



# Regional Board Report

**TO:** Regional Board

**FROM:** Todd Cashin  
Director of Community Services

**DATE:** May 9, 2019

**SUBJECT:** Text Amendments to Zoning Bylaw No. 871, 2000  
Zoning Amendment Bylaw No. 871-243 (Z17/05)

**Voting Entitlement:** *Custom Vote - All Directors – Unweighted Vote, Simple Majority, 1 Director, 1 Vote*

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**Purpose:** To amend regulations in Zoning Bylaw No. 871 to clarify secondary suite regulations and strengthen servicing requirements and to continue with the current rezoning process for a number of residential zones.

## **Executive Summary:**

In 2017, staff began a policy review of secondary suite regulations in the Central Okanagan Electoral Areas. During the review process, it was identified that increasing density by permitting secondary suites in all residential zones may cause drainage and slope stability challenges, particularly in areas without access to community sewer and without proper drainage plans.

Following extensive analysis and review, Planning Services staff is recommending the current process of requiring a rezoning application remain in place which will have the Regional Board making informed decisions on a site-specific, case by case basis. It is also recommended that secondary suites are added as a prohibited use under R1, RU4, RU5, and RU6 zones.

## **RECOMMENDATION #1:**

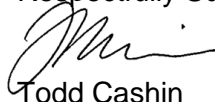
**THAT** Zoning Amendment Bylaw No. 871-243 be given first reading;

**AND FURTHER THAT** the application Z17/05 be scheduled for a Public Hearing.

## **RECOMMENDATION #2:**

**THAT** the Regional Board approve a moratorium on secondary suite rezoning applications pending completion of the proposed amendments to Bylaw No. 871-243.

Respectfully Submitted:



Todd Cashin

Director of Community Services

Approved for Board's Consideration



Brian Reardon, CAO

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### Implications of Recommendation:

**Strategic Plan:** Granting first reading to the amendment bylaw meets the 2015-2018 Strategic Priorities Plan, Strategic Priority #1: Provide Proactive and Responsive Governance.

**Policy:** Granting first reading to the amendment bylaw is in compliance with several of the goals and policies of the Regional Growth Strategy Bylaw No. 1336 and Regional District Official Community Plans (OCPs).

**Legal/Statutory Authority:** Granting first reading to the amendment bylaw is in compliance with the *Local Government Act*, Section 479.

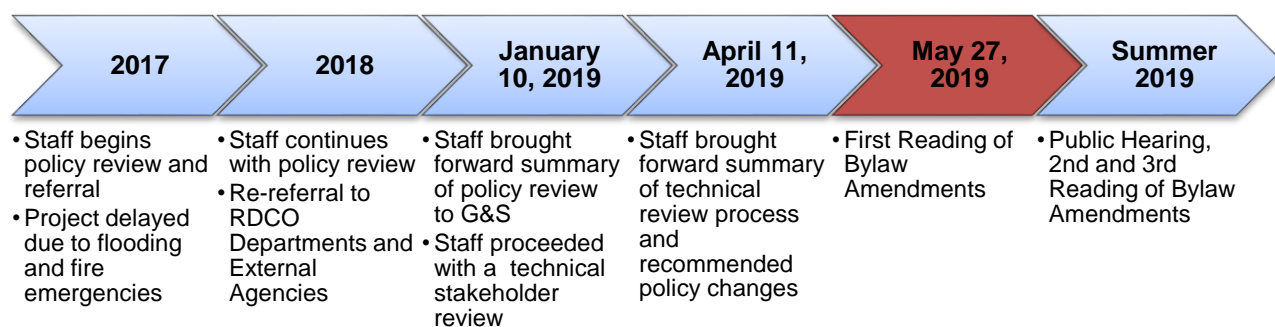
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### Background:

In 2016, the Regional Board directed staff to review secondary suite regulations to consider allowing secondary suites by policy rather than through bylaw amendments, and to establish regional consistency. As such, in 2017 Planning staff embarked on a policy review of secondary suites in the Central Okanagan Electoral Areas. Subsequently, staff engaged with the public by attending community events, conducting an online survey, and making information available at the Planning Services front counter to gauge the public's opinion on proposed regulatory changes.

