

DRAFT LAND USE BYLAW AMENDMENTS

SECONDARY SUITES

Public Hearing November 15, 2023, at 1:30 P.M.

WHAT TYPE OF SECONDARY SUITES ARE ALLOWED IN FOOTHILLS COUNTY?

Current Provisions:

Currently we allow two types of Secondary Suites, a Secondary Suite, Principal which is a suite within the principal dwelling or attached garage, and a Secondary Suite, Accessory, which is a suite situated in, or attached to, an accessory building or detached garage.

Proposed Amendments:

We are proposing an amendment to the current definition of Dwelling, Secondary Suite to remove the specifics on washroom facilities to allow more flexibility:

DWELLING, SECONDARY SUITE means a subordinate Dwelling Unit located on a parcel in addition to the principal Dwelling Unit, which constitutes a self-contained living accommodation unit comprised of kitchen facilities, sleeping amenities, and washroom facilities ~~consisting of a full bathroom including tub and/or shower fixture~~; and a separate entrance ~~and~~ or includes a door which can be physically closed or locked off from the remainder of the principal dwelling.

The forms of Secondary Suites allowed in Foothills County are proposed as follow:

1. **Secondary Suite, Principal**

The amendments allow for Secondary Suite, Principal (as currently allowed) with an addition (shown in red) to the definition for clarification purposes:

SECONDARY SUITE, PRINCIPAL means a dwelling, Secondary Suite, located within the principal dwelling unit, ~~in an extension or addition to the principal dwelling~~, or above a garage attached to the principal dwelling in accordance with Section 10.26 of this bylaw.

2. **Secondary Suite, Detached (NEW and replacing Secondary Suite, Accessory)**

SECONDARY SUITE, DETACHED means a *Dwelling, Secondary Suite*, which is detached from and subordinate to, the principal dwelling located on the same parcel. A Secondary Suite, Detached may be a stand-alone suite or a suite within or attached to, an accessory building or detached garage on the same parcel as the principal dwelling and shall be constructed in accordance with all provisions under Section 10.26.

Note of Importance (not an amendment)

- *All Secondary Suites require a Development Permit approval and must be in accordance with provisions under Section 10.26 Secondary Suites and meet the development requirements under the applicable land use districts (such as, but not limited to minimum setback requirements, maximum dwelling unit density, maximum height requirements, maximum lot coverage). This is not proposed to change.*
- *All Secondary Suites must meet Building Code, Safety Code, and Fire Code requirements.*

WHERE IN FOOTHILLS COUNTY CAN RESIDENTS APPLY FOR SECONDARY SUITES?

Current Provisions

Currently we only allow Secondary Suites to be applied for on parcels 2 acres in size and larger outside of hamlet boundaries.

Proposed Amendments:

1. The allowance of Secondary Suites is proposed to be expanded to include parcels under 2 acres in size and parcels within Hamlet boundaries in the County (see below exception), in addition to what is currently allowed, in accordance with the provision under Section 10.26.
 - a. **Exception** – Secondary Suites are not permitted within the hamlets of Heritage Pointe and Priddis Greens (as per the outcome of the preliminary hamlet survey engagement.)
2. Secondary Suites are allowed under land use district within the land use bylaw as follows:
 - a. Secondary Suite, Principal
 - i. Permitted use under most land use districts where residential use is contemplated.
 - ii. Discretionary use under Residential Community District (parcels usually under 0-.80 acres in size and often within Hamlets) to allow the Development Authority to use their discretion in determining if the property can accommodate a Secondary Suite and to allow for neighbor appeals.
 - b. Secondary Suite, Detached (NEW)
 - i. Discretionary use, in all districts where residential use is contemplated, except for the Agricultural Districts and DC#36 where Secondary Suite, Accessory was already listed as a permitted use under the previous provision.

A list of land use districts identifying Secondary Suites as either a Permitted or Discretionary Use is included in the proposed land use bylaw amendments.

Notes of Importance (not an amendment):

- *Where a Secondary Suites is a permitted use under the applicable land use district but does not meet all other provisions under this bylaw, it shall be considered a Discretionary use.*
- *Any land use district that does not list Secondary Suite as permitted or discretionary use, will require a site-specific amendment approval in advance of a Development Permit approval.*

WHAT SIZE OF SECONDARY SUITES CAN BE APPLIED FOR IN FOOTHILLS COUNTY?

