



CITY OF PORT MOODY REPORT/RECOMMENDATION TO COUNCIL

DATE: March 12, 2010 **File No.** 05-1820-20-01

SUBMITTED BY: Corporate Services and Planning and Development Services

SUBJECT: Delegation Response – Secondary Suite Water and Sewer Fee Requirements

PURPOSE:

This report is submitted in response to the March 9, 2010 delegation with respect to Water and Sewer Fees for Secondary Suites, and to provide Council with some background and information on Secondary Suite charges.

BACKGROUND:

Secondary Suite Program

Secondary suites have long been a source of income to property owners but were not traditionally legalized or formally recognized as separate and distinct housing units, or as a business requiring a business license. In an effort to be fair to all residents and equitably allocate the costs of utility service across all users of the systems, the City of Port Moody like some other cities, investigated the feasibility of the secondary suite charge recognizing that, no different than apartments or duplexes, secondary suites are separate units housing separate families using similar levels of services.

The secondary suite implementation program was endorsed by Council in 2004 with subsequent amendments to the zoning bylaw and fees bylaw. The associated April 27, 2004 motion and associated staff report are included as Attachment A-B. The issue of utility fees was discussed in the above report with a recommendation that utilities rates be applied on a per unit basis. The Fees bylaw (#2340) was amended in December 2004 which set the water and sewer utility rates and per unit requirements for 2005.

Business License

All businesses in Port Moody need to be regulated and adhere to regulating bylaws. Where a property owner has established a separate or secondary suite independent of the primary housing unit, the potential to generate income from that secondary housing unit exists and needs to be regulated as a business.

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User Fee Systems – Flat Fee vs. Variable Rate

Typically, in user pay systems, a charge based on usage (per some predetermined unit) is implemented, and usage by the users of the system is charged accordingly. Generally speaking, the more valuable the commodity or service being dispensed or delivered, the more sophisticated the system to track usage is required. Service providers have to weigh the cost of the tracking system against the overall cost of providing the service. Where a particular service has costs that are more heavily weighted on the fixed cost side, and not really reflective of how much of the service or commodity is actually used (variable cost), service providers generally opt to levy flat charges versus usage or variable charges because they are simpler and less costly to administer, which keeps the overall cost of the service down. For example, phone companies do not charge per call or per the number of people in the household using the phone service but allow an unlimited amount of phone use for a fixed monthly fee.

Sewer and Water Flat Fees

Given the abundance of water in the lower mainland, a business case to deploy more sophisticated measuring systems (water metering) has not been made, which is why many municipalities still levy flat charges on residential users. Even though it is recognized that a metering system would be the fairest way to allocate the use and the costs of the system, the cost of implementing a universal metering system has been determined not to be cost-effective at this time.

Therefore, given that it has been determined that the current system of a flat user fee per household is still the simplest and fairest way to allocate system costs, and that each separate identified individual housing unit has an equal unrestricted opportunity to use the services, the City of Port Moody is of the view that Secondary Suites should bear the same charges as other recognized separate legalized housing units.

Other Points to Consider

- The footprint of the housing unit has no direct correlation to amount of services used. Large newer homes may have newer environmentally friendly systems, and/or have less household members that are not home as much, which means that they can use much less in water and sewer services.
- The number of household members has no direct correlation to the amount of the service used. Households all have different usage patterns dependent more on their needs than on the number of individuals the service is serving. For example, some households may have members that are frequently not at home, while other households with less members are home regularly using the services; some households may have pools, hot tubs, gardens, etc, requiring more water services; others may simply like to wash their cars, driveways, etc.

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- The costs of water and sewer services are mostly fixed costs (*i.e.* the infrastructure – pipes, pumps, etc.) and not as much related to the amount of water used. Therefore, a fixed flat rate is an acceptable method of allocating what are mostly fixed costs.
- Philosophically, and from a healthy and clean community perspective, municipalities may want to consider whether they want their residents making water and sewer usage decisions on a financial priority basis.

COMMUNICATIONS:

An extensive public consultation process was undertaken in 2004 during the consideration of the program which included input from a task force which made recommendations to Council at that time.

In addition, a City communiqué is sent out annually with the utility billings informing residents of user fee increases and cost pressures within the utility funds.

There has been no external communication with respect to this delegation request.

BUDGETARY IMPACT:

At present the City requires that owners of secondary suites pay water and sewer rates for each unit within their single family structure. More specifically, the utility rates for a single family home would be \$322 per unit for water and \$319 per unit for sewer. An owner has the option of paying two garbage fees or alternatively limiting garbage amounts to the allowable limit.

The water and sewer funds are operated as fully-funded user pay systems. Therefore, if the City were not to charge the identified secondary suites their share of the costs of operating the utility systems, amounts charged other users would have to increase to offset the loss of revenue from those secondary suites.

COUNCIL STRATEGIC PLAN OBJECTIVES:

The provision of water and sewer services has been identified by Council as an essential service in the 2009 Strategic Plan.

POLICY IMPLICATIONS:

Staff would explore policy implications if applicable following Council's consideration of this item.

ALTERNATIVES:

As directed by Council.

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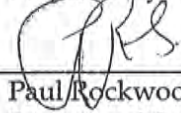
Delegation Response – Secondary Suite Water and Sewer Fee Requirements
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RECOMMENDATION:

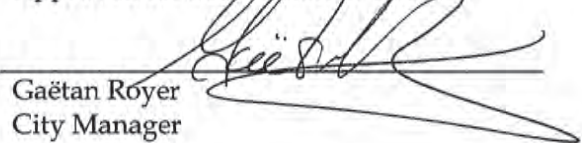
THAT this report be received for information.

Prepared By:



Paul Rockwood, CGA, CRM
Director of Corporate Services

Approved for Submission to Council



Gaëtan Royer
City Manager

Tim Savoie, MCIP
Director of Planning and Development
Services

APPROVALS

Supervisor (Initials)
[Name]

Dept. Head (Initials)
[Name]

CORPORATE REVIEW

(Initials)

Administration/ Legislative Services/ Mayor's Office

Communications/ Finance/ Human Resources/ IT

Culture/ Environment/ Facilities/ Parks/ Recreation

Engineering/ Operations

Fire & Rescue

Library

Planning & Development/ Building, Bylaw & Licensing

Police

COMMITTEE REVIEW

(List Relevant
Committees)

COUNCIL AGENDA INFORMATION

Regular Council Meeting

Date: MAR 23/10

Item # 5.1

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CITY OF PORT MOODY

MINUTES

**SPECIAL COUNCIL MEETING
BROVOLD ROOM
TUESDAY, FEBRUARY 24, 2004,
AT 5:00 PM**



PRESENT:

Mayor G. Trasolini
Councillor R.T. Elliott
Councillor M.P. Lahti
Councillor G.W. Nuttall
Councillor K.D. Rockwell
Councillor C.E. van Ginkel

IN ATTENDANCE:

Gaetan Royer – City Manager
Ron Higo – Acting Director of Community Services
Jim McIntyre – Director of Planning and Development Services
Gerry van der Wolf – City Clerk
Jim Weber – Manager, Building, Bylaws and Licencing

1. CALL TO ORDER

2. BUSINESS

**PROPOSED
IMPLEMENTATION
OF A SECONDARY
SUITE PROGRAM**

- 2.1 Report: Planning and Development Services Department dated February 17, 2004
File: 0370-20-22

Councillor Rockwell disclosed a pecuniary interest and left the meeting and did not discuss or vote on the issue.

Moved, seconded and CARRIED

THAT staff proceed with a secondary suite programme for approval at a future Council meeting based on the following:

Moved, seconded and CARRIED

Charging secondary suite home owners an annual administration fee to help offset the City's increased administration costs.

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Moved, seconded and CARRIED

THAT the second point be amended to read "Reducing" instead of "Waiving".

Moved, seconded and CARRIED

Reducing the above fee during the first year of the program's inception as an incentive to voluntary program registration.

Moved, seconded and CARRIED

THAT item three be replaced with the following:

City utilities fees be based on the cost of servicing secondary suites.

Councillors Elliott and Lahti voted in opposition.

Moved, seconded and DEFEATED

Following the Port Coquitlam passive enforcement model by creating a corporate policy for enforcement procedures for secondary suites and advising and educating home owners through a secondary suite guide, that it is their responsibility to ensure that their suites are in compliance with all applicable regulations and code standards;

Mayor Trasolini and Councillors Elliott and Lahti voted in opposition.

Moved, seconded and CARRIED

Extending the seasonal bylaw enforcement position for the balance of 2004 to a full time permanent position to assist in establishing and administering the secondary suite program;

Moved, seconded and CARRIED

Bylaw and licensing staff taking the lead in implementing and administering the City's secondary suite program.

