



THE MUNICIPALITY OF THE VILLAGE OF LIONS BAY

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Village of Lions Bay Policy on Administration / Enforcement of Zoning Bylaw Regulations in Regard to Secondary Suites

1. Purpose

The Village of Lions Bay has given third reading to Zoning Bylaw Amendment Bylaw #423 to legalize the construction of new Secondary Suites in Lions Bay, as called for in Section 4.3.a of the Village of Lions Bay Official Community Plan, adopted on April 6, 2010. All of the bylaw amendment clauses and requirements will apply to the construction of any new Secondary Suites in Lions Bay after Sept. 7, 2010, whether they are being built in new or existing homes. Some of the new bylaw clauses and requirements will also apply to existing suites which were built before Sept 7, 2010.

This Policy establishes which among the new bylaw clauses and requirements will apply to Secondary Suites built before Sept 7, 2010, and which will not. It also provides some basic guidance on how the bylaw clauses are to be interpreted for purposes of administration and enforcement.

2. Background

Most Lions Bay residences are in areas zoned for Single Family Residences. Until Zoning Bylaw Amendment Bylaw #423 comes into effect on Sept. 7, 2010, Lions Bay's Zoning bylaw neither defines what a Secondary Suite is, nor says that to have a Secondary Suite is a legal "use" of a single family residence. It also says that any "use" not specifically allowed in the bylaw is not a legal use. Thus, any Secondary Suite built before Sept 7, 2010 in Lions Bay will have been built in contravention of the Zoning bylaw. An occupied suite is in contravention of the Zoning bylaw as it stands, until Sept 7, 2010.

The passage of the Zoning bylaw amendment now raises the question of whether the new clauses and requirements should be enforced in relation to Secondary Suites built before Sept 7, 2010. In making decisions around enforcing bylaws in general, Councils and municipalities commonly choose to consider their local resources and the priorities for the municipality.

3. Lions Bay Priorities and Resources

The Village of Lions Bay priorities and resource challenges in regard to Secondary Suites can be described as follows:

- a) **Bring Secondary Suites built after Sept 7, 2010 under the building permit process.** A priority for the Village of Lions Bay with regard to Secondary Suites is to bring the construction of new Secondary Suites under the building permit process, and to have them comply with the BC Building Code. This ensures that key systems such as electrical and plumbing systems will meet minimum standards, contributing to the health and safety of tenants as well as the Village as a whole. For home-owners installing a Secondary Suite, the cost of making sure that this is done right during construction is much less than the cost of going back and doing upgrades. The Village of Lions Bay will therefore place a high priority on getting Secondary Suites built after Sept 7, 2010 to meet the BC Building Code standards.
- b) **Retain affordable housing by “grandfathering” existing Secondary Suites.** “Grandfathering” has the following general meaning. A Secondary Suite built before Sept 7, 2010 in contravention of the Zoning bylaw, as it then stood, may continue in operation without being upgraded to meet the standards laid out under the BC Building Code as required in Zoning Amendment Bylaw #423. However, if the Secondary Suite were renovated, it would need to meet the BC Building Code requirements. As explanation, a priority for the Village of Lions Bay is to maintain its population, which has dwindled during recent times, as children have grown up and moved out of family homes. To keep up the population requires retaining the existing supply of affordable housing in the Village of Lions Bay – this is a real challenge, since residences in the Village of Lions Bay are almost all single family homes, which have become more expensive over time, in common with homes all over the Lower Mainland.

Secondary Suites are an affordable housing choice for residents, and one that can assist seniors, single people and young couples in finding accommodation in the Village of Lions Bay. Secondary Suites also help keep up the Village of Lions Bay volunteer base, by bringing new, younger people into the Village of Lions Bay (such as volunteer firefighters). For this reason, the Village of Lions Bay would not wish to take action that would significantly disturb the economics of providing existing rental accommodation, and thus result in the loss of affordable housing in the Village of Lions Bay. Forcing full compliance with clauses in the Zoning bylaw amendment that relate to the BC Building Code, to parking spaces, or similar requirements – which would require expensive upgrades - might result in loss of rental accommodation. The Village of Lions Bay policy will be, over time, to educate owners of Secondary Suites built before Sept 7, 2010 to the benefits of BC Building Code compliance, encouraging them to upgrade their Secondary Suites by applying for a building permit and fully bringing their Secondary Suites into compliance with the BC Building Code.

