



STAFF REPORT TO COMMITTEE

DATE OF REPORT January 30, 2024

MEETING TYPE & DATE Electoral Area Services Committee Meeting of February 7, 2024

FROM: Community Planning Division
Land Use Services Department

SUBJECT: Implementing the Requirements of the *Housing Statutes (Residential Development) Act* - Bill 44

FILE:

PURPOSE/INTRODUCTION

The purpose of this report is to advise on the need to amend CVRD bylaws to comply with new provincial housing legislation with respect to the introduction of Provincial Bill 44 – *Housing Statutes (Residential Development) Act*.

RECOMMENDED RESOLUTION

That it be recommended to the Board:

1. That the draft amendment bylaws attached to the staff report dated January 30, 2024, for the purpose of increasing opportunities for suites in CVRD electoral areas, consistent with Provincial policies and legislation, be forwarded to the Board for consideration;
2. That amendment bylaws applicable to lands within 800 m of a Controlled Access Highway be referred to the Ministry of Transportation and Infrastructure; and
3. That a public hearing not be held and that notice be provided in accordance with CVRD Bylaw No. 4483 – Development Application Procedures Bylaw, 2023.

BACKGROUND

The Province of BC adopted Bill 44 - of the *Housing Statutes (Residential Development) Act* – in late November 2023. This legislation came into force upon Royal Assent on November 30, 2023. A preliminary report to Committee was prepared for the EASC meeting of December 6, 2023 – but presented at the December 20, 2023, meeting.

The Regulation associated with these amendments to the *Local Government Act* were complemented by the “Provincial Policy Manual and Site Standards” document.

Section 481.3(3) of the *Local Government Act* as amended by Bill 44 - dealing with suites and additional dwelling units - applies to a “local government”, which includes a regional district.

This contrasts with s. 481.3(4) of the amended *Local Government Act*, which indicates that additional units (3 to 6 in total, depending upon site details) must be permitted on each parcel that is wholly or partially within a Growth Containment Boundary (GCB) established by a Regional Growth Strategy – which the CVRD does not have, so this section cannot apply in the CVRD. The GCB established by the Harmonized OCP doesn’t activate this requirement either.

In consideration of the tight timeline and supporting work required to comply with Bill 44, the Province announced in late December that the CVRD will be receiving a grant in the amount of \$323,554 by the end of January 2024.

Some additional information in respect of the new requirements include:

- No public hearing is permitted when amending zoning to comply with Bill 44, but public notice is required. The Province also recommends not holding a public hearing whenever it is possible.
- The Minister be informed in writing of any areas or parcels of land that are exempted by the legislation from the requirement for additional dwelling units – this is expected not to be a matter for consideration in the case of CVRD electoral areas.
- MoTI must approve any zoning amendments if it affects land within 800 m of the intersection of a controlled access highway.
- Any zoning bylaws adopted or amended after the advent of Bill 44 are required to conform to its provisions, which, apart from additional residential units, also includes the requirement to “pre-zone” all lands that an OCP identifies for development.
- In default of achieving compliance with Bill 44 requirements by the June 2024 deadline, the Minister of Municipal Affairs is prepared to issue “Ministerial Orders” that suspend and over-ride the non-complaint portion of zoning bylaws. It is also conceivable that some of the grant of \$323K provided to assist in this work could be recalled if the deadline is missed.

Apart from the mandatory changes to zoning, the Provincial Policy Manual also has a number of recommended actions that collectively aim to enhance access to housing. The document notes that a combination of non-density regulations such as setbacks, parking, building height and others can have the effect of nullifying any changes to the permitted number of units, something the Minister is unlikely to tolerate. These recommended measures include:

- Not permitting accessory (free-standing or attached to a garage) dwelling units on parcels that are served by onsite septic system and well, unless the parcel is 1 hectare or more in area, on the grounds that a water purveyor licence is required to legally service the freestanding unit. Notably, CVRD regulations are more permissive in this respect!
- Considering lowering or even eliminating off-street parking standards.
- Reducing rear and side parcel line setbacks to 1.5 metres for accessory dwellings.
- Increasing maximum permitted building height to 11 metres for principal dwellings.
- Waiving all hearings when the proposed changes conform to OCP content.
- Development permit areas may require amendment in order to exempt suites from “intensive residential” DPA requirements.