Moved, seconded and DEFEATED

THAT item 9 from the list recommended by the Task Force be deleted.

Mayor Trasolini and Councillors Elliott, Lahti and van Ginkel voted in opposition.

Moved, seconded and CARRIED

THAT item 10 from the list recommended by the Task Force be deleted.

Councillors Elliott and Lahti voted in opposition.

Moved, seconded and DEFEATED

Special Council Meeting

Tuesday, February 24, 2004

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THAT item 11 from the list recommended by the Task Force be deleted.

Mayor Trasolini and Councillors Elliott and Lahti voted in opposition.

Moved, seconded and CARRIED

1. THAT Staff incorporate the recommendations of the Task Force as follows:

- A. secondary suites be authorized on a city wide basis in all the one-family residential zones, as set out in table 1, except for mobile home park areas (i.e. rs4 zone);
- B. secondary suites be limited to one secondary suite per single family dwelling;
- C. one off-street parking space, dedicated to the use of the secondary suite tenant, be provided in addition to the one off-street parking that is currently required for the principal residence;
- D. the definition of secondary suites as contained in the current zoning bylaw be amended to be consistent with the BC building code definition;
- E. where existing secondary suites are heated with a common forced air system, an equivalency approach to meet the BC building code requirement for containing smoke and fire through the use of fire dampers be adopted;
- F. secondary suites should not be permitted to become strata titled;
- G. accessory boarding, bed and breakfast operations and home occupations that generate traffic such as hairdressers and daycare facilities, not be permitted in the same single family dwelling as a secondary suite;
- H. an 'intensive residential' development permit should not be required for the construction of a single family dwelling with a secondary suite but a building permit will be required where necessary;
- I. any fees charged in regards to secondary suites should be aimed at cost recovery only.
- J. the procedure to 'register' existing and new secondary suites as laid out in the attached table 4, be adopted;
- K. secondary suites do not require a annual business license but a modest annual fee to cover costs of administering the secondary suite

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- program may be charged;
- L. the registration fee be reduced initially and subsequently incrementally increased to the full fee during the first 12 months of the commencement of the secondary suite program to encourage voluntary compliance;
 - M. the existing forty-eight 'grandfathered' secondary suites be exempt from the above-listed requirements; and that
 - N. the existing 'family suites' continue to function as 'family suites' provided they are operated according to the zoning requirements that applied at the time of their origin and provided there are no serious health and safety concerns; or the owner of a 'family suite' could choose to upgrade it to a secondary suite by meeting the applicable health and safety standards.

Councillor Nuttall voted in opposition.

Moved, seconded and CARRIED

THAT staff report on the ability of City firefighters to enforce bylaws.

Mayor Trasolini and Councillor Nuttall voted in opposition.

The Mayor declared the meeting closed at 6:00 pm.

Certified correct in accordance with Section 148(a) of the *Community Charter*.

City Clerk

Confirmed on the _____ Day of _____ 2004.

Mayor

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CITY OF PORT MOODY

REPORT/RECOMMENDATION TO SPECIAL COUNCIL MEETING

DATE: February 17, 2004 File No. 0370-20-22

SUBMITTED BY: Planning and Development Services Department

SUBJECT: Proposed Implementation of a Secondary Suite Program

BACKGROUND:

In February 2002, Council accepted the recommendations presented by the Secondary Suite Task Force in principle, a summary of which is included as Attachment A. (A copy of the full Task Force report has been placed in the Councillor's office for reference). At the same meeting, Council also adopted a motion regarding the preparation of a proposed program for dealing with secondary suites. To this end, a memorandum (see Attachment B) was sent to the Revenue and Efficiencies Subcommittee in May 2003 for their review and discussion.

The intent of this report is to seek Council's direction with respect to a number of policy decisions as summarized below and also noted in the May 2003 memo, that need to be addressed for a secondary suite program to be implemented in the City. Under each discussion item, options are identified and an approach is recommended for Council's consideration.

1. While previously it was questionable whether a municipality could enact and collect an annual licensing fee from the owner of a secondary suite, it was confirmed by the City's Solicitor that under the broader fee establishing powers of the new Community Charter, a municipality may set an annual fee for administering a secondary suite program.

In discussions with officials in other jurisdictions, it seems that other municipalities in the region have not yet opted for using these new powers provided by the Community Charter in implementing an annual secondary suite administration fee. To date only the City of Abbotsford requires a one-time fee of \$550.00 for registering an existing suite (for more detail, see the discussion under # 3) Registration, Inspection, Building Permit and Business Licensing Fees in the Secondary Suite Task Force Report).

Refer to the table below for a brief summary of all the fees and rates charged by the Cities of Coquitlam and Port Coquitlam with regards to secondary suites.

It is recommended that an annual administration fee of \$75.00 be required of secondary suite owners to help offset increased administration costs for a secondary suite program and that a specific revenue account be established for it.

This recommended fee is based on the current home occupation business license amount pursuant to the City's Fees and Charges Bylaw No. 2340 and is in line with the

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Secondary Suite Task Force's recommendation stipulating that "secondary suites do not require an annual business license but a modest annual fee to cover costs of administering the secondary suite program may be charged;" (see Attachment A, #12).

If it is assumed that the existing home occupation business license amount of \$75 is applied to the estimated number of secondary suites in the City (assumed at approximately 700), a potential annual revenue stream of \$52,500 is yielded:

700 suites x \$75 annual administration fee = \$52,500/year potential annual revenue¹

2. The City of Coquitlam charges double the per-household utility rate for homes with secondary suites until a suite is either decommissioned or brought into compliance with the BC Building Code. Once all the required safety upgrades have been made to a suite, the owners pay only 40% of the secondary suite utility charge (see table below).

The City of Port Coquitlam also charges double the per-household utility rate for homes with secondary suites except if the owners of a suite declare that the suite is not in use during a calendar year or that the owner's parents or grandparents occupy it. In these cases, the secondary suite utility fee is waived. (Any one who evades payment of these fees is guilty of an offense and is liable to additional levies equal to the sum of the exemption amount plus twice the initial fee amount) (see table below).

Fees & Charges	City of Coquitlam	City of Port Coquitlam
Utility charges	<p>The 2004 per-household utility rate is \$448 (\$205 for water & \$243 for sewer).</p> <p>A home with a secondary suite counts as 2 households and pays double the per-household utility rate (= \$896).</p> <p>The solid waste collection fee for 2004 is \$155.</p> <p>Therefore the total utility charges for a home with a suite is: \$896 + \$155 = \$1,051 + extra garbage tags (\$2 each)</p> <p>If all required safety upgrades are completed, secondary suites pay only 40% of the additional per-</p>	<p>The 2004 per-household utility rate is \$444.60 (\$214.72 for water & \$229.88 for sewer).</p> <p>A home with a secondary suite counts as 2 households and pays double the per-household utility rate and double the solid waste collection fee. In 2003, the solid waste collection fee was \$160.</p> <p>Therefore the total utility charges for a home with a suite is: \$889.20 + \$320 = \$1,209.20.</p> <p>The additional utility fees are waived in certain circumstances.</p>

¹ It should be noted that it may take a number of years and a concerted enforcement effort to enlist all the estimated suites in the proposed program.

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Fees & Charges	City of Coquitlam	City of Port Coquitlam
	household utility rate (\$179.20) = \$448 + \$179.20 = \$659.20 Add the solid waste collection fee: \$659.20 + \$155 = \$814.20 + extra garbage tags (\$2 each)	
<i>Other fees:</i>	Assessment/inspection fee of \$109.00 (optional)	n.a.
	Decommissioning fee of \$54.50	n.a.
<i>Permits:</i>	Building permit averaging \$150 - \$250.	Building permits for new suites or flowing from enforcement action pursuant to a corporate policy (to be discussed more fully below).
	Plumbing and gas permits if necessary.	Plumbing and gas permits if necessary.

In Port Moody currently utility charges for "Suites (in private dwellings or commercial premises)-per unit" are stipulated in the City's Fees and Charges Bylaw. Presently the rates are \$210 for sanitary sewer and \$192 for water. These fees are equivalent to the amount for single family and multi-family dwellings.

Currently 36 single family residential properties with secondary/family suites pay the single family utility charge (\$402) plus the suites utility charge (\$402) plus double the solid waste collection fee (2 x \$167) for a total of \$1,138. Of these, only 17 properties have "registered suites" that were legitimized by the City some time in the past.

Although garbage collection rates for 'suites' are not specifically listed in the Fees & Charges Bylaw, rates for solid waste (\$97) and recycling (say \$26 as for multi-family dwellings) could also be considered.