- c) **Fair contribution to the cost of Village of Lions Bay services.** A priority for the Village of Lions Bay with regard to Secondary Suites is to ensure that the owners of Secondary Suites do make a fair contribution to the cost of providing Village of Lions Bay services, since this has been called for in two Official Community Plans. Secondary Suites result in the creation of two dwellings inside one principal residence, increasing the number of adult residents in the Village of Lions Bay. This results in additional demands for the full range of Village of Lions Bay services. Municipalities all around Lions Bay have recognized this and commonly “proxy” the cost impact by applying a surcharge to

the cost of utilities charged to the residence. This is a practical approach that avoids creating any new billing infrastructure. The Village of Lions Bay will therefore do the same.

- d) **Keep administration costs down.** A priority for the Village of Lions Bay with regard to Secondary Suites is to keep its administration, inspection and enforcement costs to the minimum. The Village of Lions Bay has only 520 homes and 1,200 residents, and a very modest annual budget. The Building Inspector works one day every two weeks, and the Village of Lions Bay can devote only limited hours to bylaw enforcement. Residents do not want to see taxes rise. There are two implications. First, it would be unrealistic for the Village of Lions Bay either to attempt to inspect Secondary Suites built before Sept 7, 2010, or to engage in the type of follow-through needed to bring all these Secondary Suites into full compliance with the BC Building Code. Second, in enforcing the clauses of the Zoning bylaw amendment, the Village needs to adopt approaches which keep enforcement and investigation to the absolute minimum. For these reasons, the Village of Lions Bay will not institute a program of inspecting all Secondary Suites built before Sept 7, 2010. If life safety hazards in Secondary Suites built before Sept 7, 2010 were observed or brought to the Village's attention, however, Village of Lions Bay staff would follow up to seek reasonable compliance with life safety requirements of the BC Building Code, subject to cost and considerations of other priorities.
- e) **Minimize neighborhood nuisance.** A priority for the Village of Lions Bay with regard to Secondary Suites is to keep down the "neighborhood nuisance" factor. Resident complaints can occur over rentals. The OCP states that "A Secondary Suite should only be allowed if the owner resides on the property." Residents do not want their neighborhoods to contain "hotels", with more than one Secondary Suite in a house. Against this desire must be weighed priority 3-b, to maintain the supply of affordable housing. For this reason, the Village of Lions Bay will enforce certain clauses only after progressive enforcement by the Village has failed to resolve repeated complaints of a neighborhood nuisance, such as that created by parking or noise.

4. Definitions in Zoning Bylaw Amendment

The main Zoning bylaw (in place since 2004) right now defines a dwelling as "a self-contained set of habitable rooms containing not more than one set of cooking facilities and located in a building." The proposed bylaw amendment defines a Secondary Suite as a "dwelling", too. The Zoning amendment also defines what "cooking facilities" are, because the main bylaw never did. Residents may misunderstand what this implies, and therefore some comment on this is needed.

If there are two or more sets of self-contained, habitable rooms in a residence, each with its own cooking facilities, it is probably reasonable to say that there are two dwellings present - a main dwelling unit and a Secondary Suite. However, common sense will be applied, before making such an interpretation. The mere presence of an extra set of cooking facilities in a dwelling may not necessarily indicate there is a Secondary Suite, and there is nothing in the legislation to say that it does. The extra cooking facilities could be for the use by the family in the main dwelling unit – a downstairs barbecue area, for example. Or they could be for another purpose such as a day care.

5. Policies Regarding Enforcement of Requirements in the Zoning Bylaw Amendment

A summary of how policies will apply appears in Appendix 1. A detailed explanation appears below, together with a link back to the priorities and resources of the Village of Lions Bay as outlined in Section 3 above.

Note that the policies below do not have the intent of negating any previous orders made, or agreements reached, with the Village of Lions Bay.