Regarding the proposed changes to permit Detached Suites in the ALR, the Agricultural Land Commission has a detailed regulation (30/2019) that as of the end of 2021, enables local governments to permit Detached Suites, as per the following conditions:

- (a) *at the time that construction begins, the parcel has located on it only one residence, whether or not a secondary suite is located in the residence as permitted under section 31;*
- (b) *neither residence will be attached to, nor be part of, the other residence;*
- (c) *one of the following applies to the residences, as constructed:*
 - (i) *if the parcel is 40 ha or less, there will be*
 - (A) *one residence, the total floor area of which is 500 m² or less, and*
 - (B) *one residence, the total floor area of which is 90 m² or less;*
 - (ii) *if the parcel is more than 40 ha, there will be*
 - (A) *one residence, the total floor area of which is any size permitted under the Act, and*
 - (B) *one residence, the total floor area of which is 186 m² or less.*

Staff has received many inquiries about when our suite regulations will be amended to allow for Detached Suites in the ALR. This initiative seems consistent with the general intent of Bill 44.

Work on a “home plate” regulation is underway which should come into effect in 2025, and this would require proximity to the main residence.

ANALYSIS

The CVRD must amend the various zoning bylaws prior to June 30, 2024, in order to comply with the new legislation. The amendments would ensure that one attached suite is permitted as-of-right per parcel of land where the zone permits one detached dwelling as the principal use. This would not apply, for example for a caretaker’s unit within an industrial building.

A GIS analysis conducted by Licker Geospatial indicates that very few zones in CVRD bylaws permit single residential dwellings but not suites. All such zones will have to be amended to permit a secondary suite.

Bill 44 requires minimum site area requirements for suites to be removed.

Bill 44 also requires that local governments not regulate the form of access to any suite (shared/common, or separate) and also that local governments are not permitted to require that the owner of the land reside in the principal dwelling where a suite is present.

In accordance with Bill 44, a series of amendment bylaws have been drafted (**Attachments A-I**), to implement Bill 44 requirements, as well as some additional measures as summarized briefly below:

- The amendments are primarily intended to comply with Bill 44, to address some longstanding challenges in regards to detached suites in certain areas, and would achieve consistency with ALC accessory housing policies, leaving further recommended but not mandatory Provincial guidance for later consideration. The improvements to definitions and terminology proposed in Attachments A-I will be built into the Comprehensive Zoning Bylaw that is under development.
- The Provincial Policy Manual recommends only permitting Detached Suites (free-standing) on parcels over 1 hectare in area if the parcel of land does not have both CVRD sewer and CVRD water; Improvement District and private utility water services are not counted by the province. Conversely, the CVRD zoning bylaws do recognize most such systems as “community water services” and so removing the site area requirement for Suites, as the Province requires for Attached Suites, is proposed in every amendment bylaw. The only limitation on accessory dwellings is that the approval of a Registered Onsite Wastewater Practitioner (ROWP) or engineer is required for sewage system(s) under the *Health Act* and any separate water connection to a Detached Suite is required to have a water license.
- What used to be called “single family dwellings” are now called “Single Detached Dwellings” and any zone with that permitted use must be altered to also permit a suite. For zones where suites were not permitted, only an Attached Suite will be permitted.
- For agricultural zones, Detached Suites will be added as accessory uses, subject to ALC regulations and will address in part, with another issue in the work program effectively and that is for consistency with the *ALC Act and Regulations*.
- For Saltair, it is proposed to reintroduce Detached Suites to the zoning bylaw after an absence of more than 20 years, with a requirement that they be connected to Saltair Community Water System and have a ROWP report an approved method for addressing on-site liquid waste.
- In cases where Attached Suites and Detached Suites are permitted only where a covenant is signed giving up the right to subdivision, this is being corrected to accommodate parcels that are large enough to be subdivided under zoning rules.

Staff note the Board previously (October 11, 2023) directed that a report outlining potential zoning bylaw amendments for secondary dwellings be referred to the Advisory Planning Commissions for Electoral Areas D, E, F, G, H and I. However, given the legislative mandate to amend bylaws

and time constraints, referral to APCs is not recommended for this purpose at this time. Staff are also recommending that referrals be limited to the minimum required by legislation – in this case, the Ministry of Transportation and Infrastructure in cases where part of the zoning bylaw area of application is within 800 metres of a controlled access highway intersection (numbered Provincial highway).

As noted, local governments are not permitted to hold public hearings in respect of these amendment bylaws insofar as they're to comply with Bill 44; and for those elements of the amendment bylaws that are not strictly related to Bill 44, it is recommended that a hearing not be held as the amendments are intended to help address the housing crisis. Public notice is required pursuant to the *Local Government Act* and CVRD Bylaw No. 4483 – Development Application Procedures Bylaw, 2023.

