AFC. Any other secondary suites are to comply with the ABC, however in determining the application of the AFC and the ABC to secondary suites in The City of Calgary the following points are considered:

1. The original intent of the AFC requirements and the date of consideration of existing secondary suite being December 31, 2006 was to give owners of existing secondary suites roughly 2 years to bring their suites in compliance with the minimum requirements of the AFC rather than the full requirements of the ABC. This was difficult in The City due to the Land Use Bylaw. That original intent is mirrored in the interpretation below.
2. The 2014 ABC Division A, Clause 1.1.1.2.:
 - a. contains provisions for application of the ABC to buildings and construction that existed prior to May 1, 2015 which is the date of enactment of the 2014 ABC,
 - b. enables municipalities to accept some existing construction it deems safe while applying conditions to other existing construction
3. Alberta Municipal Affairs have indicated that the 2014 AFC provisions for secondary suites will not be contained in the next edition of the AFC anticipated to be adopted later in 2018. This means that during the secondary suite development permit amnesty period in The City's Land Use Bylaw, the AFC requirements will no longer be in effect.
4. The 2014 ABC indicates in the appendix for the definition of secondary suite that a secondary suite may only exist where a municipal Land Use Bylaw permits it. Because The City's Land Use Bylaw did not permit secondary suites in many areas of the city prior to March 12, 2018 the ABC and AFC requirements were not readily applied.

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5. Revisions to the Land Use Bylaw regarding secondary suites came into effect March 12, 2018 and the waiving of development permit fees will expire on June 1, 2020 effectively providing an amnesty period for existing secondary suites not conforming to the Land Use Bylaw to comply with the Land Use Bylaw.

Therefore the interpretation of The City is that:

1. For secondary suites that are new construction after March 12, 2018, either in a new home or a renovation in an existing home where there was not previously a secondary suite, the requirements of the ABC 2014 (or code in force at the time of permit application) are applicable
2. For secondary suites existing prior to the adoption of the secondary suite requirements into the Land Use Bylaw on March 12, 2018:
 - a. The ABC will be enforced only for what is changing and/or what change(s) are required for minimum safety
 - b. Calgary Building Services will accept reference to the 2014 AFC requirements by an owner as a guideline to determine what is required for minimum safety
3. This interpretation will apply until the end of the development permit fee amnesty period on June 1, 2020. After that time all secondary suites will be required to be constructed to the edition of the ABC in force at the time of building permit application.

Advisory:

1. Does replacing a window in a secondary suite constitute “structural alterations” to non-conforming buildings under the Municipal Government Act and the Land Use Bylaw?

A general guideline for any type of construction to a legal non-conforming property is that the modification should not 1) increase the building’s non-conformity with the land-use bylaw, 2) intensify the non-conforming use of the property, or 3) result in a change of use of the property.

With those points in mind, if the intent is for the secondary suite to remain:

- Replacing or increasing the size of an existing window in an existing basement would not constitute structural alternation under the Land Use Bylaw and therefore not cause loss of its status of legal non-conforming. There will however be structural concerns under the ABC if the window is made wider that will need to be addressed and a building permit may be needed
- Making a new window qualifies as structural renovation and would cause loss of legal non-conforming status under the Land Use Bylaw and will require a development permit for the secondary suite. It will also be required to comply with the ABC including applying for a building permit
- Creating a new primary exit door and/or stairs would cause a loss of legal non-conforming status as the use could be intensified (new window = additional bedroom). There will also be ABC or AFC implications as well and is work for which a building permit is required.

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An owner may:

- perform routine maintenance;
- perform renovations on a non-compliant structure; provided that as a result of the renovations, the building's non-compliance with the land-use bylaw is not increased or the character/nature of the use is not substantially changed;
- upgrade a suite to bring it into compliance with the ABC and AFC; provided that as a result of the upgrades, the building's non-compliance with the land-use bylaw is not increased or the character/nature of the use is not substantially changed;
- not add an addition that increases the building's non-compliance with the land-use bylaw or permits the nature of the use to change such that it is no longer a continuation of the previous lawful non-conforming use.

2. Is a backyard suite a secondary suite?

A backyard suite is NOT considered a secondary suite based on the definition of a secondary suite under the ABC and AFC. It is also not considered a secondary suite under the Land Use Bylaw. For further information on ABC compliance there is an Advisory Bulletin for the subject of Backyard Suites.

3. What are the most important minimum safety requirements that an owner should be looking for in an existing secondary suite?

