

BYLAW NO. 3475/2011

WHEREAS Section 7 of the *Municipal Government Act*, R.S.A. 2000, c. M-26, (the “MGA”) as amended, authorizes Council of a municipality to pass bylaws for municipal purposes respecting:

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) nuisances, including unsightly property;
- (c) businesses, business activities and persons engaged in business;

AND WHEREAS Section 8 of the MGA states that in a bylaw passed under Section 7 Council may deal with any development, activity or business in different ways, and may also provide for a system of licenses, permits and approvals;

AND WHEREAS Section 542 of the MGA provides that a Designated Officer of the municipality may enter private property on reasonable notice for the purpose of carrying out an inspection to determine whether or not a bylaw of the municipality is being complied with;

AND WHEREAS The City’s Land Use Bylaw authorizes the development of Secondary Suites in certain circumstances;

AND WHEREAS the Council of The City of Red Deer deems it desirable to license, regulate and govern Secondary Suites for the purposes of health and safety, nuisance control and the protection of property;

NOW THEREFORE COUNCIL OF THE CITY OF RED DEER ENACTS AS FOLLOWS:

Short Title

1. This bylaw may be cited as the “Secondary Suite Licensing Bylaw”.

Purpose

2. The purpose of this bylaw is to provide for the licensing, regulating and governing of Secondary Suites in The City of Red Deer.

Definitions

3. The definitions of terms used in The City’s Land Use Bylaw apply to the interpretation of this bylaw. In addition, the following words shall have the following meanings:

Additional Fee means a fee, in addition to the License Fee, imposed by The City on a License Holder at any time during the Term of the License for costs incurred by the City attributable to the use of the Secondary Suite;

Applicant means a Person applying for a new License or renewing a License under this bylaw;

Appeal Board means the Red Deer Appeal and Review Board appointed under The City's Committees Bylaw to hear appeals under this bylaw;

License means the certificate issued by the Inspections and Licensing Manager under this bylaw;

License Holder means an Owner who has applied for and received a valid License under this bylaw;

Occupant means a Person, other than an Owner, who resides in a Secondary Suite;

Occupancy Permit means the certificate duly issued by The City approving the occupancy of the Secondary Suite for which the License application has been made;

Owner includes all Persons shown by the records at Land Titles to be the Owner of the subject property and also includes a Property Manager;

Property Manager means a Person who:

- (a) manages or controls the Property; or
- (b) has control over the condition of a Secondary Suite or the activities carried on within the Secondary Suite;

Person includes an individual, a corporation and its directors and officers, or partnership, and their heirs, executors, assignees and administrators;

Property means the parcel of land on which a Secondary Suite is located.

Use

4. Unless the context requires otherwise, the verb "use" shall include "intend to use", "design to use", and "cause or permit to be used."

Inspections and Licensing Manager Authority

5. The powers and authority to issue, renew, refuse to issue, revoke or suspend a License or to impose terms and conditions on a License are hereby delegated to the Manager of Inspections and Licensing or his or her delegate.

6. Subject to the provisions of this bylaw, where the Applicant or License Holder meets all of the requirements of this bylaw, the Inspections and Licensing Manager may grant a License, or renewal, as the case may be, with or without conditions.

Requirement to be Licensed

7. An Owner shall not operate, maintain, rent, or offer for rent a Secondary Suite without first obtaining a License for the Secondary Suite under this bylaw.
8. Where a License has been issued under this bylaw for a Secondary Suite, no Person shall use, operate, maintain, rent, offer for rent or permit to be used, maintained, rented or offered for rent that Secondary Suite except in conformity with the terms and conditions of the License and the provisions of this bylaw.

Application for License

9. An Owner wishing to obtain a License for a Secondary Suite may apply to the Inspections and Licensing Manager by submitting an application in the form established by The City from time to time which shall include the following information:
 - (a) the name and address of the registered owner(s) as shown on the records in the Land Titles Office, and the telephone number of the registered owner(s);
 - (b) if the registered owner is a corporation, the name, address and telephone number of all officers, directors and shareholders;
 - (c) if the registered owner is a partnership, the name, address and telephone number of all individual members of the partnership;
 - (d) the name, address and telephone number of the Property Manager, if applicable;
 - (e) if the address of the Owner is not located within the city of Red Deer, the name of the Owner's agent who does reside in the city of Red Deer, and all contact information for the agent;
 - (f) the location of the Secondary Suite including municipal address and legal description;
 - (g) the number of bedrooms in the Secondary Suite; and
 - (h) the number of parking stalls available for use by the Occupants.