Current Provisions:

Secondary Suites have been restricted to a minimum of 400 sq. ft. in size and restricted to a maximum size of:

- Secondary Suite, Principal) - no larger than 40% of the habitable area of the principal dwelling to a maximum of 900 sq. ft. in size
- Secondary Suite, Accessory -no larger than 50% of the gross floor area of an accessory building up to a maximum of 900 sq. ft. in size.

A variance exists under Section 5.6.10 that gives the Development Authority the allowance to grant a 10% variance to the maximum size requirements of a NEW Secondary Suite, where the Development Authority is of the opinion it will not materially interfere with or affect the use, enjoyment, or value of the neighbouring properties.

Proposed Amendments:

1. The minimum size requirement of 400 sq. ft. has been removed.
2. Proposed maximum size for Secondary Suites in Foothills County

Secondary Suite, Principal

- a. Secondary Suite, Principal to be smaller than the habitable area of the principal dwelling, to a maximum of 1,400 sq. ft. in size.

For the purpose of determining Secondary Suite size, the habitable area is the sum of the floor areas of all livable space contained within the exterior walls of the structure including the basement. This does not include the garage ~~area~~, or basement areas used exclusively for storage, or areas devoted exclusively to mechanical or electrical equipment servicing the building.

- i. Exceptions have been included to allow for a Secondary Suite, Principal to exceed the maximum 1,400 sq. ft. in size where the Secondary Suite is situated:
 - a. Entirely within the basement of the principal dwelling and the gross floor area of the basement is greater than 1,400 sq. ft. in size.
 - b. Within the entire loft area above a garage attached to the principal dwelling, provided the Secondary suite does not exceed the gross floor area of the attached garage and the Secondary suite remains smaller in size than the habitable area of the principal dwelling.

The Gross Floor Area is the total floor area of each floor of a building measured to the outside surface of the exterior walls, ~~including covered patio or deck areas~~, or where buildings are separated by fire walls, to the centerline of the common fire wall and does not include basements ~~or uncovered decks~~.

Secondary Suite, Detached

- b. Secondary Suites, Detached shall meet the following maximum size requirements:
 - i. on parcels 1 acre and larger in size, the Secondary Suite shall be smaller than the habitable area of the principal dwelling up to a maximum of 1,400 sq. ft. in size.
 - ii. on parcels less than 1 acre in size, the Secondary Suite shall be smaller than the habitable area of the principal dwelling up to a maximum of 1,000 sq. ft. in size.

Note of Importance (not an amendment)

- A Secondary Suite, Detached shall be considered as part of the total allowable number of accessory buildings and total accumulated area of accessory buildings in accordance with parcel size as identified in Table 4.2.1.7A of the Land Use Bylaw.
- A Secondary Suite not only has to meet the size requirements provision, but also be able to accommodate the development requirements under the land use district such as minimum setback distances, maximum lot coverage, maximum height requirements, and the maximum dwelling density and meet all requirements under Section 10.26 for Secondary Suites.

Size Variances:

- *The current provision allowing for a 10% variance to the maximum size requirement for a **NEW** Secondary Suites has not been removed from the provisions and remains in place.*
- *The 2019 variance will be reinstated for the purpose of allowing landowners applying for approval within two years, to bring an existing suite into compliance, allowing for the Development Authority to issue a Development permit for an oversized Secondary Suites up to 25% larger than the size permitted under Section 10.26. **This will only apply to those Secondary Suites not permitted prior to amendments approved under this bylaw.***

MOBILE & MANUFACTURED HOMES AS SECONDARY SUITES

Current Provisions

The provisions currently state that a mobile home cannot be used as a Secondary Suites. The Land Use Bylaw specifically states that mobile homes are only permitted on parcels under 80 acres in size where they are approved as a Dwelling Temporary.

It is not specifically defined how manufactured homes fit within the provisions for Secondary Suites.

Proposed Amendments:

1. The provision which states “a Secondary Suite shall not be a mobile home” is removed.
2. A new provision is added to allow for the approval of NEW manufactured homes or mobile homes to be utilized as Secondary Suites under specific circumstances.