The potential additional utility revenues that may be collected this way, though these funds must flow to the respective utility accounts and not directly to general revenue, could be:

$$700 \text{ suites} \times (\$210 + \$192 + \$97 + \$26) = \$367,500/\text{year}^2$$

2 It should be noted that it may take a number of years and a concerted enforcement effort to enlist all the estimated suites in the proposed program.

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It should be noted that the Secondary Suite Task Force recommended that utility rates be capped at 40% of the single family dwelling rates and that no garbage collection charges be levied aside from the sale of extra 'pick-up tags' (see Attachment A, #10).

Finance staff have a significant concern with the Task Force's recommended 40% cap on utility rates for secondary suites as differential utility rates may create expectations for other housing types.

	Charging 100% utility fees for secondary suites	Charging 40% utility fees for secondary suites
<i>Possible revenue:</i>	700 suites x (\$210 + \$192 + \$97 + \$26) = \$367,500/year (including solid waste collection fee) 700 suites x (\$210 + \$192) = \$281,400/year (excluding solid waste collection fee) + extra garbage tags	700 suites x 40%(\$210 + \$192 + \$97 + \$26) = \$147,000/year (including solid waste collection fee) 700 suites x 40%(\$210 + \$192) = \$112,560/year (excluding solid waste collection fee) + extra garbage tags
<i>Possible benefits:</i>	<ul style="list-style-type: none"> • more revenue in the long term • consistent with existing Fees & Charges Bylaw • maintains status quo of universal residential utility rates 	<ul style="list-style-type: none"> • less bylaw enforcement required • based on 40% size restriction of suite in BC Building Code • addresses issues of equity and affordability • recommended by Secondary Suite Task Force
<i>Possible impacts:</i>	<ul style="list-style-type: none"> • increased bylaw enforcement required • extended time period for compliance • does not address equity nor affordability 	<ul style="list-style-type: none"> • less revenue in the long run • raises question of differential utility rates for residential uses

Based on the Secondary Suite Task Force's recommendation of charging only 40% of the current utility fees with no garbage collection charges except the sale of extra pick-up tags for secondary suites, and given the potential benefits and impacts listed above, it is recommended that utility charges at 40% of the current single family utility rates for water and sewer and additional pick-up tags for garbage collection be established for secondary suites.

- As indicated previously, it must be recognized that the preliminary revenue projections related to items 1 & 2 above may take several years to fully realize due to the time required to identify and list all secondary suites in the City and to incorporate these into the secondary suite program. Further analysis is necessary to project the 'ramping up' of potential revenues over time and can only be undertaken after Council has considered the key issues discussed below in this report and given direction to staff to better determine the scope and structure of an implementation program.

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4. Before additional building permit fees for either finishing or bringing a secondary suite into compliance with the BC Building Code can be projected, Council needs to make a policy decision on whether or not a building permit will be required for existing suites. New suites will be captured with new construction and will automatically require a building permit. This issue is discussed more fully below.

The May 2003 memo (Attachment B) listed four bullet points for the Revenue & Efficiency Subcommittee's consideration. These points are further discussed below to assist for Council in providing direction to staff to better determine the scope and structure of an implementation program from which more detailed cost/revenue estimates can be prepared.

- *Will BC Building Code compliance be required for existing secondary suites?*

In the City of Port Coquitlam, owners of secondary suites that existed prior to August 25, 1998 (date of policy adoption) are not required to confirm that their suites comply with the BC Building Code. However, that City actively enforces compliance in the following situations:

- a) if a life safety complaint about a suite is received;
- b) if a dwelling is reported to contain more than one suite;
- c) if a duplex dwelling, townhouse or apartment is reported to contain a secondary suite;
- d) if a dwelling unit is reported to contain both a secondary suite and a day care facility; and
- e) if a suite is being created or has been created after August 25, 1998.

Furthermore, the City of Port Coquitlam requires a building permit application only in the following cases:

- a) if a new secondary suite is to be created in an existing dwelling;
- b) if an existing suite is to be upgraded, whether voluntary or as a result of a life safety complaint;
- c) if a new dwelling containing a suite is to be constructed; and
- d) if a suite is created or upgraded after August 25, 1998 without the appropriate permits.

The City of Coquitlam, on the other hand, investigates all complaints about illegal suites and gives property owners two options: legalize the suite under the City's program or decommission the suite. The City's legalization program requires that all existing suites be upgraded to building code compliance with all the necessary building, plumbing and gas permits. For a house built with a building permit issued before July 1, 2000, Coquitlam's equivalent "alternate life safety standards" apply to secondary suites. For all suites upgraded or built after July 1, 2000, full Building Code compliance is required.

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It is recommended that Port Moody's secondary suite implementation program follow the Port Coquitlam model as it is easier to administer and is less onerous for the home owner since the City would have to significantly increase inspection staff levels in order to enforce Building Code compliance. Lastly, other implementation programs have achieved limited success in gaining compliance.

While there is the potential for increased building permit fees by requiring a more stringent program of compliance, these revenues will not offset the considerable amount of building section staff time required in assisting property owners and ensuring that their existing suites meet building code standards.

- *How aggressive/intrusive do we want to be in identifying secondary suites?*

This depends on the option chosen, as discussed above, as Coquitlam's program requires a more aggressive pursuit of illegal suites than the Port Coquitlam model.

In an attempt to boost compliance, Coquitlam offered to waive 60% of the secondary suite utility charges if the required safety upgrades are completed by October 31, 2003 and to reimburse the secondary suite utility charges if a suite is decommissioned by June 30, 2003.

It is recommended that the City of Port Moody waive the proposed annual administration fee of \$75 for the first year of the program's inception as an incentive for voluntary registration.

If the proposed program is to come into force on January 1, 2005, additional staff will be needed in 2004 to identify and list existing secondary suite owners, create a secondary suite program brochure and ensure that all the other program requirements are in place before the program's inception.

It is recommended that staff be authorized to extend the seasonal bylaw enforcement position to a full time permanent position to assist in establishing and administering the secondary suite program.³

- *Will bylaw enforcement or building inspection staff take the lead in administering the suite program?*

As mentioned before, if building inspectors attend to secondary suites, professional ethics require that they pursue the suite's full compliance with the BC Building Code.

³

It should be further noted that additional staff resources are expected to be required if the utility charges are in excess of the recommended 40% (including the solid waste collection fee).

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Therefore, it is recommended that Bylaw Enforcement staff take the lead in implementing and administering the City's secondary suite program. To minimize liability issues, it is recommended that a corporate policy on enforcement of the secondary suite program be adopted similar to the Port Coquitlam model.

Based on Council's direction, and with internal and City Solicitor review, the next steps in establishing a secondary suite program will entail:

- creating a corporate policy on enforcement of the suite program;
- making changes to the Fees & Charges and Zoning Bylaws;
- adopting a bylaw establishing the annual administration fee pursuant to Section 194 of the Community Charter;
- creating a secondary suite information brochure; and
- compiling a list of secondary suite owners, advising them of the program and finalizing this list for utility charges and administration fee collection purposes.

Attachments:

- A: Summary of Secondary Suite Task Force recommendations
- B: Memorandum to Revenue & Efficiencies Subcommittee, dated May 2003

BUDGETARY IMPACT:

Regardless of which approach to implementing a secondary suite program is chosen, additional staffing will be required to establish and administer the program. One full time bylaw enforcement position is anticipated at an annual cost of approximately \$55,000. The 0.5 bylaw enforcement term position that is to provide seasonal relief in 2004 could be extended for the balance of this year. Depending on the level of enforcement, additional utility rates and time frame Council considers and recommends, enlistment of all the estimated secondary suites in the City into the program may take three to seven years. It is clear that as the program is being established there would not be sufficient funds generated from the proposed annual administration fee to cover the cost of the program and it would be necessary to draw on the additional utility charges to cover staffing costs in the early years of the program. The costs of a full time bylaw enforcement position could also be somewhat offset by savings in the animal control budget. "Ramping up" of potential revenues will fund the program over time.

COUNCIL STRATEGIC PLAN OBJECTIVES:

Preparation of an implementation plan for secondary suites has been identified as a key area of Council's 2003 Strategic Plan.

POLICY IMPLICATIONS:

Depending on Council's direction, a corporate policy will be required for secondary suite program enforcement.

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ALTERNATIVES:

1. That staff not be authorized to implement a secondary suite program based on the points listed below.
2. That staff be authorized to implement a secondary suite program based on Council's direction regarding the points listed below.
3. That the proposed secondary suite program be referred back to staff for further clarification.