- a) *Extra parking space.* Only homeowners constructing Secondary Suites after Sept 7, 2010 will be required to install an extra parking space on the property, for their tenants. Owners of Secondary Suites built before Sept 7, 2010 will not be required to do this; this relates back to Priority 3-b.
- b) *Maximum of one Secondary Suite per parcel.* This requirement applies to all Secondary Suites, including Secondary Suites built before Sept 7, 2010. If more than one Secondary Suite is being occupied in a house, the homeowner will be required to close down all but one Secondary Suite, with one year's notice. This is in accordance with Priority 3-e above. However, in accordance with Priority 3-b above, the closure requirement will only apply if progressive enforcement by the Village has failed to resolve repeated complaints of a neighborhood nuisance, such as that created by parking or noise.
- c) *New suites must be built only within the principal building (not detached from the principal building).* This requirement applies only to Secondary Suites built after Sept 7, 2010.
- d) *Maximum area 90 square meters or 40% of the total floor area of the building, excluding garage space, whichever is less.* This requirement will apply to Secondary Suites built after Sept 7, 2010 – it is actually specified in the BC Building Code. If a Secondary Suite larger than the maximum area has been being operated before Sept 7, 2010, as per Priority 3-b above, it may continue in operation. However, it may not be made any larger, in any renovation.
- e) *Registered owner(s) of the lot must occupy either the principal dwelling unit or the Secondary Suite.* This clause in the Zoning amendment bylaw is intended to maintain accountability by landlords for the rental accommodation and for tenants' behaviour. As per priority 3-e, it will be enforced in the following way.
 1. "Principal residence" in practice is the residence claimed for the BC Homeowner Grant or for which the owner(s) could legally make a claim for the Homeowner Grant. Actually receiving the Grant is not necessary. What the owner(s) must meet is the conditions that would allow them to legally sign the Grant application form.
 2. If the registered owner(s) of the lot is away from home, or is non-resident, there may not be two sets of tenants residing in the residence. Only the principal dwelling unit or the Secondary Suite may be rented out, but not both. Alternatively, the owner(s) may rent out the entire residence to only one set of tenants. A caretaker engaged to look after either

- dwelling will not be deemed a tenant. However, if paying rent, they will be deemed a tenant.
3. If no registered owner were resident in either the principal dwelling unit or the Secondary Suite, one year's notice from the Village will be issued to comply with the regulation.
 4. Members of an owner's immediate family aged 21 and over are presumed to be able to maintain accountability for the rental accommodation and for the tenants' behaviour. Thus for the purposes of this section of this policy, they are not deemed to be tenants, and their occupancy will be deemed the same as having the registered owner(s) in occupancy. These immediate family members include parents, brothers, sisters, children (including adopted children), father-in-law, mother-in-law, sister-in-law, and brother-in-law, and in addition, other relatives in the case that they are being supported financially by the homeowner.
- f) *Secondary Suite must fully comply with BC Building Code.* As per Priorities 3-b and 3-d, in order to maintain the supply of affordable housing and keep administrative costs down, this clause will apply only to Secondary Suites built after Sept 7, 2010. No program of inspection by the Village of Lions Bay will be carried out of Secondary Suites built before Sept 7, 2010. If life safety hazards in Secondary Suites built before Sept 7, 2010 were observed or brought to the Village's attention, however, the Village would follow up to seek reasonable compliance with life safety requirements of the BC Building Code, subject to cost and considerations of other priorities. The Village would also do this in the case where a building permit is being sought in order to renovate a Secondary Suite built before Sept 7, 2010. The Village of Lions Bay policy will be, over time, to educate owners of Secondary Suites built before Sept 7, 2010 to the benefits of BC Building Code compliance, encouraging them to upgrade their Secondary Suites by applying for a building permit and fully bringing their Secondary Suites into compliance with the BC Building Code.
- g) *Secondary Suite must be recorded in the Secondary Suites Registry.* As per Priority 3-C, this clause will apply to all Secondary Suites that are constructed or upgraded under the building permit process, so as to fully meet the BC Building Code requirements. Suites that were built before Sept 7, 2010 will not be recorded in the registry, except when they are upgraded under the building permit process, to fully comply with the BC Building Code requirements.
- h) *Septic outflow must not exceed capacity of septic system.* As per Priority 3-b, in order to maintain the supply of affordable housing, this clause will apply only to Secondary Suites built after Sept 7, 2010, whether in new buildings or existing buildings. The building permit process would ensure that septic capacity is adequate in these cases. For residences in which Secondary Suites were built before Sept 7, 2010, the Village of Lions Bay will not carry out any inspection of the capacity of septic systems. That said, all septic fields must meet certain health standards. In cases where complaints occur, or the Village of Lions Bay becomes aware of concerns about a septic system, it already refers the complaint to appropriate authorities, and will continue to do so.

- i) *Principal entrance to Secondary Suite must be separate from principal dwelling unit's entrance.* As per Priority 3-b, in order to maintain the supply of affordable housing, this clause will apply only to Secondary Suites built after Sept 7, 2010, whether in new buildings or existing buildings.
- j) *No subdivision of unit into e.g. strata, duplex.* This will apply to all Secondary Suites in the Village of Lions Bay.
- k) *Secondary Suite and the Principal Dwelling Unit must not be served by separate water service lines, or separate electrical meters.* As per Priority 3-b, in order to maintain the supply of affordable housing, this clause will apply only to Secondary Suites built after Sept 7, 2010 in new buildings or existing buildings. If Secondary Suites built before Sept 7, 2010 already have separate metering or water service lines, they may continue that way. However, they may not have separate metering or water service lines installed if they do not have such, presently.
- l) *Tenant parking space built so as not to require maneuvering vehicles while exiting.* As per Priority 3-b which relates to maintaining the supply of affordable housing, owners of Secondary Suites built before Sept 7, 2010 will not have to comply with this requirement.