Upon review of the information received during this process, issues were raised regarding drainage and servicing, most notably with the number of small, undeveloped lots in the Electoral Areas. Secondary suites, which are self-contained and located within an existing single family dwelling, have always been considered acceptable to tie into the primary septic field assuming that the field is sized appropriately, and with proper maintenance and treatment. However, recognizing the rural nature of the Electoral Areas and minimal servicing, increasing density in all residential zones may not be appropriate and may cause a significant strain on servicing and the environment.

### Timeline



## Zoning Bylaw Amendment Proposals

Following extensive analysis, research, and careful consideration of the comments received to date, staff is recommending the following key changes to secondary suite regulations:

Item 1: To continue to require a rezoning application under Zoning Bylaw No. 871 for A1, RU1, RU2, and RU3 zones to permit a secondary suite and add the 's' designation.

- Rationale: The rezoning process allows the Regional District to consider secondary suites on a site specific, case by case basis.

Item 2: To add secondary suites as a prohibited use under R1, RU4, RU5, and RU6 zones.

- Rationale: The above noted residential zones are considered to be areas with minimal servicing and parcels with limited lot sizes to accommodate increased density.
- This policy is consistent with the Regional District of North Okanagan Zoning Bylaw No. 1888 that limits secondary suites to parcels greater than 1.0 hectare. Furthermore, this amendment proposal is similar to a policy implemented by the City of Kelowna where secondary suites are prohibited in certain neighbourhood areas due to water and slope stability challenges and poor soil conditions for on-site sewerage systems (e.g. Gallaghers Canyon and Eastwood).

Item 3: Define '*breezeway*', '*private water source*', and '*on-site sewerage system*'.

- Rationale: Connecting a secondary suite to a principal dwelling via an open, unenclosed space is seen as a form of subdivision and is not consistent with the Okanagan Basin Water Board's 1.0 hectare policy. To avoid ambiguity going forward, *breezeways* will be defined to clarify what 'located within a single detached house' means.
- In addition, '*private water source*' and '*on-site sewerage system*' are defined to ensure consistency with the RDCO Subdivision Servicing Bylaw No. 1397 and the Provincial *Sewerage System Regulation*.

Item 4: To allow only one secondary suite or one accessory home per parcel, where zoning permits.

- Rationale: Currently, a single parcel of land that is over 9.88 acres in size is permitted to have one single detached house with a secondary suite (rezoned to the 's' designation) as well as one accessory home subject to further regulations under Part 3 – Section 3.18 of Bylaw No. 871. To be consistent with surrounding jurisdictions and to minimize environmental impacts, staff is proposing that only one suite or one accessory home be permitted where land use and parcel size permit.

Item 5: To require that new and existing on-site sewerage systems demonstrate compliance with today's standards and include a primary reserve area for a back-up Type I trench system.

- Rationale: Technical stakeholders, including Interior Health Authority, local hydrogeologists, groundwater technicians, and onsite wastewater practitioners all agreed that stronger regulations are needed regarding on-site sewerage systems. Given this, it was recommended that new and existing septic systems are reviewed to ensure compliance with today's standards and can sufficiently accommodate the increased density of adding a secondary dwelling.

Furthermore, several of the existing secondary suite regulations will remain in force, such as continuing to prohibit the use of secondary suites as short-term rentals and continue to recognize parcels with the 's' designation.

### **Okanagan Basin Water Board (OBWB)**

The OBWB Sewage Facilities Assistance grant program was established to subsidize construction of tertiary sewage treatment plants for local governments. The intention of the policy and program is to decrease water pollution coming from development on small lots and failing or over-capacity septic systems, and reduce the amount of phosphorus entering the lakes from municipal effluent.

To be eligible for the grant, local governments are required to have zoning policies or bylaws prohibiting new development on lots less than one hectare that are not serviced by community sewer. As per the grant program terms of reference:

- Secondary suites are permitted so long as they tie into the sewage disposal system of the existing dwelling; and,
- Carriage houses / accessory dwellings are prohibited on properties less than 1.0 hectare and not connected to community sewer.

