

January 10, 2020

## GUIDELINES FOR SHARED TENANCIES WITHIN A SINGLE TENANCY EFFECTIVE JANUARY 1, 2020

### RATIONALE

The City of Medicine Hat understands the growing need to provide business owners opportunities to sublet unused space within existing buildings and suites. To provide clarity for building owners, landlords and tenants, business owners and Safety Codes Officers, this guideline lists when and where these types of occupancies can be allowed and still comply with current Building Codes.

### REFERENCES

#### Division A

##### Article 1.1.1.1 Application of this Code

The Code applies to the *occupancy* of any *building* and the change in *occupancy* of any *building*.

##### Article 1.4.1.2. Defined Terms

“*Building*” means any structure used or intended for supporting or sheltering any use or *occupancy*.

“*Occupancy*” means the use or intended use of a *building* or part thereof for the shelter or support of persons, animals or property.

“*Suite*” means a single room or series of rooms of complementary use, operated under a single tenancy, and includes *dwelling units*, individual guest rooms in motels, hotels, boarding houses, rooming houses and dormitories as well as individual stores and individual or complementary rooms for *assembly occupancies*, *business and personal services occupancies*, *medium-hazard industrial occupancies* and *low-hazard industrial occupancies* (refer to Appendix A).

#### Appendix A - Suite

Tenancy in the context of the term “suite” applies to both rental and ownership tenure. In a condominium arrangement for example, dwelling units are considered separate suites even though they are individually owned. In order to be of complementary use, a series of rooms that constitute a suite must be in reasonably close proximity to each other and have access to each other either directly by means of a common doorway or indirectly by a corridor, vestibule or other similar arrangement.

The term “suite” does not apply to rooms such as service rooms, common laundry rooms and common recreational rooms that are not leased or under a separate tenure in the context of the Code. Similarly, the term “suite” is not normally applied in the context of buildings such as schools and hospitals, since the entire building is under a single tenure. However, a room that is individually rented is considered a suite. A warehousing unit in a mini-warehouse is a suite. A rented room in a nursing home could be considered as a suite

if the room was under a separate tenure. A hospital bedroom on the other hand, is not considered to be under a separate tenure, since the patient has little control of that space, even though he pays the hospital a per diem rate for the privilege of using the hospital facilities, which include the sleeping areas.

For certain requirements in the Code, the expression “room or suite” is used (e.g., travel distance). This means that the requirement applies within the rooms of suites as well as to the suite itself and to rooms that may be located outside the suite. In other places the expression “suite, and rooms not located within a suite” is used (e.g., for the installation of smoke and heat detectors). This means that the requirement applies to individual suites as defined, but not to each room within the suite. The rooms “not within a suite” would include common laundry rooms, common recreational rooms and service rooms, which are not considered as tenant-occupied space.

### **Supplementary Definitions**

“Complementary Uses” means different uses of land or other resources, each of which benefits from the other(s) where they exist together in the same area.

“Landlord” means an owner of land who leases it to a tenant by way of a tenancy agreement.

“Tenancy” means possession of land or property as a tenant.

“Tenant” means a prime lease holder who occupies land or property rented from a landlord.

### **COMMENTARY | RELEVANT FACTS | CONCLUSIONS**

**Group D Occupancy** – *Business and personal services occupancy* means the *occupancy* or use of a *building* or part thereof for the transaction of business or the rendering or receiving of professional or personal services.

#### **Business Offices and Sales Areas:**

A space with subleased business offices or sales areas can be considered as a single suite provided the following requirements are satisfied:

1. The building owner or prime lease holder must provide the City of Medicine Hat with a letter advising that the entire space is under a single management.
2. All businesses share all office facilities such as secretaries, receptionists, meeting rooms, copy machines, coffee rooms, etc.
3. All businesses have the same operating hours.
4. All washroom and egressing and exiting requirements comply with NBC-AE.
5. Fire separations are not required between the subleased business offices or sales areas operating as a single tenancy.

#### **Personal Services Rooms and Sales Areas:**

A space with subleased rooms of Complementary Use for the rendering of Personal Services including massage, tanning, nail salon, hair salon, makeup, personal training, nutritional advice, etc. can be considered as a single suite provided the following requirements are satisfied:

1. The building owner or prime lease holder must provide the City of Medicine Hat with a letter advising that the entire space is under a single management.
2. All rooms share all office facilities such as secretaries, receptionists, meeting rooms, copy machines, coffee rooms, etc.
3. All rooms have the same operating hours.
4. All washroom and egressing and exiting requirements comply with NBC-AE.
5. Fire separations are not required between the subleased rooms operating as a single tenancy.

**Group E Occupancy** – *Mercantile occupancy* means the *occupancy* or use of a *building* or part thereof for the displaying or selling of retail goods, wares or merchandise.

#### **Flea Markets and Craft Sales:**

A space with subleased retail sales or market areas can be considered as a single suite provided the following requirements are satisfied:

1. The building owner or prime lease holder must provide the City of Medicine Hat with a letter advising that the entire office space is under a single management.
2. All tenant spaces have the same operating hours.
3. The individual spaces have counter or open type storefronts only.
4. All tenants share all the building facilities.
5. All washrooms and egressing and exiting requirements comply with the NBC-AE.
6. Fire separations are not required between the subleased sales of market areas operating as a single tenancy.

**Group F2 Occupancy** – *Medium-hazard industrial occupancy* means an *industrial occupancy* in which the *combustible* content is more than 50 kg/m<sup>2</sup> or 1 200 MJ/m<sup>2</sup> of *floor area* and not classified as a *high-hazard industrial occupancy*. F2 occupancies typically include the following type businesses:

- Repair Garages
- Warehouses
- Woodworking facilities
- Workshops

**Group F3 Occupancy** – *Low-hazard industrial occupancy* means an *industrial occupancy* in which the *combustible* content is not more than 50 kg/m<sup>2</sup> or 1 200 MJ/m<sup>2</sup> of *floor area*. F3 occupancies typically include the following type businesses:

- Storage Garages
- Storage rooms
- Warehouses
- Workshops

#### **Low (F3) and Medium (F2) Hazard Industrial Occupancies:**

A space with subleased low and medium hazard industrial occupancies can be considered as a single suite provided the following requirements are satisfied:

1. The building owner or prime lease holder must provide the City of Medicine Hat with a letter advising that the entire industrial suite is under a single management.

2. The total area of the subleased occupancies must not exceed 10% of the prime lease suite area.
3. The operations and activities of all occupancies must be mutually compatible in term of operations and processes and have the same use classification per code.
4. All occupants share all the building facilities.
5. All occupants have the same operating hours.
6. All washroom and egressing and exiting requirements comply with the NBC-AE.
7. Fire separations are not required between the subleased suites and the prime suite.

## **RESTRICTIONS**

The above guidelines may be used where there is a Change in Tenancy application made to Planning & Development Services in support of a Business License application by a proposed business owner. The existing occupancy classification of the building or suite must be approved under a valid and subsisting Occupancy Permit for the proposed occupancy type and can not include a change in building classification. Additional information may be required to ensure the proposed business is of complementary use and to ensure compliance with the Code.

Where a change of occupancy classification of a building is required to accommodate a proposed business into an existing building or suite, the building or land owner is required to apply for a separate building permit as required by Alberta Permit Regulation 204/2007 for the change in occupancy classification of the building. Occupancy will not be granted until all work is completed to ensure compliance with the Code.

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