A NEW Dwelling, Manufactured Home or Dwelling, Mobile Home may be permitted as a Secondary Suite, Detached where:

- a. Approved by Development Permit as a Secondary Suite, Detached, and meets all requirements of a Secondary Suite, Detached in accordance with Section 10.26.
 - b. All applicable fire, building and safety codes requirements are met.
 - c. It will be placed upon an approved permanent foundation pursuant to the provision of the building code.
 - d. It will be finished in a manner that is visually compatible with the principal dwelling on the same lot and in keeping with the visual character of the area (consideration given to color/finish) to the satisfaction of the Development Authority.
 - e. The maximum dwelling density and maximum height requirements are not exceeded and all other requirements as per the applicable land use district are met.
 - f. A current Engineer's report, confirming that the construction and condition of the unit meets all building code requirements has been provided where deemed necessary by the Approving Authority.
 - g. Site design features have been provided as part of the change in use including landscaping or screening to provide privacy between the unit and adjacent properties and dwellings, where deemed necessary by the Approving Authority.
3. We added a provision to allow for existing dwelling temporary to be considered as a Secondary Suites.
The Development Authority, in their discretion, may consider a development permit for a change of use from an existing Dwelling, Temporary to a Secondary Suite, Detached as a discretionary use, if the Dwelling, temporary has approvals under a previous Development Permit and can provide, to the satisfaction of the Development Authority, the following:
 - a. The unit will be placed upon an approved permanent foundation pursuant to the provisions of the building code as part of the change of use approval.
 - b. The unit has been prefabricated, built or factory-constructed after September 2, 2007.
 - c. The structure is in compliance with all requirements of Section 10.26 for Secondary Suites.
 - d. The maximum dwelling density, maximum height requirements, and all other requirements as per the applicable land use district, have been met.
 - e. The unit will be finished in a manner that is visually compatible with the principal dwelling on the same lot and in keeping with the visual character of the area (consideration given to color/finish).
 - f. A current Engineer's report, confirming that the construction and condition of the unit meets all building code requirements has been provided where deemed necessary by the Approving Authority.
 - g. Site design features have been provided as part of the change in use including landscaping or screening to provide privacy between the unit and adjacent properties and dwellings where deemed necessary by the Approving Authority.

DWELLING DENSITY

Current Provisions

In June 2019, maximum dwelling density was added to most land use districts where residential use was permitted, identifying the maximum number of dwelling units allowed per parcel.

Section 10.10.5 was added to the dwelling section of the land use bylaw including a maximum dwelling density in those land use districts where it is not dictated under the land use or development requirements. (such as some Direct Control Districts and non-residential land use districts).

Proposed Amendments:

1. Residential land use districts have been updated to include Secondary Suites under the maximum dwelling unit density section of land use districts where it allows for parcels under 2 acres in size.

For Example - Residential Community District

13.4.7.2 Maximum Dwelling Unit Density

- a. Maximum dwelling unit density for a parcel is one Dwelling, Single Family **and one Dwelling, Secondary Suite** in accordance with Section 10.26 ~~10 Dwellings~~.
 - b. **Or as determined by the Approving Authority in accordance with an approved Area Structure Plan or Outline Plan.**
2. In accordance with the above, an additional provision was added under the maximum dwelling unit density in the residential districts, that indicates the density may be as determined by the Approving Authority in accordance with an approved Area Structure Plan or Outline Plan. (This includes those densities that allow for attached or semi-attached housing within the adopted ASP and are often exceptions under the land use district).
 3. Section 10.10.5 has been updated to include Secondary Suites in the Dwelling Density under land use districts that do not have specific dwelling unit density provisions noted.

- 10.10.5** In all districts, where the maximum dwelling density is not identified **and the dwelling type is listed as a permitted or discretionary use in the applicable land use district**, the following maximum number of dwelling units (**dwelling density per parcel**) shall apply:
- a. **for a parcel under 80 acres in size you are permitted no more than:**
 - i. one Dwelling, Single Family; **and**
 - ii. **either one Dwelling, Secondary Suite in accordance with Section 10.26, or one Dwelling, Temporary in accordance with Section 10.10.**
 - iii. Or as determined by the Approving Authority in accordance with an approved Area Structure Plan or Outline Plan.
 - b. **for a parcel 80 acres or larger in size is you are permitted no more than:**
 - i. two Dwellings, Single Family; **and**
 - ii. **either one Dwelling, Secondary Suite in accordance with Section 10.26, or one Dwelling, Temporary in accordance with Section 10.10.**
 - iii. Or as determined by the Approving Authority in accordance with an approved Area Structure Plan or Outline Plan.