### **Regional Growth Strategy Bylaw No. 1336**

Granting first reading to the amendment bylaw complies with the following policies of the RGS:

#### Our Water

- Goal: to manage and protect water resources.
- Policy No. 1: Consider water resources in land use planning decisions.

#### Our Land

- Goal: to manage the land base effectively to protect natural resources and limit urban sprawl.
- Policy No. 1: Support logical and sequential growth patterns that minimize urban encroachment into rural areas.
- Policy No. 2: Proposals for new growth areas should consider the impacts on existing services and facilities in the community.

#### Our Economy

- Goal: To develop and enhance a positive business environment in the region to achieve a dynamic, resilient and sustainable economy.
- Policy No. 9: Support effectively managing and protecting the integrity of the Region's critical assets such as the lakes, natural environment and agricultural lands that promote attraction of employment and investment.

#### Our Health

- Goal: to contribute to the improvement of community health, safety and well-being.
- Policy No. 7: Support Interior Health in efforts to explore opportunities to develop healthy community strategies.

### Our Housing

- Goal: to improve the range of housing opportunities to meet the social and economic needs of the region. It is important to consider land use decisions that focus new residential developments in areas with existing services, as this assists in housing affordability, reducing reliance on vehicles in the Region, and creates opportunities for residents to be closer to work and recreation opportunities, which in turn contributes to a healthier region.
- Policy No. 1: Preserve and enhance existing neighbourhoods through encouragement of a variety of housing types, densities and affordability.

### Our Ecosystems

- Goal: to be responsible stewards of natural ecosystems to protect, enhance and restore biodiversity in the region. As population grows in the Region, the protection of healthy ecosystems will become increasingly complex and challenging.
- Policy No. 3: Manage growth to minimize disturbance to habitat, watershed and natural drainage areas and systems.
- Policy No. 7: Protect natural environments, parks and water systems, as these systems are essential to the quality of life in the Okanagan that support active and healthy lifestyles.

### Our Governance

- Goal: to respond to the needs of the region with an effective and efficient governance service model.
- Policy No. 2: Encourage effective governance and service delivery by being transparent, accountable, and accessible.
- Policy No. 6: Ensure the Region maintains effective services, which meets the present and future user demands.

### **Ellison Official Community Plan Bylaw No. 1124**

Granting first reading to the amendment bylaw complies with the following policies of the Ellison OCP:

- 7.2.1.7 Continue to support Okanagan Basin water management strategies, including the activities of Okanagan Basin Water Board;
- 7.2.3.7 Continue to review the bylaws and activities of the Regional District to ensure that the environmentally responsible practices are being utilized;
- 9.2.2.3 Encourage that all urban land uses and all lots 2 hectares or less in size connect to a community water system with fire flows except for publicly owned services such as public parks and fire halls;
- 9.2.2.5 Require that properties served by individual wells or water licenses meet Regional District bylaw requirements with regard to water quality and quantity;
- 9.2.2.8 Support the Province of British Columbia policy with respect to ensuring that all new development one hectare or smaller in parcel size is served by community sewer (including satellite community sewage systems) rather than on-site (septic) disposal; and,
- 9.2.18 Support the regulations, setbacks, and requirements of the province of BC for on-site septic fields where septic fields are permitted by Regional District bylaw.

**South Slopes Official Community Plan Bylaw No. 1304**

Granting first reading to the amendment bylaw complies with the following policies of the South Slopes OCP:

- 5.1.1.1 Continue to protect Environmentally Sensitive Areas on private land through the Development Permit, rezoning and subdivision processes;
- 5.4.1.1 Evaluate land use decisions and developments applicators on the implications and impacts on the natural environment;
- 6.2.4 Housing is encouraged in adjacent municipal areas where there are services and infrastructure to support growth;
- 6.2.6 The Board may consider allowance of secondary suites on properties that are zoned for residential use. A zoning amendment process is required in accord with the Local Government Act and with provisions of the Zoning Bylaw. Secondary suites are recognized as an appropriate form of infill housing that provides affordable rental/special needs housing options without a significant impact on the character of a neighbourhood. The Regional Board generally supports secondary suites where a landowner demonstrates that all technical issues will be addressed, and where there are no significant objections from neighbouring landowners. Limited growth is anticipated in the foreseeable future due to constraints of potable water and servicing; and,
- 6.2.10 Support policies of neighbouring local governments to concentrate growth in their serviced, sustainable urban centres.

