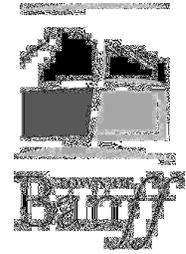


ACCESSORY DWELLINGS



Policy C111

1.0 POLICY STATEMENT

The Town of Banff will encourage the development and improvement of accessory dwellings that are safe, high quality and comply with building and fire safety standards.

2.0 PURPOSE

The purpose of this policy is to enhance the supply and mix of affordable housing options in the community so that those working in Banff have an opportunity to live in Banff.

3.0 SCOPE

This policy is applicable to all accessory dwelling development within the town of Banff. Accessory dwellings are self-contained living units on the same site, attached to or within a dwelling that is the primary use of the site. Accessory dwellings typically include a living area, kitchen, bedroom, and bathroom and may have an entrance separate from or shared with the primary dwelling.

This policy provides:

- i. Strategies to promote development of new accessory dwellings;
- ii. A grant program to encourage development of safe accessory dwellings; and
- iii. Procedures to ensure that existing accessory dwellings comply with the land use bylaw and fire and building safety codes.

4.0 LAND USE BYLAW

The development of accessory dwellings is regulated through the Town of Banff land use bylaw. Planning and Development will review potential amendments to the land use bylaw with the intent to provide new opportunities and options for the development of accessory dwellings. Amendments that may be considered include, but are not necessarily limited to, the following:

- Allow accessory dwellings in other land use districts where single detached housing is a permitted or discretionary use.
- Allow accessory dwellings in housing types other than single detached such as duplex and row housing.
- Expand the maximum gross floor area provision to allow larger accessory dwellings (e.g. up to 90 m² in area or a specified maximum percentage of the total floor area allowed on the site).
- Allow minor variances to floor area ratio where new accessory dwellings are provided.
- Define the maximum number of accessory dwelling units that may be allowed on a site depending on lot size and maximum allowable floor area. Set a lower maximum individual unit size if more than one accessory dwelling unit is allowed.
- Require new single detached homes to be designed and ready for future accessory

dwelling construction.

- Allow parking requirements to be relaxed in some instances, instead requiring provision of designated and secure bicycle storage in lieu of vehicle parking stalls.
- Allow parking stalls required for new accessory dwellings to be surfaced with permeable materials rather than traditional non-permeable materials (i.e. asphalt or concrete) to reduce negative impacts of large hard-surfaced parking areas.
- Adjust parking regulations to allow consideration of waiving parking requirements for accessory dwellings with a gross floor area less than a specified size (e.g. 50 m²).
- Establish standards and guidelines to ensure quality of accessory dwellings such as minimum amenity area size, minimum ceiling height, and minimum window dimensions.
- Clarify that the use of accessory dwellings as commercial (visitor) accommodations is prohibited unless allowed by a separate development permit for a bed and breakfast home.
- Clarify that more than one accessory use (e.g. bed and breakfast home, home occupation and accessory dwellings) may be allowed on a site provided the development approving authority is satisfied that the cumulative impact of multiple accessory uses is negligible.

The Municipal Planning Commission and the Banff Housing Corporation will review any proposed amendments to the land use bylaw prior to final consideration by Council. Given the potential for public interest in this issue, Planning & Development will initiate a consultation process to gather public input in advance of the required public hearing and prior to a Council decision.

5.0 ACCESSORY DWELLING GRANT PROGRAM – 2007/08 AFFORDABLE HOUSING PROGRAM GRANT

The grant program is intended to subsidize the capital costs associated with the development of new accessory dwellings or the upgrading of existing accessory dwellings. Grant applicants must obtain all necessary development and building permits. The terms of the grant program and the eligibility criteria are outlined in Appendix 'A'.

6.0 COMPLIANCE

The Town of Banff wishes to ensure the quality and safety of all accessory dwellings. Those units approved by Town of Banff development permit or building permit will comply with the land use bylaw and the Alberta building and fire codes.

An existing accessory dwelling without an approved Town of Banff development permit or building permit may be deemed unauthorized or non-compliant. All non-compliant or unauthorized accessory dwellings should be made to comply with fire and building codes to ensure occupant safety. In some instances, requirements of the land use bylaw may be relaxed at the discretion of the development approving authority.

An existing accessory dwelling without an approved Town of Banff development permit or building permit may be deemed compliant, at the discretion of the Manager of Planning and Development, if evidence can be shown that the accessory dwelling was approved by Parks Canada prior to the Incorporation of the Town of Banff in 1990.

The process to investigate and ensure compliance of accessory dwellings is outlined in Appendix 'B'.

7.0 RESPONSIBILITIES

7.1 The Manager of Planning and Development, or their designate, will:

- i. Review accessory dwelling development permit applications and make recommendations to Municipal Planning Commission;
- ii. Administer the accessory dwelling grant program;
- iii. Review and recommend amendments to the land use bylaw to encourage the development of additional accessory dwellings; and
- iv. Investigate complaints related to unauthorized or unsafe accessory dwellings and enforce compliance with the land use bylaw as necessary.

7.2 The Municipal Planning Commission will:

- i. Review and render decision on accessory dwelling development permit applications; and
- ii. Review and make recommendations to Council on amendments to the land use bylaw to encourage the development of additional accessory dwellings.