RECOMMENDATIONS:

THAT staff be authorized to implement a secondary suite program based on the following:

1. Charging secondary suite home owners an annual administration fee of \$75.00 to help offset the City's increased administration costs;
2. Waiving the above fee during the first year of the program's inception as an incentive to voluntary program registration;
3. Capping the secondary suite utility charges (sewer and water) at 40% of the single family dwelling rates and charging secondary suites no additional solid waste collection fees except for the additional pick-up tags for garbage collection;
4. Following the Port Coquitlam passive enforcement model by creating a corporate policy for enforcement procedures for secondary suites and advising and educating home owners through a secondary suite guide, that it is their responsibility to ensure that their suites are in compliance with all applicable regulations and code standards;
5. Extending the seasonal bylaw enforcement position for the balance of 2004 to a full time permanent position to assist in establishing and administering the secondary suite program; and
6. Bylaw and licensing staff taking the lead in implementing and administering the City's secondary suite program.

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Subject: Proposed Implementation of a Secondary Suite Program
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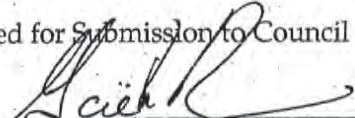
Page 9

Prepared By:



Nikola Smith
Planner

Approved for Submission to Council



Gaëtan Royer
City Manager

APPROVALS

Supervisor (Initials)
[Name]

Dept. Head (Initials)

J.L. McIntyre, M.C.I.P., Director of Planning and
Development Services

REVIEWED BY

Corporate Review

Committee Review

Clerk's Department	_____	_____
Community Services	_____	_____
Finance	_____	_____
Fire & Rescue	_____	_____
Human Resources	_____	_____
Library	_____	_____
Building, Bylaws & Licensing	_____	_____
Police Services	_____	_____

COUNCIL AGENDA INFORMATION

Regular Council Meeting

Date: FEB. 24 / 04

Item # [2.1]

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Attachment A

Excerpt from Secondary Suite Task Force Report, dated January 25, 2002.

"The Task Force's recommended requirements and conditions for authorizing secondary suites for Council's consideration are briefly listed below. These recommendations are discussed more fully later in the report. The Task Force recommends that:

1. secondary suites be authorized on a city wide basis in all the one-family residential zones, as set out in Table 1, except for mobile home park areas (i.e. RS4 zone);
2. secondary suites be limited to one secondary suite per single family dwelling;
3. one off-street parking space, dedicated to the use of the secondary suite tenant, be provided in addition to the one off-street parking that is currently required for the principal residence;
4. the definition of secondary suites as contained in the current Zoning Bylaw be amended to be consistent with the BC Building Code definition;
5. where existing secondary suites are heated with a common forced air system, an equivalency approach to meet the BC Building Code requirement for containing smoke and fire through the use of fire dampers be adopted⁴;
6. secondary suites should not be permitted to become strata titled⁵;
7. accessory boarding, bed and breakfast operations and home occupations that generate traffic such as hairdressers and daycare facilities, not be permitted in the same single family dwelling as a secondary suite;
8. an 'intensive residential' development permit should not be required for the construction of a single family dwelling with a secondary suite but a building permit will be required where necessary;
9. any fees charged in regards to secondary suites should be aimed at cost recovery only;
10. households with secondary suites should purchase extra garbage tags if the current 2 bags per week quota is exceeded and that a reasonable amount of 40% of the current utility fee be added to utility bills of single family dwellings with secondary suites;

⁴ Authority to accept equivalency standards is vested in the Chief Building Inspector.

⁵ As Council is the approving authority in such cases, it remains a Council decision at the time of application.

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11. the procedure to 'register' existing and new secondary suites as laid out in the attached Table 4, be adopted;
12. secondary suites do not require a annual business license but a modest annual fee to cover costs of administering the secondary suite program may be charged;
13. the registration fee be reduced initially and subsequently incrementally increased to the full fee during the first 12 months of the commencement of the secondary suite program to encourage voluntary compliance;
14. the existing forty-eight 'grandfathered' secondary suites be exempt from the above-listed requirements; and that
15. the existing 'family suites' continue to function as 'family suites' provided they are operated according to the Zoning requirements that applied at the time of their origin and provided there are no serious health and safety concerns; or the owner of a 'family suite' could choose to upgrade it to a secondary suite by meeting the applicable health and safety standards.

It is important to note that the Task Force could not reach consensus on the issue of owner-occupancy i.e. whether or not to require that either the secondary suite or the principal dwelling be owner occupied (see Section 3 below). The Task Force is therefore *not making* a recommendation to Council in this regard".

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Attachment B



CITY OF PORT MOODY

MEMORANDUM

TO Revenue & Efficiencies Subcommittee
CC Richard Wells, City Administrator
Gaetan Royer, Director of Community Services
Paul Rockwood, City Treasurer
FROM J.L. McIntyre, Director of Planning & Development Services
SUBJECT Preliminary Estimate of Revenues from a Potential Secondary Suite Program

FILE NO. 0370-20-22
DATE May 21, 2003

At the March 7, 2003 meeting of the Subcommittee, the topic of secondary suites was discussed in terms of utility charges, a possible annual fee structure and a registration program. Following that meeting, requested information has been provided to the Subcommittee members, and as well, Planning & Development Services staff along with Councillor Rockwell attended a very informative workshop on secondary suites hosted by SmartGrowthBC and the Tenant Rights Action Coalition on April 11th. More recently, I attended a conference dealing with the new Community Charter that has cast some light on the earlier question regarding levying annual fees for secondary suites.

With the benefit of this new information, the following comments and very preliminary potential revenue projections are submitted for the Subcommittee's consideration:

1. While previously it was questionable whether a municipality could enact and collect an annual fee from the owner of a secondary suite (though at least one municipality claims to do so), it was clarified at the May 7-8 Community Charter conference that under the broader fee establishing powers of that new legislation, a municipality can set an annual fee for administering this type of program (i.e. "... impose a fee payable in respect of ... the exercise of regulatory authority by the municipality").

To provide a basis for preliminary projections of potential annual fee revenues in this regard, if it is assumed that the existing Home Occupation business license amount (\$70) is applied to the estimated number of secondary suites in the City (assumed at approximately 700), yields a potential annual revenue stream of:

$$700 \text{ suites} \times \$70 \text{ annual fee} = \$49,000/\text{year}$$

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2. With respect to utility charges, and as conveyed in my April 11th email, sanitary sewer (\$209) and water (\$182) rates can be assessed under the City's Fees & Charges Bylaw No. 2340 for "Suites (in private dwellings or commercial premises – per unit)". It is likely that these specific charges set out in this bylaw, which are equivalent to the amount for single family and multi-family dwellings, were intended for the approximately 30-40 "registered suites" that were legitimized by the City some time in the past. Additionally, and although not specifically listed in the Fees & Charges Bylaw, garbage collection rates for solid waste (\$98) and recycling (say \$23 as for multi-family dwellings) could also be considered.

Potentially substantial additional utility revenues may be collected in this way, though of course these funds must flow to the respective utility accounts and not directly to general revenue:

$$700 \text{ suites} \times (\$209 + 182 + 98 + 23) = \$358,400/\text{year}$$

3. Additional building permit fees for either finishing or bringing a secondary suite into compliance with the BC Building Code may be received, which can be very broadly estimated at:

$$50 \text{ suites processed/year} \times \$250 \text{ assumed average building permit fee} = \$12,500$$

While there is the potential for increased building permit fees, these revenues will not offset the considerable amount of building section staff time required in assisting property owners and ensuring that their secondary suites meet code standards.

4. It must be recognized that the preliminary revenue projections related to items 1 and 2 above may take several years to fully realize due to the time required to identify, list and begin assessing annual fees and utility charges for secondary suite property owners. Further analysis and checking with other municipalities is necessary to project the "ramping up" of potential revenues over time if a secondary suite program was approved by Council.
5. As mentioned also in my April 11th email, the Subcommittee may wish to note the recommendations of the Secondary Suites Task Force appointed by the last Council with respect to fees and charges. Concerned that a secondary suite program may be intended as a revenue generator, that Task Force had recommended that utility rates be capped at 40% of the single family dwelling rates, no garbage collection charges be levied aside from the sale of extra "pick-up tags", and that a "modest annual fee to cover the costs of administering the secondary suite program" be established (a copy of that Task Force's report/recommendation to Council is attached for reference).

In terms of utility charges, it should be noted that the City Treasurer has a significant concern with the Task Force's recommended 40% cap on utility rates for secondary suites as

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this would open the door for townhouse and apartment unit owners who presently complain about being charged the same rate as single family dwellings.

With the potential for expanded revenues, of course, comes the necessity of additional expenses (e.g., additional staffing resources to tackle this area), though at this time we have been unable to develop more detailed cost estimates for launching a secondary suite program. If Council decides to move forward with a program for secondary suites, a number of key issues, several of which are summarized below, will need to be considered and direction provided to staff to better determine the scope and structure of an implementation program, and out of that, more detailed cost/revenue estimates can be prepared.