**Brent Road / Trepanier Official Community Plan Bylaw No. 1303**

Granting first reading to the amendment bylaw complies with the following policies of the Brent Road / Trepanier OCP:

- 5.1.1.1 Continue to protect Environmentally Sensitive Areas on private land through the Development Permit, rezoning and subdivision processes;
- 5.1.3.35 Continue to review the bylaws and activities of the Regional District so that environmentally responsible practices are being utilized;
- 5.4.1.1 Evaluate land use decisions and development applications on the implications and impacts on the natural environment;
- 6.2.7 The Board may consider allowance of secondary suites on properties that are zoned for residential use. A zoning amendment process is required in accord with the Local Government Act and with provisions of the Zoning Bylaw. Secondary suites are recognized as an appropriate form of infill housing that provides affordable rental/special needs housing options without a significant impact on the character of a neighbourhood. The Regional Board generally supports secondary suites where a landowner demonstrates that all technical issues will be addressed, and where there are no significant objections from neighbouring landowners. Limited growth is anticipated in the foreseeable future due to constraints of potable water and servicing; and,
- 6.2.11 Support policies of neighbouring local governments to concentrate growth in their serviced, sustainable urban centres.

**Rural Westside Official Community Plan Bylaw No. 1274**

Granting first reading to the amendment bylaw complies with the following policies of the Rural Westside OCP:

- 3.2.1.1 Continue to protect Environmentally Sensitive Areas on private land through the Development Permit, Rezoning and Subdivision processes;
- 3.2.3.8 Continue to review the bylaws and activities of the Regional District to ensure that the environmentally responsible practices are being utilized;
- 6.5 Assess future residential developments and concept development plans on the following development criteria:

- a) capability of handling on-site domestic water and sewage disposal, or availability of community water or sewer;
  - b) availability of community water or sewer systems to be extended to existing neighbouring subdivisions which are presently unserved;
  - c) capability of the natural environment and topography to accommodate additional development;
  - d) impact on adjacent land uses and character of the existing area;
  - e) location relative to existing roads and other community and essential services;
  - f) susceptibility to natural hazards including, but not limited to, flooding, soil stability, land slide, rockfall, moderate or higher forest fire risk;
  - g) demonstration of housing need, and provision for a variety of housing types; h) timing and staging of development;
  - h) an environmental impact assessment where the parcel contains watercourses; and,
  - i) a visual quality assessment where development is proposed on hillsides and other visually sensitive areas; and,
- 9.4.2 Review opportunities to implement long-term sustainable sewage collection and disposal methods for existing developments where appropriate.

### **RDCO TECHNICAL COMMENTS:**

**Planning Services** staff acknowledges that secondary suites are recognized as an appropriate form of infill housing that provides affordable rental/housing options without a significant impact on the character of a neighbourhood. In the past, the Regional Board has generally supported secondary suites where a landowner demonstrates that all technical issues will be addressed, and where there are no significant objections from neighbouring landowners. However, Planning staff strongly encourages settlement and housing in areas with existing services and infrastructure in order to support logical and sequential growth patterns and limit impacts to infrastructure and the environment.

Furthermore, Planning staff advocates for the long-term sustainability of a property that avoid sensitive areas and be designed to retain important ecosystem features, functions, and connectivity as well as protects hillsides and minimizes damage to surrounding parcels. Prior to the issuance of a Building Permit, development proposals must ensure that drainage, topography, and natural features are considered as this may require Development Permit approval. Proposals should be assessed on a site-by-site basis to ensure that existing and future servicing as well as development suitability of the lot is adequately addressed.

**Corporate Services** staff advises that the number of complaints from residents related to illegal/legal secondary suites is minimal and that there are no foreseeable issues with the proposed bylaw amendments.

### **AGENCY REFERRAL COMMENTS:**

**Fortis B.C.** staff advise that there are FortisBC Inc. primary distribution lines within and along public roads and lands servicing the Central Okanagan Electoral Areas. Future applicants seeking land use changes stemming from the proposed bylaw amendments are responsible for the costs associated with any change to the existing service, if any, as well as provision of appropriate land rights where required.