6. Policy Regarding Secondary Suites Surcharge

The Secondary Suites surcharge is intended to cover, as per Priority 3-c, a fair contribution to the cost of Village of Lions Bay services. The surcharge will be added to the annual charges (before the prompt payment discount) for solid waste, recycling, yard waste and water user fees. These are set by bylaws establishing fees for each applicable service, usually passed in January of each year. The level of the surcharge will be 40% of the regular billing. At 2010 rates for these services, for example, a Secondary Suite owner would have paid \$332 for that year.

The owner of the suite will be required to pay the surcharge if the Secondary Suite is occupied. If the Secondary Suite is unoccupied, the owner may sign a statutory declaration to this effect which the Office will make available, in order to be exempted from the surcharge. Similarly, the owner may sign a statutory declaration to be exempted from the surcharge if the suite is accommodating the homeowner's immediate family, i.e. parents, brothers, sisters, children (including adopted children), father-in-law, mother-in-law, sister-in-law, and brother-in-law, and in addition, other relatives in the case that they are being supported financially by the homeowner. If a statutory declaration is discovered to be false, the Secondary Suites surcharge will be due immediately, and the owner may be fined.

Visitors may be accommodated in the Secondary Suite without the surcharge applying, however, if the visitors are paying rent, the Secondary Suites surcharge will apply.

A homeowner may also be exempted from the surcharge if the Secondary Suite is decommissioned. This means removing cooking facilities as defined in the Zoning bylaw amendment, including the arrangement of service lines which provide the energy source being used or intended to be used to service the appliances, and removing any internal doors and door frames that separate the Secondary

Suite from the rest of the house. The Secondary Suite may then be removed from the Secondary Suite registry if it was previously on the registry. (NB: A Secondary Suite will only be on this registry if it has been built or renovated after Sept 7, 2010, under the building permit process, and it complies with the BC Building Code – see Section 5 (g) of this policy.) However, if the Secondary Suite is ever re-installed as a Secondary Suite, it must be listed with the registry once again.

POLICY SUMMARY CHART

Requirements under Zoning Amendment Bylaw #423, Regarding Secondary Suites	Do Secondary Suites built before Sept 7, 2010 need to comply?	Do new Secondary Suites built after Sept 7, 2010 in <u>existing</u> residences need to comply?	Do new Secondary Suites built after Sept 7, 2010 in <u>new</u> residences need to comply?
Three parking spaces for a Single Family Dwelling with a Secondary Suite	No	Yes	Yes
A maximum of one Secondary Suite per parcel (lot)	See Section 5 (b) of this policy	Yes	Yes
Secondary Suite must be contained within (not detached from) the principal building on the parcel	No	Yes	Yes
Maximum area 90 square meters for a Secondary Suite	See Section 5 (d) of this policy	Yes	Yes
Owner must reside on premises	See Section 5 (e) of this policy	Yes	Yes
Secondary Suite must fully comply with BC Building Code	No, except if suite is being renovated. See Section 5 (f) of this policy	Yes- see note below this table	Yes
Secondary Suite must be inspected and approved as per building permit process	No	Yes	Yes
Secondary Suite must be registered with Village of Lions Bay	No, except if suite has been renovated to meet BC Building Code requirements. See section 5 (g) of this policy	Yes	Yes
Septic outflow must not exceed capacity of septic system	Yes, but no program of inspection. See Section 5 (h) of this policy	Yes	Yes
Principal entrance a separate exterior entrance	No	Yes	Yes

Requirements under Zoning Amendment Bylaw #423, Regarding Secondary Suites	Do Secondary Suites built before Sept 7, 2010 need to comply?	Do new Secondary Suites built after Sept 7, 2010 in <u>existing</u> residences need to comply?	Do new Secondary Suites built after Sept 7, 2010 in <u>new</u> residences need to comply?
No subdivision of unit into e.g. strata, duplex	Yes. See Section 5 (j) of this policy	Yes	Yes
Secondary Suite and the Principal Dwelling Unit must not be served by separate water service lines, or separate electrical meters.	Yes. See Section 5 (k) of this policy	Yes	Yes
Tenant parking so as not to require maneuvering vehicles while exiting	No	Yes	Yes
Requirements under annual bylaws Establishing Fees for solid waste, recycling, yard waste and water use			
Secondary Suites surcharge	Yes	Yes	Yes