10. An application for a License or for the renewal of a License shall be submitted with the following:
 - (a) the Occupancy Permit number assigned to the Secondary Suite by The City, or if an Occupancy Permit has not been issued, the Occupancy Permit Application Number assigned to the Secondary Suite by The City; and
 - (b) the License Fee and any applicable Additional Fee.
11. Notwithstanding the foregoing, where the application is for a renewal only of a License, the information required in Section 8 and 9 need only be provided where it has changed from the prior year's application.
12. No Person shall knowingly give false information when applying for a License under this bylaw.

License Fee

13. The fee for a License or a renewal under this bylaw shall be \$165.00.
14. Where the License Fee is paid by cheque and the City agrees to accept such form of payment, and the Applicant's financial institution refuses to clear that cheque, any License issued hereunder will be revoked.
15. A portion of a License Fee paid as part of an application under this bylaw may be refunded, at the discretion of the Inspections and Licensing Manager, if the application is refused.

License Requirements

16. No License shall be issued or renewed unless:
 - (a) the use of the Property is permitted in accordance with The City's Land Use Bylaw;
 - (b) the building on the Property complies with all applicable provincial and federal legislation and any codes or regulations thereunder;
 - (c) the building and the Property are in compliance with The City's Community Standards Bylaw.

Term of License

17. A License issued under this bylaw shall expire twelve months after the date on which it is issued.

Display and Format of License

18. Where a License is issued under this bylaw, the License shall be displayed in a prominent location inside the entrance to the Secondary Suite together with a list of any terms or conditions imposed on the License.
19. A License issued under this bylaw shall state the following:
 - (a) the name, address and telephone number of the registered owner or the Property Manager, or both;
 - (b) In the event that neither the registered owner nor a Property Manager resides or is located within the city of Red Deer, the name and contact information for the Owner's agent;
 - (c) the License number;
 - (d) the date of issue;
 - (e) the date of expiry; and
 - (f) the name of the License Holder.

License on Terms and Conditions

20. Where events have occurred in connection with the operation or use of a Secondary Suite that have created a nuisance or put at risk the safety, health, welfare or property of the Occupants or neighbours, the Inspections and Licensing Manager may impose terms and conditions on a License that are intended to deal with that risk, including conditions respecting the following matters:
 - (a) the procedures required to be in place to address the cleanliness or upkeep of the Property;
 - (b) nuisance abatement measures which must be in place to ensure that the Secondary Suite does not create a nuisance;
 - (c) limiting the term of the License to a period of less than one year, to determine the effectiveness of such measures or procedures; or
 - (d) such additional conditions consistent with the foregoing requirements, as are, in the opinion of the Inspections and Licensing Manager, reasonably necessary to protect the safety, health, welfare, and property of any person.
21. Notwithstanding any other provisions of this bylaw, the Inspections and Licensing Manager may impose Additional Fees on a License Holder, by way of a Notice of

Additional Fee, at any time during the term of the License, for costs incurred by The City attributable to the use or operation of the Secondary Suite.

22. The Notice of Additional Fee shall be sent to the License Holder by registered mail and shall provide the License Holder with sixty (60) days to pay the outstanding amount from the date of such Notice.

Owner's Agent

23. Where the address of the registered owner of the Property is not located within the city of Red Deer, and the Owner has not retained a Property Manager located in Red Deer, the Owner shall appoint a Person who resides within the city to serve as the Owner's agent. Such person shall for the purposes of this bylaw, be deemed to have full authority to act on behalf of the Owner in respect of the operation of the Secondary Suite, including authorizing request for entry.
24. If, at any time after the issuance of a License, the Owner or the Owner's agent, as the case may be, ceases to reside in the city of Red Deer, the Owner shall, within 7 days of such cessation, provide The City with written notice appointing another Person who is a resident of the city as their agent. Such notice shall include all contact information for the agent.