7.3 The Banff Housing Corporation will:

- i. Review and render decision on accessory dwelling development permit applications; and
- ii. Review and make recommendations to Council on amendments to the land use bylaw to encourage the development of additional accessory dwellings.

7.4 The Building Inspector/Safety Codes Officer will:

- i. Review and render decision on building permit applications; and
- ii. Investigate complaints related to unauthorized or unsafe accessory dwellings and enforce compliance with fire and building code regulations as necessary.

8.0 ATTACHMENTS

8.1 Appendix 'A' - Accessory Dwelling Grant Program.

8.2 Appendix 'B' - Compliance Procedures

Policy CO11- Illegal Dwelling Units is hereby repealed.

This policy shall be in effect on the date it is approved by resolution of Council.

John Stutz
Mayor

Robert Earl
Town Manager

APPROVAL HISTORY

Approved:	2008.09.22	COU08-194
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APPENDIX ‘A’**ACCESSORY DWELLING GRANT PROGRAM FUNDED FROM THE 2007/08 AFFORDABLE HOUSING PROGRAM**

A building owner that constructs a new accessory dwelling or improves an existing accessory dwelling to comply with fire and building safety code requirements may apply for funding to subsidize the capital costs associated with the project. Interested applicants are encouraged to contact Planning and Development to obtain an application package and review program requirements.

The building owner may be eligible to receive up to \$3000 in subsidy per accessory dwelling once original receipts have been provided, however the total subsidy cannot exceed 70% of the total capital cost of the project as evidenced by value of all original receipts provided.

Grant funding is conditional upon the following:

1. The applicant obtains a development permit (if necessary), building permit and an occupancy permit for the accessory dwelling;
2. The applicant must submit original receipts showing total cost of the project (i.e. from construction start to receipt of an approved occupancy permit); and
3. Prior to receipt of subsidy, the applicant must sign a Statutory Declaration indicating that they will ensure that for a five-year period:
 - a) The renters of the unit will have a combined income of less than the Core Need Income Threshold (CNIT) for the applicable size of accessory dwelling for that given year as determined by the Province of Alberta;
 - b) Monthly rental revenue from the accessory dwelling will be limited to at or below the average rental rate for a comparable unit in Banff as determined by the Province of Alberta’s annual rental survey; and
 - c) The building owner will provide Planning and Development with a letter, by no later than February 1 of each year, confirming that the renters and the monthly rental rate continue to comply with the above criteria. Failure to provide such information will require the building owner to return the full subsidy amount to the Town of Banff within six months of being notified of their default in obligation.

The Core Need Income Threshold (CNIT) is the maximum income limit used to assess eligibility for Provincial subsidized housing programs, as set annually and provided by the Minister of Municipal Affairs and Housing.

Banff Core Need Income Thresholds (2007)	
Unit Size	CNIT
1 Bedroom	\$33,000
2 Bedroom	\$47,000
3 Bedroom	\$53,000

Banff Average Rent (2007)	
Unit Size	Rent
Bachelor	\$584
1 Bedroom	\$780
2 Bedroom	\$957

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4 Bedroom	\$40,500
5 Bedroom	\$50,500

3 Bedroom	\$1067
4+ Bedroom	\$1500

APPENDIX ‘B’

COMPLIANCE PROCEDURES

Following the receipt of a written complaint, the Manager of Planning and Development, or their designate, will investigate reported instances of unauthorized or non-compliant accessory dwellings to determine if, either:

- a) A development permit or building permit has been issued by the Town of Banff for the dwelling; or
- b) There is evidence that the accessory dwelling was approved by Parks Canada prior to the Incorporation of the Town of Banff in 1990. A permit or letter signed by a Parks Canada official and/or a plan stamped approved or signed by a Parks Canada official clearly identifying the accessory dwelling in question may be deemed sufficient evidence at the discretion of the Manager of Planning and Development.

An inspection of the accessory dwelling may be required to confirm that the dwelling has not been modified from the approved plan and to ensure that the dwelling complies with the Alberta building code and fire code. The dwelling may be inspected either with the permission of the Property Owner or by Court Order in accordance with sections 542 and 543 of the Municipal Government Act.

In the instance that an inspection reveals the existence of an unauthorized accessory dwelling, the Manager of Planning and Development may issue a written notice stating that the accessory dwelling is unauthorized and, pursuant to section 645 and 646 of the Municipal Government Act, order the owner or the person responsible for the contravention to:

- a) Stop the use of that unit as an accessory dwelling until such time as a development and building permit can be obtained to make it comply. At the discretion of the Manager of Planning and Development and Building Inspector and where the safety of occupants in the primary and accessory dwellings is not at risk, the use of an unauthorized accessory dwelling may be continued while permits are being obtained and the dwelling is being made to comply; or
- b) Demolish or decommission the unauthorized accessory dwelling; or
- c) Carry out any other actions required by the notice so that the development or use of the land or building complies with the land use bylaw.

The Town of Banff may register a caveat in respect to the order against the certificate of title for the land that is subject of the order. The Town of Banff must discharge the caveat when the order has been complied with.

If a person fails or refuses to comply with an order directed under Section 645, the Town of Banff may, in accordance with Section 542, enter on the land or building and take any action necessary to carry out the order.