- Will BC Building Code compliance be required for secondary suites or will older units be "grandparented"? (If we do not actively inspect existing secondary suites, a Council policy to that effect will be needed.) A recent newspaper editorial addressing secondary suites, copy attached, touches on the dilemma of issues facing local government in this regard.
- How aggressive/intrusive do we want to be in identifying secondary suites?
- Will bylaw enforcement or building inspection staff take the lead in administering such a program? (Requesting building inspectors to overlook or be lax in enforcing the BC Building Code presents professional difficulties.)
- How stringently will the City react to complaints regarding secondary suites? What form of enforcement will be applied to ensure that suite owners comply with requirements (e.g., notice on title, municipal tickets, court injunctions, double permit or utility fees)?

This memo is intended to provide information for the Subcommittee in its determination whether a secondary suite program holds promise as a potential revenue source. If the Subcommittee recommends to Council that implementation of such a program be considered, Council direction will be required with respect to a number of key questions as noted above.

I trust that the information provided will assist the Subcommittee in dealing with this matter, and would be pleased to respond to any questions or attend a meeting of the Subcommittee to further discuss this item.

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	5.	BUSINESS
PROPOSED IMPLEMENTATION OF A SECONDARY SUITE PROGRAM	5.1	<p>Report: Planning and Development Services dated April 20, 2004 File: 3760-03</p> <p>Moved, seconded and CARRIED THAT staff be directed to prepare a proposed secondary suite implementation program and related bylaw amendments based on the less intrusive, life safety compliant driven building code compliance approach;</p> <p>Moved, seconded and CARRIED THAT the proposed secondary suite implementation program administration fee be equal to the business licence fee.</p> <p>Voting Against: Councillor Lahti</p>
CITY OF PORT MOODY ACCESSIBILITY AWARD	5.2	<p>Report: Community Care Committee dated April 16, 2004 File: 0290-01</p> <p>Moved, seconded and CARRIED THAT the City establishes an Accessibility Award program to promote greater awareness of accessibility issues and to recognize the contributions made by an individual, group or business in the community.</p>
GARBAGE AND RECYCLING SERVICES/SOLID WASTE BYLAW	5.3	<p>Report: Acting Director of Community Services dated April 16, 2004 File: 5360-06</p> <p><i>"City of Port Moody Solid Waste Bylaw, 1993, No. 2143, Bylaw No. 2588"</i></p> <p>Moved, seconded and CARRIED THAT Bylaw No. 2588 be referred to Council for adoption.</p>

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CITY OF PORT MOODY REPORT/RECOMMENDATION TO COMMITTEE OF THE WHOLE

DATE: April 20, 2004 **File No.** 3760-03

SUBMITTED BY: Planning and Development Services Department

SUBJECT: Proposed Implementation of a Secondary Suite Program

BACKGROUND:

City Council has considered and discussed the complexities of a secondary suite program on several occasions and had directed staff on February 24th to proceed with preparing a secondary suite program for approval at a future Council meeting. This report is a follow-up on the resolutions adopted at the Council meeting of February 24th and contains the following:

- Attachment A: Proposed Secondary Suite Implementation Program – a summary of the implementation program and its requirements;
- Attachment B: "Table 4: Proposed Procedure to Authorize Secondary Suites" - Secondary Suite Task Force's recommendation 'J' with some minor amendments to fit the proposed implementation program;
- a listing of all the Council resolutions of February 24, 2004 and a brief discussion of the follow up on each.

The aim of this report is to receive Council's endorsement of the proposed implementation program as laid out in Attachment A such that the necessary bylaw amendments can be prepared and returned to Council for approval in order for this program to be implemented by January 1, 2005.

Proposed Secondary Suite Implementation Program

The proposed secondary suite implementation program (Attachment A) is based on Council's direction given on February 24th. A summary of the program, its requirements and projected expenses and revenues during its establishment, implementation and enforcement and maintenance phases are set out in the attached table format for easy reference.

The proposed program aims to:

- involve as many secondary suite home owners as possible without costly enforcement action;
- keep fees charged to secondary suite home owners at cost recovery levels;
- legitimize secondary suites as a component of the City's housing stock; and
- be uncomplicated in its implementation.

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It is important to note that the proposed implementation program **does not** replace Table 4 of the Secondary Suite Task Force (Attachment B) that sets out the Task Force's proposed **procedure** that would be followed by secondary suite owners and staff in bringing existing secondary suites into compliance with the secondary suite program.

The proposed implementation program (Attachment A) reflects a 'soft launch' approach to implementing a secondary suite program in the City. It is proposed that the program be established during the remainder of this year by launching an information campaign that seeks voluntary registration before January 1, 2005. Furthermore, it is proposed that while registration of secondary suites and payment of secondary suite utility charges are required from January 1, 2005, enforcement for compliance with the BC Building Code would only commence January 1, 2007. In other words, secondary suite owners must register their suites commencing January 1, 2005 but have two years (i.e., until January 1, 2007) to have an initial assessment done by a building inspector and apply for a building permit, if necessary, to bring the suite into compliance with the BC Building Code.

Active enforcement will be pursued after January 1, 2007 for secondary suite owners whose suites are not confirmed to comply with the BC Building Code and who have not applied for an initial assessment or a building permit. This enforcement would follow a progressive bylaw compliance approach based first on municipal ticketing, then a notice on title and finally, injunctive proceedings with an order to vacate and decommission the secondary suite if necessary.

Table 4 of the Secondary Suite Task Force

Table 4 of the Secondary Suite Task Force (Attachment B) sets out the proposed **procedure** that should be followed by secondary suite owners and staff in bringing existing secondary suites into compliance with the secondary suite program and is attached for Council's reference.

Table 4 has been amended slightly to reflect the proposed implementation program (i.e., deleting the proposed application fee/assessment fee). Furthermore, instead of paying a registration fee once the secondary suite complies with the BC Building Code as proposed by the Task Force, the suite will now be deemed authorized once an occupancy permit has been issued (see Attachment B for more detail).

Council Motions of February 24, 2004

On February 24, 2004, Council adopted the following motions:

"THAT staff proceed with a secondary suite program for approval at a future Council meeting based on the following:"

The aim of this report is to obtain Council's approval of the proposed program so that the program can be established by the proposed implementation date of January 1, 2005.

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"Charging secondary suite home owners an annual administration fee to help offset the City's increased administration costs;"

Should Council agree to the proposed implementation program, all administrative costs associated with the secondary suite program will be included in the administration costs in the City's utility budget and recovered through the existing system of utility charges. Charging secondary suite home owners an annual administration fee would therefore not be required.

"Reducing the above fee during the first year of the program's inception as an incentive to voluntary program registration;"

As no annual administration fee is proposed, it is recommended that the fee of \$125 for the proposed initial building assessment of existing secondary suites be waived during the first year of the proposed program's implementation phase (i.e., for 2005).

"City utilities fees be based on the cost of servicing secondary suites"

Currently all single family homes in the City have one municipal connection each for sewer and water services. Unless second connections for these services are required for secondary suites or until water is metered for single family homes in the City, it is not possible to determine exactly how much it costs to service secondary suites. Taking this into account, the Secondary Suite Task Force recommended a 40% cap on utility charges for secondary suites. As noted in the February 17th staff report, the City's Fees and Charges Bylaw currently stipulates utility charges for "suites (in private dwellings or commercial premises) per unit". Presently the rates are \$210 for sanitary sewer and \$192 for water, which are equivalent to the fees for individual single family and multi-family dwellings. It has been agreed at inter-departmental staff meetings to recommend to Council to continue this approach and to apply it to all secondary suites.

"Extending the seasonal bylaw enforcement position for the balance of 2004 to a full time permanent position to assist in establishing and administering the secondary suite program;"

This position was advertised and has been filled. The successful candidate will join the City on May 3rd, 2004. If Council supports establishing a secondary suite program, staffing resources as set out in Attachment A will need to be allocated.

"Bylaw and licensing staff taking the lead in implementing and administering the City's secondary suite program;"

As the proposed secondary suite implementation program based on Council's February 24th resolution requires full compliance with the BC Building Code, it is possible for building inspectors to take the lead in implementing the program. However, it is recommended that bylaw and licensing staff initially take the lead in establishing and implementing the program as registration is required before compliance with the BC Building Code i.e. the 'soft-launch' approach' (see Attachment A).

