



## **ACCESSORY DWELLING UNIT BYLAW ENFORCEMENT POLICY**

Applicability: All CVRD Electoral Areas

Effective Date: July 13, 2022

### **PURPOSE:**

To establish policy for the investigation and enforcement of non-compliant accessory dwelling units.

### **BACKGROUND:**

Housing costs are increasing and safe, affordable housing is becoming increasingly scarce in the Cowichan Region. Accessory dwelling units provide much of the rental housing stock in the Cowichan Valley's electoral areas and contribute to housing choice by providing an alternative to conventional single-family housing. The CVRD wishes to maintain and expand the supply of accessory dwelling units available in the Region.

The CVRD also has limited bylaw enforcement resources and lacks the resources to systematically locate, inspect and enforce against all non-compliant accessory dwelling units. Where a non-compliant accessory dwelling unit meets the minimum life safety and other standards referred to in this policy, bylaw enforcement action will generally be limited to the placement of a notice on title under the authority of Section 57 of the *Community Charter*.

### **DEFINITION:**

#### **Accessory Dwelling Unit**

A self-contained dwelling accessory to a principal residential use located on the same parcel, which is either attached or detached from the principal residential dwelling, and includes a secondary suite. It does not include recreational vehicles, park model trailers or dwellings constructed on a trailer chassis.

#### **Life Safety Issues**

Any condition within an accessory dwelling unit that is observed by a Building Official when conducting an inspection in accordance with this policy and that, in the opinion of the Building Official, presents a risk to health or safety, and without limitation includes:

1. Insufficient or non-functioning smoke alarms;
2. Non-compliant bedroom egress windows;
3. Insufficient fire separation;
4. Insufficient ventilation;
5. Unsafe deck or entrance stairs;
6. Plug-in heaters substituting for an acceptable source of principle heating such as baseboard heaters or a centralized heating system; or

7. Electrical issues including electrical breakers tripping.

### **Non-Compliant Accessory Dwelling Unit**

An accessory dwelling unit that was constructed without a building permit and required inspections prior to the effective date of this policy, but which complies with applicable zoning regulations.

### **Section 57 Notice**

A notation against title to the land on which a non-compliant accessory dwelling unit is located, as authorized by the Board under Section 57 of the *Community Charter*.

### **Visible Work**

Aspects of the construction that are regulated by the BC Building Code that are ordinarily the subject of inspection by a building official under the CVRD's building bylaw, and that are readily visible and capable of inspection without the removal or demolition of any other work or finishes such as drywall, flooring or ceiling coverings.

### **POLICY:**

#### **Investigations and Inspections**

1. All accessory dwelling units constructed after the effective date of this policy must comply with all applicable CVRD bylaws, the BC Building Code and other applicable enactments.
2. Complaints received about accessory dwelling units constructed prior to the effective date of this policy will be investigated to determine if the accessory dwelling unit has been previously authorized by a building permit and all required inspections.
3. Where a CVRD official attends a property with a non-compliant accessory dwelling unit, the official will inspect the accessory dwelling unit to determine whether visible work meets BC Building Code standards, and determine if any life safety issues are apparent. The official will not perform inspections of work that has been covered and is not visible work.
4. By conducting an inspection of visible work in accordance with this policy, the CVRD makes no representations with respect to the construction or safety of any accessory dwelling unit built without required permits and inspections. Non-compliant accessory dwelling units are not recognized by the CVRD as legal until such time as compliance with all applicable bylaws and enactments, including all necessary permits and inspections, has been obtained.
5. Property owners are encouraged to investigate the potential benefits of legalizing an existing non-compliant accessory dwelling unit, such as: adequate insurance coverage;

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increased property value; reduced complications and impediments when obtaining mortgages or selling; and safety assurances for the accessory dwelling unit occupant.

### **Enforcement and Compliance**

6. Where an accessory dwelling unit is found to be non-compliant with the use or density permitted within the applicable zoning bylaw, the CVRD may consider taking additional steps to enforce compliance with the zoning bylaw and building bylaw.
7. Where the official identifies that visible work within a non-compliant accessory dwelling unit meets the BC Building Code standards and that no life-safety issues are apparent, the official will recommend to the Board that a notation against title under Section 57 of the *Community Charter* be registered to provide notice that the accessory dwelling unit was constructed without required permits and inspections, and that the CVRD makes no guarantees, representations or assurances with respect to the condition or safety of the accessory dwelling unit.
8. A Section 57 notation against title for a non-compliant accessory dwelling unit will be removed when the property owner has obtained all required permits and approvals and has completed required inspections and procedures necessary to bring the accessory dwelling unit into compliance with all applicable bylaws and enactments. The Section 57 notice will also be removed from title if the accessory dwelling unit has been decommissioned.
9. Where visible work does not meet the BC Building Code, the CVRD may require that the accessory dwelling unit be decommissioned or be brought into compliance with applicable bylaws and enactments, and will consider other legal enforcement proceedings where necessary to achieve compliance.
10. Accessory dwelling units may be considered decommissioned when all cooking facilities including stoves, ovens, and their electrical outlets have been removed permanently, and the space is no longer used or occupied as a self-contained dwelling unit. Decommissioning will not be an acceptable option for an accessory dwelling unit within a detached structure that was itself built without any permits or inspections.
11. In the absence of unusual or extraordinary circumstances, the CVRD will only pursue bylaw enforcement against non-compliant accessory dwelling units in accordance with and to the extent contemplated under this policy. However, this policy does not bar the commencement of other legal enforcement proceedings in specific cases where the Board considers that to be necessary in the circumstances.

### **CVRD Services**

12. Accessory dwelling unit occupants use and benefit from services provided by the CVRD such as water, sewer, garbage, recycling, fire protection, parks and recreation, and various other services. In fairness to all members of the community, occupants of compliant and

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non-compliant accessory dwelling units should pay their proportional share towards CVRD services.

13. To account for additional usage of utility and solid waste services, the CVRD will charge property owners for CVRD services to both compliant and non-compliant accessory dwelling units in accordance with applicable bylaws.
14. By providing services and charging for those services, the CVRD in no way represents that any particular accessory dwelling unit complies with applicable CVRD bylaws or other enactments. It is the responsibility of the property owner to ascertain and comply with applicable bylaws and enactments.
15. The BC Assessment Authority will be notified of compliant and non-compliant accessory dwelling units so that property assessments can be adjusted accordingly.

**Other**

16. Nothing in this policy precludes the CVRD from investigating and pursuing any other bylaw or regulatory compliance issues, including, without limitation: noise; unsightly; animal control; and development permit requirements, among others.
17. The CVRD may, within its building bylaw, prescribe a fee for an application for removal of an existing Section 57 notice from title.

The CVRD Board retains the discretion to amend or repeal the above enforcement policy, and to initiate enforcement action for non-compliant accessory dwelling units in the future.

Approved by: Board Approval date: July 13, 2022
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