Option 1 is recommended as follows:

1. That the draft amendment bylaws attached to the staff report dated January 30, 2024, for the purpose of increasing opportunities for suites in CVRD electoral areas, consistent with Provincial policies and legislation, be forwarded to the Board for consideration;
2. That amendment bylaws applicable to lands within 800 m of a Controlled Access Highway be referred to the Ministry of Transportation and Infrastructure; and
3. That a public hearing not be held and that notice be provided in accordance with CVRD Bylaw No. 4483 – Development Application Procedures Bylaw, 2023.

Option 2

Draft bylaws may be referred to Advisory Planning Commissions and agencies for comment. Staff are not recommending this course of action as the majority of proposed amendments are required to comply with Provincial legislation, and others address the current housing crisis or are consistent with ALC policies.

Staff note there is a mandatory deadline of June 30, 2024, for completion of bylaw amendments.

Option 3

1. That the draft amendment bylaws attached to the staff report dated January 30, 2024, be revised in order that they are limited to the minimum requirements specified in Bill 44, and forwarded to the Board for consideration;
2. That amendment bylaws applicable to lands within 800 m of a Controlled Access Highway be referred to the Ministry of Transportation and Infrastructure; and
3. That a public hearing not be held for amendments required to meeting the requirements of Bill 44 and that notice be provided in accordance with CVRD Bylaw No. 4483 – Development Application Procedures Bylaw, 2023.

FINANCIAL CONSIDERATIONS

A Provincial grant amounting to over \$323,000 will cover any and all Bill 44-related expenses for OCP and zoning bylaw amendments, and required updates to Housing Needs Assessments for electoral areas.

COMMUNICATION CONSIDERATIONS

N/A

STRATEGIC/BUSINESS PLAN CONSIDERATIONS

Supports Strategic Objective 6 – To create healthy, livable, and efficiently serviced communities.

GENERAL MANAGER COMMENTS

☐ Not Applicable

Draft amendment bylaws will be legally reviewed for consistency with the CVRD Official Community Plan for the Electoral Areas and legislative requirements.

Referred to (upon completion):

- ☐ Community Services (*Arts & Culture, Cowichan Community Centre, Cowichan Lake Recreation, South Cowichan Recreation, Facilities & Transit*)
- ☒ Corporate Services (*Finance, Human Resources, Information Technology, Legislative Services*)
- ☐ Operations (*Parks & Trails, Recycling & Waste Management, Utilities*)
- ☐ Land Use Services (*Building Inspection & Bylaw Enforcement, Community Planning, Development Services, Strategic Initiatives*)
- ☐ Strategic Services (*Communications & Engagement, Economic Development, Emergency Management, Environmental Services*)

Prepared by:

Reviewed by:



Mike Tippett, RPP, MCIP
Manager

Not Applicable
Not Applicable



Ann Kjerulf, RPP, MCIP
General Manager

Reviewed for form and content and approved for submission to the Committee:

Resolution:

Financial Considerations:

☒ Corporate Officer

☒ Chief Financial Officer

ATTACHMENTS:

- Attachment A - Bylaw No. 4546 – South Cowichan Zoning Amendment Bylaw (Bill 44 Compliance)
- Attachment B - Bylaw No. 4547 – Electoral Area B – Zoning Amendment Bylaw (Bill 44 Compliance)
- Attachment C - Bylaw No. 4548 – Electoral Area D – Marine Zoning Amendment Bylaw (Bill 44 Compliance)
- Attachment D - Bylaw No. 4549 – Electoral Area D – Upland Zoning Amendment Bylaw (Bill 44 Compliance)
- Attachment E - Bylaw No. 4550 – Electoral Area E – Zoning Amendment Bylaw (Bill 44 Compliance)
- Attachment F - Bylaw No. 4551 – Electoral Area F – Zoning Amendment Bylaw (Bill 44 Compliance)
- Attachment G - Bylaw No. 4552 – Electoral Area G – Zoning Amendment Bylaw (Bill 44 Compliance)
- Attachment H - Bylaw No. 4553 – Electoral Area H – Zoning Amendment Bylaw (Bill 44 Compliance)
- Attachment I - Bylaw No. 4554 – Electoral Area I – Zoning Amendment Bylaw (Bill 44 Compliance)