

Advisory

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Secondary Suites Questions & Answers

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 revisions. 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 (NBC) rather than being in a stand-alone section as it was in the 2006 edition. In accordance with the 2014 AFC, 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 Medicine Hat, the following points were considered:

1. The original intent of the 2014 AFC requirements and the date of consideration of existing secondary suite being December 31, 2006, was to give owners of existing secondary suites time to bring their suites in to compliance with the minimum requirements of the AFC rather than the full requirements of the ABC. 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; and,
 - b. enables municipalities to accept some existing construction it deems safe while applying conditions to other existing construction.
3. The National Fire Code 2019 Alberta Edition, Division A, Sentence 1.1.1.1(2) states that, "*Secondary suites shall conform to the requirements of the Code in force at the time the permit was issued.*"
4. The 2014 ABC appendix indicates a secondary suite may only exist where a municipal Land Use Bylaw (LUB) permits it. Because the City's LUB did not include secondary suites as a defined Use prior to August 6, 2013, some property files indicated that the dwelling may contain a second kitchen. The 2014 AFC requirements were applied where basement suites were found to be legal and non-conforming to the LUB as a minimum level of safety.

Therefore, the interpretation of the City of Medicine Hat is that:

1. Secondary suites that are new construction, either in a new home or a renovation in an existing home where there was not previously a secondary suite, the requirements of the NBC – 2019 Alberta Edition (or Code in force at the time of permit application) are applicable.
2. Secondary suites found to be legal and non-conforming to the LUB and identified on the property file as existing prior to December 31, 2006 must be upgraded to ensure compliance with the 2014 AFC as follows:
 - a. A building permit application must be submitted prior to December 1, 2019.
 - b. A permit issued to upgrade an existing secondary suite will have a term of one year and cannot be extended.
 - c. The property owner must comply with the terms and conditions of the permit.
 - d. City of Medicine Hat Safety Codes Services will accept reference to the 2014 AFC requirements by an owner as a guideline to determine what is required for minimum safety. The 2014 ABC will be enforced only for what is changing and/or what change(s) are required for minimum safety.
 - e. The upgraded secondary suite must be approved by a Fire Safety Codes Officer prior to being added to the Secondary Suite Registry.
3. This interpretation will expire December 1, 2019.

Advisory FAQ

1. 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 LUB.

2. How do we determine if a secondary suite is a legal non-conforming use according to the LUB?

When Planning & Development Services is made aware that a single-family dwelling contains a secondary suite, staff members review multiple records to determine if the suite obtained necessary approvals prior to construction.

- **Legal Non-Conforming** – A suite is considered legal non-conforming when the property file indicates that a development permit was approved for the construction of the suite; ensuring that the suite met all requirements of the LUB at the time of construction. Under these circumstances the non-conforming elements (that don't meet the current LUB rules) are "grandfathered-in".
- **Illegal Non-Conforming** – A suite would be considered illegal if, during our investigation, no development permit records are in place that would support the development of the secondary suite at the time of construction. Where an existing suite is found to be illegal non-conforming, the owner must make application for the required development permit to legalize the development. When this occurs, the suite will be required to conform to the current LUB, all other relevant planning policy and regulations, and the current ABC enforce at the time of permit application(s).

3. Are changes allowed to non-conforming buildings in the LUB?

Under the *Municipal Government Act*, a legal non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt, or structurally altered except:

- To make the building conform to the current rules of the LUB;
- To perform routine maintenance of the building, if the Development Authority considers it necessary; or,
- When, in accordance with a LUB that provides minor variance powers to the Development Authority for the purposes of this section.

Under the current LUB, Section 11.9 – Changes to non-conforming buildings states that: *“If a building in existence on the date of enactment of this Bylaw is being utilized for a Permitted Use or a Discretionary Use in the District in which it is located but does not in other respects conform to the requirements of that District as set out in this Bylaw, a Development Permit may be issued for renovation or repair of the Building without enlargement or addition or structural alteration and without a change of use, if the proposed renovation or repair will not result in any additional non-compliance with the requirements of the District.”*

4. 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 a 3.77 sq. ft. area with no dimension less than 15 ins.
- 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; and,
 - ii. a shared exit consisting of an interior stair is to be separated from both the primary and secondary dwelling unit.

5. 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 December 31, 2006 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 December 31, 2006) would need to provide the protection to the 2014 ABC or the subsequent Code in effect at the time of permit application.

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

Alberta Permit Regulation only allows homeowner electrical, gas and plumbing permits for land owners that reside in single-family dwellings. Houses with secondary suites are considered buildings with 2 dwellings units and are outside the scope of a single-family dwelling. All trade permits will only be issued to qualified licensed contractors.

7. **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. Where a house 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 by a qualified electrical contractor registered with the City and may only service that suite.

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

The locations of secondary suites are set out in the LUB. In locations where they are allowed to be built, the AFC and ABC govern the construction. When secondary suites are constructed in multi-dwelling buildings, non-combustible firewalls are required if more than two secondary suites are added.

9. **What if I have two existing basement suites in my single-family dwelling?**

We have become aware that some houses contain two separate basement suites where each suite has self-contained living, sleeping, cooking and sanitary facilities or may share common sanitary facilities (bathrooms). Secondary suites are defined in the ABC and AFC as meaning 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. Also, a dwelling unit is further defined as a suite operated as a housekeeping unit, used or intended to be used by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities. As defined, only one secondary suite is allowed within the primary dwelling. The second suite would have to be removed or combined into a single secondary suite.



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