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"THAT staff incorporate the recommendations of the Task Force as follows:

- A. secondary suites be authorized on a city wide basis in all the one-family residential zones, as set out in table 1, except for mobile home park areas (i.e. RS4 zone);*
- B. secondary suites be limited to one secondary suite per single family dwelling;*
- C. one-off-street parking space, dedicated to the use of the secondary suite tenant, be provided in addition to the one off-street parking that is currently required for the principal residence;*
- D. the definition of the secondary suites as contained in the current Zoning Bylaw be amended to be consistent with the BC Building Code definition;*

With regards to Council's motion on the Secondary Suite Task Force's above recommendations, items A, B, C, & D will be dealt with through changes to the City's Zoning Bylaw. Proposed wording to this effect is included in Attachment C.

- E. where existing secondary suites are heated with a common forced air system, an equivalency approach to meet the BC Building Code requirement for containing smoke and fire through the use of fire dampers be adopted;*

Task Force recommendation E listed above, will be addressed through a Departmental policy to be adopted by the Building Section.

- F. secondary suites should not be permitted to become strata titled;*
- G. accessory boarding, bed and breakfast operations and home occupations that generate traffic such as hairdressers and daycare facilities, not be permitted in the same single family dwelling as a secondary suite;*

With regards to recommendations F & G above, these will be dealt with through changes to the City's Zoning Bylaw. Proposed wording to this effect is included in Attachment C.

- H. an 'intensive residential' development permit should not be required for the construction of a single family dwelling with a secondary suite but a building permit will be required where necessary;*

With regards to the Task Force's recommendation H, an "intensive residential development permit" is not required, though a building permit will be required for an existing suite when it does not meet the requirements of the BC Building Code in order to bring it into compliance. The construction of new residences with secondary suites will automatically require building permits as all new construction does. Construction of new secondary suites in existing homes will also require a building permit and illegal construction of a secondary suite in an existing (or new) home will lead to bylaw enforcement action.

It is important to note that enforcing full compliance with the BC Building Code, instead of only addressing life and safety issues through a less intrusive, complaint driven approach such as Port Coquitlam's, will lead to the closure of some existing secondary suites in the City, especially those in older homes, as it is expected that for example, their limited ceiling heights may not be able to be cost effectively altered to meet BC Building Code requirements.

It is also important to note that once a program seeking BC Building Code compliance is implemented, revising it later to a less intrusive model would lead to inequities for those owners

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that have already complied with the program and who may have spent between \$10,000 to \$15,000 to upgrade their suites vs. those that are not required to do so anymore unless there is a life safety issue at stake.

I. any fees charged in regards to secondary suites should be aimed at cost recovery only;

The projected expenses for implementing a secondary suite program are set out in Attachment A. It is estimated that it would cost the City \$150,000 (staffing costs) for the first two years of the program's implementation and then \$160,000 thereafter, as an allowance for legal fees (i.e., estimated \$10,000/year) for enforcement action are included for the duration of the program.

If the recommended approach of charging secondary suites, based on the existing utility charges stipulated in the Fees & Charges Bylaw is implemented, it is estimated that projected revenue of \$301,500 per year could be generated when all the estimated secondary suites are registered:

$$(\$210 + \$192) \times 750^1 \text{ estimated secondary suites} = \$301,500$$

This projected revenue amount is dependant on the number of secondary suite owners that voluntarily register their suites and on the length of time required to have all the existing secondary suites in the City registered through bylaw enforcement action. The implementation of the proposed secondary suite program will require bridge funding from the utility account during 2004 (i.e., \$12,800) and full funding from the utility account for the duration of the program. It is important to note that the utility account is a self-balancing fund where any surplus funds may lead to lowering utility rates and thereby theoretically overall tax rate increase.

J. the procedure to 'register' existing and new secondary suites as laid out in the attached Table 4, be adopted;

As discussed earlier in this report, Table 4 has been slightly altered (i.e., by omitting the Task Force's proposed assessment and registration fees) to reflect the proposed implementation program. For more detail, refer to Attachment B.

K. secondary suites do not require an annual business license but a modest annual fee to cover the costs of administering the secondary suite program may be charged;

L. the registration fee be reduced initially and subsequently incrementally increased to the full fee during the first 12 months of the commencement of the secondary suite program to encourage voluntary compliance;

These two recommendations have already been discussed earlier in this report.

¹ To date, staff has used 700 as the estimated number of secondary suites in the City based on the year 2000 housing figures. Given the level of new single family housing construction over the last 3 years and still using 20% of that as an estimate, it is now estimated that there are 750 secondary suites in the City.

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- M. the existing forty-eight 'grandfathered' secondary suites be exempt from the above-listed requirements; and that*
- N. the existing 'family suites' continue to function as 'family suites' provided they are operated according to the zoning requirements that applied at the time of their origin and provided there are no serious health and safety concerns; or the owner of a 'family suite' could choose to upgrade it to a secondary suite by meeting the applicable health and safety standards."*

Task Force recommendations M and N listed above, will be taken into account when staff compiles a list of known secondary suites in the City during the establishment phase of the secondary suite program (i.e. the remainder of 2004 to January 1, 2005).

"AND THAT staff report on the ability of City firefighters to enforce bylaws."

With regards to the ability of City firefighters to enforce bylaws, the following summarized advise was provided by the City Solicitor:

The City is legally able to authorize its officers or employees to enter property to inspect and determine whether City regulations are being met and therefore firefighters could be utilized for this purpose too.

However, a potential liability implication arises when the City becomes aware of fire hazards through the presence of personnel with fire prevention expertise being on a property that the City would not otherwise be aware of, and in such cases, enforcement issues or liability for non-enforcement of fire prevention regulations may arise.

In order for firefighters to enforce City bylaws, the following would need to be addressed:

- labor and personnel issues;
- the Collective Agreement with the I.A.F.F.;
- bylaw enforcement training; and
- various possible bylaw amendments (e.g., the City's ticketing bylaw).

Under the *Community Charter*, Council may by bylaw designate certain personnel as bylaw enforcement officers under the Municipal Ticketing Information System. Firefighters fit into two of these personnel categories, namely, "(e) local assistants to the fire commissioner under section 6 of the *Fire Services Act*;" or "(f) ... or other persons acting in another capacity on behalf of a municipality, ... for the purpose of enforcement of one or more of its bylaws".

Lastly, a question was raised at the February 24th session as to the potential liability of pursuing a less intrusive, complaint driven building code compliance approach if an accident was to happen in connection with a secondary suite. To respond to this question, staff have sought legal input from the City Solicitor regarding the City's liability should it chooses to follow a passive enforcement program for secondary suites similar to the City of Port Coquitlam's. In summary, the City Solicitor concluded that the policy adopted by the City of Port Coquitlam provides a significant amount of liability protection for that City as it creates a clear enforcement policy for secondary suites focused largely on life safety issues (For more detail, see #2 & 3 on pages 3 - 4 of Attachment D).

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On this critical item, staff again recommends that Council consider a secondary suite implementation program that follows the Port Coquitlam life safety compliant response model. This less aggressive approach would be less costly and difficult to administer (i.e., an additional building inspector would not be required plus lower legal costs are anticipated) and would be less onerous for home owners. A stringent building code compliance approach may ultimately require Council's firm resolve in seeking injunctions to close and vacate non-complying suites.

Attachments:

- A: Proposed Secondary Suite Implementation Program
- B: Amended "Table 4: Proposed Procedure to Authorize Secondary Suites"
- C: Proposed Secondary Suite Changes to the City's Zoning Bylaw
- D: City Solicitor letter dated March 17, 2004

BUDGETARY IMPACT:

The anticipated expenses and revenues relating to the proposed secondary suite program are set out in table format in Attachment A. It is important to note that bridge funding from the utility reserve in the order of \$12,800 (for 2004) will be required for staffing and program start-up costs and full funding will be required from the utility budget for the duration of the program.

COUNCIL STRATEGIC PLAN OBJECTIVES:

Preparation of an implementation plan for secondary suites has been identified as a key area of Council's 2003 Strategic Plan.

POLICY IMPLICATIONS:

The City's OCP states that the City will explore permitting secondary suites in single family residential zones as a means of providing a greater supply of affordable housing in the community (Chapter 7, policy #16). Changes to the City's Zoning Bylaw are required based on the proposed implementation program.

ALTERNATIVES:

1. That the proposed secondary suite implementation program (Attachment A) attached to the Planning and Development Services report dated April 20, 2004 not be adopted;
2. That the amended "Table 4: Proposed Procedure to Authorize Secondary Suites" (Attachment B) attached to the Planning and Development Services report dated April 20, 2004 not be adopted;
3. That staff not be authorized to prepare the necessary bylaw changes for Council's consideration at a future date;

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4. That staff be directed to prepare a proposed secondary suite implementation program and related bylaw amendments based on the less intrusive, life safety compliant driven building code compliance approach.