Note of Importance (not an amendment)

- *For information purposes and clarity, we added a separate provision under Section 10.26, noting that Secondary Suites shall only be permitted on a site in accordance with the maximum dwelling unit density requirements under the applicable land use district or in accordance with Section 10.10.5 where the maximum dwelling unit density is not listed in the land use district. This brings attention to the dwelling density provisions that apply and are noted elsewhere in the land use bylaw.*

OTHER USES OPERATED FROM SECONDARY SUITES.

Current Provisions

Section 10.26 specifically states that you cannot apply to operate a tourist home or short-term rental, home based business or bed and breakfast from a Secondary Suite.

Section 10.4.2 on Bed & Breakfast also specifically restricts a bed and breakfast from being operated from a Second Suite.

Proposed Amendments:

1. Section 10.26.7, shown below, was removed from the provisions which now allows landowners to make application for Development Permit approval to operate a home-based business or bed and breakfast from a Secondary Suites.

~~10.26.7 — A Secondary Suite shall not be operated as a Tourist Home or as a short-term vacation rental unit or include a Home Based Business Minor or Major, or Bed and Breakfast.~~

2. The removal of the above provision would mean it would no longer be prohibited for a Secondary Suite to be used as a tourist home.

Tourist homes do, however, require a site-specific amendment to allow for the use in all land use districts in advance of any Development Permit. Approval of a site-specific amendments for a tourist home in an approved Secondary Suite could potentially be approved without conflict of Section 10.26 under these amendments.

3. Section 10.4.2 of the Bed and Breakfast provisions has been removed for consistency with the above proposed amendment.

~~10.4.2 — A Bed and breakfast shall not be operated from a Secondary Suite.~~

SETBACK VARIANCES IN RELATION TO SECONDARY SUITES

Current Provisions

When Secondary Suites were allowed on parcels 2 acres and larger in size outside of Hamlet boundaries in 2019, a variance was included under Section 5.6 to permit allow the Development Authority to approve a reduced building setback for a Secondary Suite that existed prior to the date the bylaw was adopted by Council, where it does not materially interfere with or affect the use, enjoyment, or value or the neighbouring properties.

Proposed Amendments:

1. The proposal includes amendments to Section 5.6.9 for these new provisions and for clarification on what situations this variance can be applied to. The setback variance is under 5.6.9b and the amendments to this section are identified in red.

5.6.9 Within two years from the date the **updated** Secondary Suite provisions are adopted ~~under Bylaw 8/2019 (April 17, 2019,~~ under **Bylaw xx/2023 (insert date bylaw is adopted)**, the following variances may be considered **when applying for approval to bring previously existing suites into compliance, that were not previously allowed in Foothills County prior to the passing of said bylaw.**

The Development Authority may issue a Development Permit for an **existing** oversized Secondary Suite if:

- i. The Secondary Suite existed prior to the date of the adoption of these regulations; and
 - ii. The Secondary Suite is no more than 25% greater than the size permitted under Section 10.26 Secondary Suites; and
 - iii. A Development Permit has been granted approval within two years of the date which **Bylaw xx/2023** received third reading on (date of adoption).
- b. The Development Authority may issue a Development Permit for reduced building setbacks for a Secondary Suite-~~where:~~
- i. **the building code, safety code, and fire code requirements can be met (for example side yard setbacks may not be relaxed on smaller parcels due to separation distances of residential buildings with greater than 10 minutes fire department response time).**
 - ii. it does not materially interfere with or affect the use, enjoyment, or value of the neighboring properties.

This applies to Secondary Suites on parcels under 2 acres in size and Secondary Suites within hamlet boundaries or Secondary Suite, Detached on other parcels (within hamlet boundaries does not including the hamlets of Heritage Pointe and Priddis Greens).

WHAT DO WE CONSIDER WHEN MAKING DECISION ON A SECONDARY SUITE?

Current Provisions

When making decisions on Secondary Suites, the Development Authority has a list of factors that they may consider.