Inspections

25. Upon receipt of an application for a License or License renewal, a Designated Officer may enter upon the Property to be licensed to make an inspection to ensure that all provisions of this bylaw have been satisfied.
26. In accordance with section 542 of the MGA, the Designated Officer must provide reasonable notice to the registered owner or occupant of the premises prior to the inspection, and must produce, on request, identification showing that he or she is authorized to make the entry.
27. No Person shall obstruct or interfere with a Designated Officer who is carrying out a lawful inspection under this bylaw.

Refusal, Revocation or Suspension of License

28. No Person is entitled to the continuance of a License and, upon issuance, renewal, revocation or suspension, the License shall remain the property of The City.
29. An Applicant or License Holder whose application meets all the requirements of this bylaw is entitled to a License or renewal except where the Inspections and Licensing Manager has reasonable grounds to believe that:
 - (a) the Applicant has submitted false information in support of a License or License renewal;

- (b) the Owner will not meet the requirements of this bylaw or any terms or conditions imposed on a License issued under this bylaw;
- (c) the issuance of the License or renewal would be contrary to the public interest;
- (d) refusal, revocation or suspension is necessary for the protection of the health or safety of any Person.

30. The Inspections and Licensing Manager may suspend or revoke a License for non-compliance either with this bylaw or with a condition of the License, until the requirements of this bylaw or the condition of the License have been met, or until the Inspections and Licensing Manager is reasonably satisfied that appropriate measures have been taken to prevent a recurrence of the non-compliance.

31. A suspension or revocation of a License shall not take effect until:

- (a) the Inspections and Licensing Manager has given 7 days written notice of the proposed suspension or revocation to the License Holder by registered mail sent to the address indicated in the application and the License Holder has not filed an appeal; or
- (b) on the date of the decision of the Appeal Board, unless the Appeal Board indicates otherwise.

Appeal

32. An Applicant or License Holder may appeal:

- (a) a condition of its License;
- (b) the proposed suspension or revocation of its License; or
- (c) a refusal to issue or renew a License

by filing with the City Clerk, within 7 days of the date it receives notice of the condition, the proposed suspension or revocation or the refusal, a written appeal setting forth with reasonable particularity the matters complained of and the grounds upon which such appeal is being made.

33. The City Clerk shall convene a meeting of the Appeal Board to hear the appeal and on such appeal:

- (a) unless the time is extended by a resolution of City Council, an appeal shall be heard and a decision rendered within 30 days of the date of the filing of an appeal;

- (b) the Appeal Board shall hear from the Applicant or the License Holder, their legal counsel, the Inspections and Licensing Manager, and any other party who the Appeal Board agrees to hear from;
- (c) the Appeal Committee may confirm, revoke or deny:
 - (i) a condition of the License (provided that condition is being appealed);
 - (ii) the period of the suspension or revocation of the License; or
 - (iii) the failure to issue or renew a License.

Offences

- 34. It is an offence to fail to comply with this bylaw or to breach any term or condition of a License granted hereunder.
- 35. A Person who is found guilty of an offence under this bylaw is liable on summary conviction to a fine of not more than \$1,000.00.
- 36. Where a Person has been convicted of an offence under this bylaw, and continues to operate a Secondary Suite without complying with this bylaw, that person is guilty of a continuing offence, and shall be liable to a penalty of \$100.00 for each day that the offence continues.

General

- 37. A License issued pursuant to this bylaw may not be transferred.
- 38. A copy of a record of The City, certified by the Inspections and Licensing Manager as a true copy of the original, shall be admitted in evidence as *prima facie* proof of the facts stated in the record without proof of the appointment or signature of the person signing it.
- 39. In any prosecution for an offence, where a question arises as to whether a Person had a valid and subsisting License, the burden is on that Person to establish that the License was valid and subsisting.

Severability

40. The invalidity of any provision of this bylaw shall not affect the validity of the remainder.

Transitional

40. This bylaw shall take effect March 1, 2012. All Secondary Suites must be in compliance with the terms and provisions of this bylaw by no later than June 1, 2012.

READ A FIRST TIME IN OPEN COUNCIL this	day of	2011.
READ A SECOND TIME IN OPEN COUNCIL this	day of	2011.
READ A THIRD TIME IN OPEN COUNCIL this	day of	2011.
AND SIGNED BY THE MAYOR AND CLERK this	day of	2011.

MAYOR

CITY CLERK