- a. Bedroom window egress – have an openable window that provides an unobstructed opening of not less than 0.35 sq.m. area with no dimension less than 380mm
- b. Smoke and CO alarms – hardwired devices installed in each unit and in common areas and are to be interconnected so if one device sounds in a unit it will sound in both units
- c. Gypsum barrier between suites, including the furnace room – provide a minimum of ½ in. gypsum board on all walls and ceilings between the primary dwelling and secondary suite and common areas
- d. Protected egress route (stair) from the basement to exterior:
 - i. where an exterior egress stair from the secondary suite leads by a door or window of the primary dwelling, that door or window must have wired glass or glass block or some other protection for the occupants of the secondary suite to have safe egress away from the building.
 - ii. A shared exit consisting of an interior stair is to be separated from both the primary and secondary dwelling unit.

(Refer to the 2014 AFC requirements for the full requirement)

4. How are exterior exits serving a secondary suite required to be protected from fire?

The requirements for protection of openings near unenclosed exterior exit stairs and ramps has changed from the 2006 ABC to the 2014 ABC (see Article 9.9.4.4.). The result is that when an exterior exit stair is provided for the secondary suite, much of the elevation which the stair is located on will require protected openings which are generally non-openable windows. These types of openings cannot then be bedroom windows since bedroom windows must be openable for emergency egress when required.

The timing of the construction of the secondary suite will dictate the application of this requirement as follows:

- Suites existing prior to March 12, 2018 will be looked at under the existing building provision of the ABC and use the 2014 AFC requirements as a guide in application of the protection requirements.
- New builds (permit applied for after March 12, 2018) would need to provide the protection to the 2014 ABC or the subsequent code in effect at the time of permit application.

5. Can the owner of a home with a secondary suite apply for a homeowner electrical or plumbing permit for work in the secondary suite?

The owner of a home with a Secondary Suite may apply for a homeowner electrical or plumbing permit for work in the primary home or secondary suite. The homeowner must reside in the residence (i.e. not revenue property) as indicated in the Permit Regulation. Attached to this Advisory is a document to assist homeowners in electrical requirements; *Master-Secondary Suite Load Calculation 2016* and *Site Service Conditions for One and Two Family Residential Secondary Suites and Laneway House Projects*.

6. Is more than one electrical panel required in a house with a secondary suite?

The Canadian Electrical Code interpretation of one panel for the primary and secondary suite together is permitted. If there are separate meters for the primary and secondary dwelling unit then trade permits are required for work done. Where the single-family dwelling containing a secondary suite is having a new electrical meter, service mast, utility connection and electrical panel installed to serve the secondary suite only, this new service and associated equipment shall be installed only by a qualified electrical contractor registered with The City.

7. When can a secondary suite be in the basement of a townhouse, row house or similar type of building?

The locations of secondary suites are set out in the Land Use Bylaw. In locations where they are allowed to be built, the AFC and ABC govern the construction. A secondary suite is a defined term in the ABC and AFC.

Secondary suite means a second self-contained *dwelling unit* that is located within a primary *dwelling unit*, where both *dwelling units* are registered under the same land title. (See Appendix A.) Examples of buildings where secondary suites are permitted include individual detached houses, or where the secondary suite is located in a portion of a building, semi-detached houses (half of a double) and freehold row houses. (See Appendix Note A-9.10.15.1.(1) of Division B.)

The definition therefore shows that there can be secondary suites in the basement of a townhouse, row house or similar type of residential occupancy. The construction of separations between primary dwellings with secondary suites is governed under Article 9.10.11.2. and is now more restrictive than in the 2006 ABC.

9.10.11.2. Firewalls Not Required

- 1) Except as stated in Sentence (2), a *party wall* on a property line of a *building of residential occupancy* need not be constructed as a *firewall*, provided it is constructed as a *fire separation* having not less than a 1 h *fire-resistance rating*, where the *party wall* separates
- a) two *dwelling units* where there is no *dwelling unit* above another *dwelling unit*,
 - b) a *dwelling unit* and a house with a *secondary suite* including their common spaces, or
 - c) two houses with a *secondary suite* including their common spaces.

- 2) Where a *building of residential occupancy* contains more than 2 houses, a *party wall* that separates any 2 adjacent houses with a *secondary suite* from the rest of the *building* shall be

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constructed as a *firewall* to create separate *buildings* each containing no more than 2 adjacent houses with a *secondary suite*.

Therefore under the 2014 ABC there must be a proper firewall constructed between every two townhouse or row house type units that have a secondary suite in them.

Note:

This interpretation is made by the Codes and Standards Technical Interpretation Committee (CSTIC), July 11, 2018

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Planning & Development