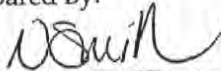
RECOMMENDATIONS:

THAT the proposed secondary suite implementation program (Attachment A) attached to the Planning and Development Services report dated April 20, 2004 be adopted;

AND THAT amended "Table 4: Proposed Procedure to Authorize Secondary Suites" (Attachment B) attached to the Planning and Development Services report dated April 20, 2004 be adopted;

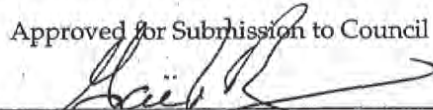
AND THAT staff be authorized to prepare the necessary bylaw amendments for Council's consideration at a future date.

Prepared By:



Nikola Smith
Planner

Approved for Submission to Council



Gaetan Royer
City Manager

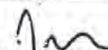
APPROVALS

Supervisor (Initials)



M. McMullen, M.C.I.P., Planner

Dept. Head (Initials)



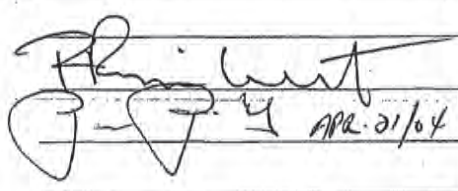
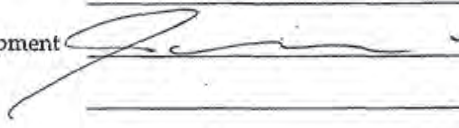
J.L. McIntyre, M.C.I.P., Director of Planning &
Development Services

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CORPORATE REVIEW		COMMITTEE REVIEW
Clerk's Department		
Community Services		
Finance		
Fire & Rescue		
Human Resources		
Library		
Planning & Development		
Police Services		

COUNCIL AGENDA INFORMATION		
Regular Council Meeting	Date: APR. 27/04	Item #[5.]

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Proposed Secondary Suite Implementation Program

	Remainder of 2004	2005	2006
	<i>Program Establishment</i>	<i>Program Implementation</i>	<i>Program Implementation</i>
<i>Program Requirements</i>	<ul style="list-style-type: none"> • Changes to various bylaws i.e. Zoning Bylaw (including Public Hearing process) • Listing known existing secondary suites and identifying others • Information campaign including newspaper ads, brochures etc. • Implement a registration system 	<ul style="list-style-type: none"> • Follow up on compiled list of known secondary suites • Secondary suite registration program (including payment of utility charges) • Processing of building permits where owners are willing before Jan 2007 	<ul style="list-style-type: none"> • Follow up on compiled list of known secondary suites • Secondary suite registration program (including payment of utility charges) • Processing of building permits where owners are willing before Jan 2007
<i>Staffing Requirements Dedicated to Secondary Suite Program</i>	<ul style="list-style-type: none"> • 0.5 bylaw enforcement officer² 	<ul style="list-style-type: none"> • 1.0 bylaw enforcement officer³ • 1.0 building inspector⁴ • 0.5 clerical staff⁵ 	<ul style="list-style-type: none"> • 1.0 bylaw enforcement officer⁶ • 1.0 building inspector⁷ • 0.5 clerical staff⁸
<i>Projected Expenses</i>	<ul style="list-style-type: none"> • Staff: \$8,800¹² • Information campaign (including brochures, public hearing, newspaper ads, Focus articles & City's website): \$2,000 • Telus Directory list: \$2,000 (for cross-checking investigation) 	<ul style="list-style-type: none"> • Staff: \$150,000¹³ 	<ul style="list-style-type: none"> • Staff: \$150,000¹⁴
<i>Projected Revenue/Funding Source</i>	<ul style="list-style-type: none"> • Zero (no extra utility fees, no building permit fees) • Bridge funding required: \$12,800¹⁵ 	<ul style="list-style-type: none"> • Funding required from the utility account : \$150,000 • Building permit fees for existing secondary suites¹⁶ • Waived assessment fees where owners are willing before January 2006 • Utility charges for secondary suites registered by December 31, 2005¹⁷ 	<ul style="list-style-type: none"> • Funding required from the utility account: \$150,000 • Building permit fees for existing secondary suites¹⁸ • Initial assessment fees where owners are willing before January 2007 • Utility charges for registered secondary suites

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- 1 Enforcement action to decommission non-complying suites will include: warning letters, municipal tickets, notices on title, and finally, injunctive process vacating non-complying suites
- 2 This does not include time of existing staff
- 3 Same as above
- 4 Same as above and depending on demand for voluntary BC Building Code compliance before January 2007
- 5 This does not include time of existing staff
- 6 Same as above
- 7 Same as above and depending on demand for voluntary BC Building Code compliance before January 2007
- 8 This does not include time of existing staff
- 9 Same as above
- 10 Same as above and depending on demand for voluntary BC Building Code compliance before January 2007
- 11 This does not include time of existing staff
- 12 Annual salary of \$36,300 – 2003 carried forward funding of \$27,500 = \$8,800 (May 3rd start date).
- 13 This does not include time of existing staff and depending on demand for voluntary BC Building Code compliance before January 2007
- 14 Same as above
- 15 Annual salary of \$36,300 – 2003 carried forward funding of \$27,500 = \$8,800 (May 3rd start date). **Plus** \$4,000 for the information campaign and Te expenses
- 16 Estimated building permits for 100 secondary suites per year x \$60.00 = \$6,000.00 per year
- 17 For preliminary broad brush revenue projections, assuming a 100 secondary suites per year, or multiples thereof, are registered, the following estimates:
100 secondary suites x \$402 = \$40,200; 200 secondary suites = \$80,400 etc. It should be noted that the approximate breakeven point would be the should it be necessary to employ a building inspector during the first year depending on the demand for voluntary BC Building Code compliance before
- 18 Estimated building permits for 100 secondary suites per year x \$60.00 = \$6,000.00 per year

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TABLE 4: PROPOSED PROCEDURE TO AUTHORIZE SECONDARY SUITES ¹			PROPOSED
	Application Stage*	Site Inspection/Initial Assessment Stage*	Options
Property owner applies to register existing secondary suite	Owner applies to register suite by filling out an application form and paying an application/assessment fee <i>Proposed amendment: Owner applies to register suite by filling out an application form.</i>	Building inspector undertakes inspection of suite and prepares an assessment report (check list required)	Option A: if the suite complies with Building Code, the owner/applicant submitting a registration fee. Register into the City's database. <i>Proposed amendment: Option A: if the suite complies with the BC Building Code, the owner/applicant submits the standard Building Code application and pays the registration fee. Staff completes the registration.</i>
	City staff enters the application into a database, confirms zoning and ownership <i>Proposed amendment: City staff enters the application into a database, confirms zoning, & charges annual utility fees for the suite (if the suite is registered before January 1, 2005, no secondary suite utility fees will be charged for 2004)</i>	Assessment report is forwarded to the property owner/applicant	Option B: if the suite does not comply with the Building Code, the owner/applicant applies for a Building Permit and submits the standard Building Code application and pays the registration fee. Staff completes the registration. <i>Proposed amendment: Option B: if the suite does not comply with the BC Building Code, the owner/applicant applies for a Building Permit and submits the standard Building Code application and pays the registration fee. Staff completes the registration.</i>

¹ As recommended by the Secondary Suite Task Force, January 2002.

² As now recommended by staff.

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	<p>An inspection is scheduled (schedule is required)</p> <p><i>Proposed amendment: An initial building assessment is scheduled (the fee of \$125 is waived for 2005)</i></p>	<p>Property owner/applicant reviews and decides to follow one of the options A – D.</p>	<p>Option C: owner/applicant decides enforcement officer to inspect to confirm suite is decommissioned. The information is entered into the system and the owner/applicant receives a receipt of the application fee</p> <p><i>Proposed amendment:</i></p> <p>Option C: owner/applicant confirms the suite is decommissioned. Bylaw enforcement confirms that the suite is decommissioned. The information is entered into the system and the owner/applicant receives a receipt of the annual utility charges</p> <p>Option D: Owner/applicant does not require enforcement officer to act on (issue Injunction)</p>
<p>Property owner applies to construct a new secondary suite</p>	<p>Same as above, except no initial assessment is required. Owner/applicant pays a reduced application fee.</p> <p><i>Proposed amendment: Same as above, except no initial assessment is required.</i></p>	<p>Not applicable</p>	<p>As Option B above: Owner/applicant confirms the suite is decommissioned and proceeds to have the suite registered. The owner/applicant pays the registration fee.</p> <p><i>Proposed amendment:</i></p> <p>As Option B above: Owner/applicant confirms the suite is decommissioned and proceeds to have the suite registered. The owner/applicant pays the registration fee. The suite is occupancy permit has been the data entry.</p>

* Secondary suite information leaflets to be available to the public

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Subject: Proposed Implementation of a Secondary Suite Program
April 20, 2004

Attachment C

Proposed Secondary Suite Changes to the City of Port Moody's Zoning Bylaw, No. 1890, 1988

1. Proposed secondary suite definition:

"SECONDARY SUITE means a separate dwelling unit located within a building which is a single real estate entity used solely for residential use and which contains only one other dwelling unit and which satisfies the requirements of Section 304 of this bylaw."