Proposed Amendments:

1. When considering a Development Permit for a Secondary Suite, the following new provision highlighted in red was added:

In considering a Development Permit application for Secondary Suites, the Development Authority may consider factors such as:

- a. Any significant adverse impacts on the adjacent properties and dwellings (for example: drainage, fire protection, access, etc.).
- b. Adequate water and wastewater services for the additional use on the site.
- c. The architectural character of the Secondary Suite, including:
 - i. In the case of a Secondary Suite, principal, the use of design strategies that minimize structural changes to the exterior of the principal dwelling, so that it maintains the appearance of a single dwelling; and
 - ii. **In the case of a Secondary Suite, Detached, the suite, should be constructed and finished in a manner that is visually compatible with the principal dwelling on the same lot and in keeping with the visual character of the area (consideration given to size/scale, location, and/or color/finish).**
 - iii. The availability of an indoor storage area located on the property for use of the residents of the Secondary Suite to minimize visual impact to neighbouring properties.
- d. Site design features, including:
 - i. The need for landscaping or screening to provide privacy between the Secondary Suite and adjacent properties and dwellings.
 - ii. The need for adequate space to accommodate on-site parking and loading for use by residents of the Secondary Suite.
- e. Such other considerations as the Development Authority may deem to be relevant.

Note of Importance (not an amendment)

- *When a Secondary Suite is a permitted use under a land use district, the Development Authority must approve the application for Development Permit for that use if it is in compliance with all other provisions under the Land Use Bylaw.*
- *When a Secondary Suite is a Discretionary Use, the Development Authority may use their discretion in determining if the use is appropriate for that property, and there is a right of appeal on the decision, by neighbouring landowners.*
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OTHER PROPOSED AMENDMENTS

1. Each Secondary Suite shall provide a minimum of one **additional** on-site parking space ~~per bedroom in accordance with Section 9.19 of this bylaw.~~ In accordance with Section 9.19 of this bylaw
2. The following amendment is proposed under Section 10.10 pertaining to more than one dwelling on a property to allow for Secondary Suites where approved by Development Permit
 - 10.10.17 No person shall erect a Dwelling, Single Family, Dwelling, Mobile Home, or Dwelling, Manufactured Home on a lot less than 32.4 ha. (80 acres Gross Lot Area) on which another Dwelling, Single Family, or Dwelling, Manufactured Home is already located unless:
 - a. the dwelling has been approved by a Development Permit as a Dwelling, Temporary in accordance with Section 10.10, **or**
 - b. **the dwelling has been approved by a Development Permit as a Secondary Suite, Detached in accordance with Section 10.26;** and
 - c. is in conformance with the maximum dwelling density requirement under the applicable land use district.
3. Within the land use districts Cluster Residential District and Country Estate Residential District where Dwelling Temporary is listed as a discretionary use, the use is amended to read "Dwelling Temporary **(during construction)**". This is to restrict approval of temporary dwelling for use during construction of a principal dwelling. Dwelling, Temporary for other purposes will not be allowed on these smaller sized parcels as they can now apply for a secondary suite.

**HERE ARE SOME CURRENT SECONDARY SUITES PROVISIONS UNDER THE
BYLAW THAT ARE NOT PROPOSED FOR CHANGE**

LAND USE

- A Secondary Suite shall be subordinate to a principal dwelling and shall only be located on a parcel where the use is listed as a permitted or discretionary use under the appropriate land use district.
- A Development Permit shall be obtained for all Secondary Suites in the County.
- A parcel shall be limited to one Secondary Suite.
- Occupancy shall be restricted to a maximum of two bedrooms per Secondary Suite.
- All Secondary Suites shall have an approved Building Permit and shall comply with all applicable Building and Safety Code Requirements.
- All Secondary Suites shall comply with the Land Use and Development Requirements for the applicable land use district such as, but not limited to, height requirements, setback regulations, dwelling density, and lot coverage,
- All Secondary Suites shall provide proof of adequate water servicing and sanitary sewer servicing to the satisfaction of the Development Authority:
- All Secondary Suites shall have their own distinct County address to facilitate accurate emergency response.
- All restrictive covenants existing on title shall be submitted with applications for Secondary Suites. Should a restrictive covenant disallow or restrict development of a Secondary Suite or additional dwelling unit, the application shall be considered a Discretionary Use under the land use district in which the Development Authority may refuse the Development Permit application.

A COMPLETE COPY OF THE PROPOSED LAND USE BYLAW AMENDMENTS FOR SECONDARY SUITES IS AVAILABLE ON THE FOLLOWING LINK. <https://www.foothillscountyab.ca/media/2618>.