**Glenmore Ellison Improvement District** staff advise that water rates in the Ellison area are subject to change and it is recommended that property owners coordinate the installation of a water meter during the construction of a secondary dwelling unit to allow for possible reductions in water billings in the future.

**Interior Health Authority (IHA)** staff has been involved extensively throughout the RDCO secondary suite policy review process, and provide the following comments:

- IHA staff are aware of failing septic systems throughout the region on parcels with secondary suites;
- IHA staff acknowledge that many neighbourhoods, when not serviced by sanitary sewer, have old septic systems that were designed originally for a single family dwelling (i.e. not multiple families in one dwelling) and many systems are approaching the end of their lifespan;
- IHA staff recommend that new and existing on-site sewerage systems demonstrate compliance with today's standards and include a primary reserve area on the parcel for a back-up Type I trench system; and,
- Recommend establishing a requirement test for radon gas prior to tenant occupancy to protect the secondary suite tenants and primary residents.

**Ministry of Agriculture** staff indicated that accumulative residential uses on the Agricultural Land Reserve (ALR) and other farmland may potentially restrict agricultural activity or impact farm practices. Minimising the impact of residential uses plays a critical role in supporting agriculture. As such, permitting secondary suites on the ALR and local government agricultural zones may increase the principal dwelling's total floor area or its farm residential footprint.

Further to the recent changes to the *Agricultural Land Commission Act* under Bill 52, the RDCO may wish to consider regulatory options that limit the impact of residential uses on the ALR such as limiting footprint sizes and siting requirements. It was also noted that secondary suites in the ALR comply with the Agricultural Land Commission's Policy L-08.

**Ministry of Municipal Affairs and Housing** staff had no objections to the proposal and commended RDCO staff for the extensive referral and consultation process to date. The Ministry further recommends continuing with an open and transparent dialogue with all stakeholders regarding the proposed zoning amendment bylaws.

**Ministry of Transportation and Infrastructure** staff granted Preliminary Approval for the bylaw amendments for one (1) year, and advise that the bylaws must be forwarded to the Ministry for signature after they have achieved 3<sup>rd</sup> reading.

**Okanagan Basin Water Board** staff approve of the recommended bylaw amendments as it is consistent with their Sewage Facilities Assistance Grants Program.

**Westbank First Nation** Chief and Council provided consent to the proposed bylaw amendment.

**Unaffected Agencies** include the Ministry of Forests, Lands, Natural Resource Operations, and Rural Development, Ministry of Environment and Climate Change Strategy, District of Lake Country, B.C. Hydro, Shaw Cable, Telus, Agricultural Land Commission, City of Kelowna, City of West Kelowna, District of Peachland, Black Mountain Irrigation District, and Okanagan Indian Band.

**Unaffected RDCO Departments** include Inspection Services, Fire Services, Parks Services, and Environmental Services.



**External Implications:**

Any correspondence received from the public will be provided to the Board as part of a future public hearing report.

**General Implications:**

Staff's recommendation to prohibit secondary suites in R1, RU4, RU5, and RU6 zones will apply to approximately 1,763 parcels in the Central Okanagan West Electoral Area and 302 parcels in the Central Okanagan East Electoral Area.

**Conclusion:**

Safe and legal secondary suites can provide many benefits to home owners including a revenue source to supplement income, assist a family member in need, and/or increase the value of the property. Therefore, continuation of the current rezoning process for secondary suites allows the Regional Board to make informed decisions on a site-specific, case by case basis. Furthermore, the regulations should be strengthened to clarify definitions, and ensure that new and existing on-site sewerage systems demonstrate compliance with current standards and best practices and limit environmental impacts in the future.

**Alternative Recommendation:**

Should the Board choose not to support the staff position, the following alternate recommendation is provided:

**THAT** Zoning Amendment Bylaw No. 871-243 not be given first reading and Application No. Z17/05 be referred back to staff for further review.

***Considerations not applicable to this report:***

- *Financial*
- *Organizational*

**Attachment(s):**

- Bylaw Amendment No. 871-243