2. Proposed general regulations:

"304 Secondary Suites

1. Where permitted in this bylaw, secondary suites must meet the following criteria:

- a) they shall be located within a building of residential occupancy containing only one other dwelling unit and shall have a total floor space of not more than 90.0 square metres (968.8 square feet) in finished living area. (This area does not include the areas used for common storage, common laundry facilities or common areas used for access);
- b) they shall have a floor space less than 40% of the habitable floor space of the building (Floor area for the purpose of this calculation does not include attached storage garages);
- c) the secondary suite must be located within the same real estate entity as the principal residential use and cannot be subdivided from the building it is part of under the Strata Property Act; and
- d) one off-street parking space, in accordance with the design criteria in Part 500 Parking Specifications, shall be provided for the exclusive use of the secondary suite."

3. Proposed permitted accessory uses in single-family residential zones (excluding manufactured home parks)

"II PERMITTED ACCESSORY USES

a) On any lot:

- 1) Accessory building;
- 2) Home office; [currently Home Occupation Type II]
- 3) One of the following:
 - secondary suite;
 - home occupation;
 - boarding; or
 - Bed and Breakfast."

Considered at March 23, 2010 Regular Council Meeting

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BARRISTERS & SOLICITORS

TELEPHONE (604) 689-5263
FAX (604) 689-9029

TWO BENTALL CENTRE
1155 - 555 BURNARD STREET
P.O. BOX 49059
VANCOUVER, CANADA V7X 1C4

Attachment D

March 17, 2004

VIA FAX

James L. McIntyre, M.C.I.P.
Director of Planning & Development Services
City Hall
100 Newport Drive
P.O. Box 36
Port Moody, B.C.
V3H 3E1

Dear Jim:

Re: Secondary Suite Implementation Program
Our File No. 2745

This letter acknowledges receipt of yours dated March 9, 2004 in which you requested comments on a number of issues in relation to the City's implementation policy.

Your questions and our responses are as follows:

1. **The ability of City firefighters to enforce City bylaws i.e. the ability of firefighters to fulfill the role of bylaw enforcement officers and what steps would be necessary to implement this approach.**

The first question you raised dealt with whether the City could utilize its firefighters for enforcement purposes and what would be needed to implement this approach if it was permissible.

We are presuming that this is not going to be an issue with respect to labor issues, the Collective Agreement with the I.A.F.F. or cause difficulties from a personnel perspective.

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March 17, 2004

There should not be any liability implications as presumably, the firefighters are fully qualified to be able to ascertain whether bylaw provisions with respect to secondary suites are being complied with.

However, one potential liability implication you should be aware of is that the City may be put in the position of gaining knowledge of fire hazards through presence of personnel with fire prevention expertise being on premises that it would not otherwise have available to it and in such a case, enforcement issues or liability for non-enforcement could arise.

With respect to the legal ability of the City to utilize firefighters, the City is permitted to authorize officers or employees to enter on property to inspect and determine whether regulations are being met.

Accordingly, so long as the Zoning Bylaw authorizes City employees to enter on lands or premises for inspection purposes, firefighters would so qualify.

With respect to enforcement using the Municipal Ticketing Information System, Section 264 of the Community Charter provides that Council may by bylaw designate as a bylaw enforcement officer, personnel who come within a class of persons prescribed by regulation.

Section 3 of the Community Charter Bylaw Enforcement Ticket Regulation 425/203 designates the following classes of persons who may be designated as bylaw enforcement officers for these purposes:

- "(a) special constables, officers, members or constables of
 - (i) the provincial police force as defined in section 1 of the *Police Act*, or
 - (ii) a municipal police force;
- (b) members of the Royal Canadian Mounted Police;
- (c) local government corporate officers;
- (d) bylaw enforcement officers under section 36 of the *Police Act*;
- (e) local assistants to the fire commissioner under section 6 of the *Fire Services Act*;
- (f) licensing inspectors, building inspectors, animal control officers or other persons acting in another capacity on behalf of a municipality, regional district or local trust committee for the purpose of enforcement of one or more of its bylaws."

It may be that certain firefighters are local assistants to the fire commissioner but in any event, the fire fighters could be "other

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March 17, 2004

persons acting in another capacity on behalf of the Municipality" so long as Council designated them under the ticketing bylaw as being enforcement officers for such purposes.

2. **What is the extent of the City's legal liability where the City chooses not to actively enforce the BC Building Code when secondary suites are "legalized" in the City through becoming a permitted use in the Zoning Bylaw.**

When secondary suites are "legalized" in the sense of becoming a permitted use under the Zoning Bylaw, that simply deals with the issue of secondary suites as a permitted use under the Zoning Bylaw.

The "legality" however remains subject to any and all other regulations which may be applicable, including compliance with the Building Code and Building Bylaw.

In this case, it appears that the City may consider the policy objective of not actively enforcing the Building Code.

Generally speaking, bylaw enforcement is discretionary and a bona fide decision to not enforce the bylaw ought not to attract liability.

While a decision to simply ignore violations of the Building Code and Building Bylaw entirely may be open to challenge, it would in our view be defensible if a decision was made for sound policy reasons to not enforce each and every aspect of the Building Code and building regulation so long as life safety considerations did not arise.

As well, Section 289 of the *Local Government Act* (which remains in force and effect for municipalities as well as Regional Districts) provides a defence for failure to enforce by way of injunction non-compliance with a Building Bylaw or the Building Code.

3. **Given 2. Above, is there sufficient liability protection for the City in a corporate policy similar to the one of the City of Port Coquitlam (Attachment A):**

As noted above, whether a decision to not enforce is considered to be reasonable or in good faith will depend to a large extent on the seriousness of the issue.

The Courts have long recognized that decisions of a policy nature may reflect financial considerations such as available resources for

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March 17, 2004

enforcement and weighing costs and benefits. For that reason, a decision to not enforce where there are legitimate life safety issues may well be open to challenge.

In our view, the policy adopted by the City of Port Coquitlam that you forwarded to us does provide a significant amount of liability protection, in that it creates a clear policy for enforcement focused to a large extent on life safety issues.

In our view, such a policy would go a long way to establishing a bona fide system of enforcement for secondary suites where a large number of existing suites that were reasonably safe would not face enforcement of Building Code considerations.

4. In the second last paragraph of your letter dated February 9, 2004 it is mentioned that the City's business license bylaw could make the renting of a suite a business that required a business license – is this your recommended approach? Or could a proposed annual administration fee pursuant to Section 194 of the Community Charter be included in the current business license bylaw? (i.e. on what statutory basis would a secondary suite program be enacted and is a bylaw to this effect necessary?)

With respect to the annual fee or charge, our letter of February 9, 2004 to Ms. Smith was based on an email request from her requesting our advice with respect to the authority to charge this fee and her stated presumption that it ought not to be called a business license.

Ms. Smith's presumption was undoubtedly based on the previous *Local Government Act* provisions which significantly restricted the potential use of the business license powers in respect of secondary suites.

The former Section 655 contained a restriction on the ability to require business license for the renting of two or fewer rooms where the dwelling unit was owner occupied.

Now, under the Community Charter, this restriction does not apply and so the City could simply treat the matter as a business license fee.

As we noted, Section 194 is arguably broad enough to include a fee for the administration of secondary suite registrations as a service.

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March 17, 2004

With respect to Section 194, there is of course the issue of the rationale for the fee as described in our earlier letter, the need to make available to the public a report respecting the fee and identifying "the service".

You inquired as to whether the proposed annual administration fee pursuant to Section 194 could be included in the Business License Bylaw.

If the desire is to include this fee or charge in the Business License Bylaw, then we would suggest that it be called a business license, rather than an annual administration fee pursuant to Section 194, in order to avoid confusion.

On balance, we would suggest that probably the cleanest way to provide for this fee is to amend the Business License Bylaw to include this as a business license fee thereunder.

That would be much more straight forward and would involve a much simpler bylaw amendment, rather than a stand alone administration fee bylaw for secondary suite administration.

As well, in the event of enforcement issues, the authority to cancel or suspend business licenses may be a useful enforcement tool to have available for particularly problematic landowners and suites.

Finally, from an optics perspective, given the desire to have an annual fee, those familiar with business licensing bylaws will find it much easier to understand an annual fee, which is a business license matter, as that is of course the standard approach in that area.

Yours truly,

MURDY & McALLISTER

Christopher S. Murdy

CSM/sn

c.c. Gaetan Royer, City Administrator