
NON-COMPLIANT SUITES POLICY

1. PURPOSE

The purpose of the Non-Compliant Suites policy is to establish procedural standards when addressing residential suites having bylaw contraventions, with the aim of prioritizing occupant safety, followed by tenant security.

2. SCOPE

This policy applies to all land parcels within Municipal jurisdiction.

3. DEFINITIONS

"Non-Compliant Suite" means a Suite not compliant with, or not constructed in compliance with the Municipality's Zoning Bylaw, or Building Bylaw, or both.

"Life Safety Upgrades" means any works that in the opinion of a Building Inspector, are necessary to ensure an adequate degree of safety, but include without limitation:

- Electrical issues including electrical breakers tripping;
- Plug-in heaters substituting for non-functional principal heating;
- Insufficient or non-functioning smoke alarms;
- Non-compliant bedroom window egress;
- Unsafe deck or entrance steps;
- Insufficient fire separation;
- Insufficient ventilation.

"Section 57 Notice" means a note against land title made under section 57 of the *Community Charter*, as amended.

"Suite" means an additional dwelling unit accessory to a single residential dwelling, and for the purposes of this policy also includes:

- a) the smaller of the two units within a two-family dwelling;
- b) coach house and garden suite accessory dwelling units, as defined within the Zoning Bylaw.

"Minor Zoning Bylaw Infraction" means any Zoning Bylaw infraction legally capable of being regularized through a Development Variance Permit or Board of Variance decision (i.e. not relating to use or density).

4. SUITE IDENTIFICATION AND INVESTIGATION

4.1 The Municipality will generally not take investigative action on suites that appear compliant with the use and density provisions of the Zoning Bylaw and for which there exist no readily-identifiable safety concerns, nuisance issues, or active complaints. Merely becoming aware of a potential suite's existence will not normally trigger investigation by the Municipality.

4.2 The Municipality will investigate a suite for full Zoning Bylaw and/or Building Bylaw compliance where:

- i) a reasonable complaint has been received by a tenant of the suite, or by a neighbour sufficiently proximate to be capable of experiencing direct negative impacts from the suite;
- ii) an owner identifies potential non-compliance issues and requests investigation;
- iii) there is evidence suggesting safety concerns or serious nuisance issues may exist;
- iv) there exists reason to believe the use and density provisions of the Zoning Bylaw may be being contravened;
- v) there exist any other circumstances where the Municipality considers it prudent to exercise its statutory powers to investigate and pursue bylaw compliance.

4.3 A review under section 4.2 above may entail inspection of the interior of the suite to assess compliance and may additionally require for areas or structures to be exposed.

4.4 An interior inspection and associated investigation for full BC Building Code compliance will not generally be made if the complaint or observed nuisance pertains only to zoning bylaw non-compliance.

4.5 Any minor Zoning Bylaw or other bylaw infractions observed on a site and unrelated to the suite, may be addressed as separate matters and will not be used to delay or prevent processes seeking to regularize a suite.

4.6 For the avoidance of doubt, s.4.5 above does not apply to deficiencies in any on-site parking requirements arising from the combination of uses on site, including the suite.

5. ZONING BYLAW ENFORCEMENT

5.1 Where a suite is found to be non-compliant with the use or density permitted within the Zoning Bylaw, the Municipality will enforce compliance.

5.2 An owner of a suite described in s.5.1 above will be afforded a reasonable opportunity to correct the non-compliance, which may include submission of a Zoning Bylaw amendment application for Council's consideration.

- 5.3 Where a suite is found to be compliant with the use and density permitted within the Zoning Bylaw, but exhibits one or more minor Zoning Bylaw infractions, the Municipality will enforce compliance.
- 5.4 An owner of a suite described in s.5.3 above will be afforded a reasonable opportunity to correct the minor Zoning Bylaw infraction, which may include submission of a Development Variance Permit application for Council's consideration, or alternatively an application to the Board of Variance if "hardship" is present.
- 5.5 Should any Zoning Bylaw compliance issues remain unresolved after reasonable opportunities for corrective action or regularization have been provided, the Municipality may pursue further legal action as it sees fit.
- 5.6 Notwithstanding and independent of any legal action pursued pursuant to s.5.5 above, the Municipality will consider imposition of a Section 57 Notice on the title of the property.
- 5.7 Where the Municipality does not pursue further action aimed at removing the suite, the suite is tolerated to remain in place but will not be recognized as being legal. This consideration applies whether or not a Section 57 Notice is imposed on title. Any change in circumstances may trigger a reassessment of enforcement options.
- 5.8 The Municipality will seek to avoid tenant displacement wherever possible.

6. BUILDING BYLAW ENFORCEMENT

- 6.1 Where a suite is found to be non-compliant with the Building Bylaw or with any aspects of BC Building Code, a Building Inspector will determine whether any life safety upgrades are required.
- 6.2 Where life safety upgrades are required, an owner will be given 30 days to apply for a building permit for the corrective action, and 90 days to perform all life safety upgrades.
- 6.3 Notwithstanding s.6.2 above, if the suite is occupied, the inspector may require immediate safety measures be implemented for the health and safety of the occupants.
- 6.4 If an occupant must temporarily vacate a suite for the corrective action to be performed, the Municipality will expect the owner to provide alternative accommodation for the duration of work and allow the occupant(s) to move back in immediately after completion.
- 6.5 If life safety upgrades have not been completed within 90 days of notice by the Municipality and there are no extenuating circumstances justifying additional time, the Municipality may pursue further legal action as it sees fit.

- 6.6 Notwithstanding and independent of any legal action pursued pursuant to s.6.4 above, the Municipality will consider imposition of a Section 57 Notice on the title of the property.
- 6.7 Where life safety upgrades are not required, but other BC Building Code infractions exist, an owner will be given 60 days to apply for a building permit and 180 days to perform all works to bring the suite into compliance.
- 6.8 Where non-life safety upgrades to a suite are not carried out and/or no Building Permit is issued, the Municipality may consider imposition of a Section 57 Notice on the title of the property.
- 6.9 Where the Municipality does not pursue further action aimed at removing the suite, the suite is tolerated to remain in place but will not be recognized as being legal. This consideration applies whether or not a Section 57 Notice is imposed on title. Any change in circumstances may trigger a reassessment of enforcement options.
- 6.10 The Municipality will seek to avoid tenant displacement wherever possible.

7. OTHER

- 7.1 Where a suite is discovered, the Municipality will enact appropriate utility billing on a “without prejudice” basis to any enforcement actions. Non-compliant suites will be billed for utilities as if they were lawful, without any recognition by the Municipality of the suite’s lawfulness. The Municipality reserves the ability at any time to pursue compliance with its bylaws, including imposition of Section 57 notices on title.
- 7.2 The Municipality may, within its Fees and Charges bylaw, prescribe a fee for an application for removal of an existing Section 57 notice from a title.
- 7.3 Nothing in this policy precludes the Municipality from investigating and pursuing any other bylaw or regulatory compliance issues, including, without limitation: Noise & Nuisance, Animal Control, Business Licence, or Development Permit requirements, among others.

APPROVAL HISTORY

WRITTEN BY: C. Osborne, Planning Manager	APPROVED BY: Council	DATE: December 15, 2021
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