



STAFF REPORT TO COMMITTEE

DATE OF REPORT November 27, 2023

MEETING TYPE & DATE Electoral Area Services Committee of December 6, 2023

FROM: Strategic Initiatives
Land Use Services Department

SUBJECT: *Bill 44 Housing Statutes (Residential Development) Amendment Act, 2023*
Bill 46 Housing Statutes (Development Financing) Amendment Act
Bill 47 Housing Statutes (Transit-Oriented Areas) Amendment Act

FILE: 6450-01 2023

PURPOSE/INTRODUCTION

The purpose of this report is to provide information on three newly introduced pieces of legislation:

- *Bill 44 Housing Statutes (Residential Development) Amendment Act, 2023.*
- *Bill 46 Housing Statutes (Development Financing) Amendment Act*
- *Bill 47 Housing Statutes (Transit-Oriented Areas) Amendment Act*

RECOMMENDED RESOLUTION

For information.

BACKGROUND

The Province has introduced new legislation that supports local governments in building more homes faster while enabling updated and new tools to effectively fund the costs of infrastructure and amenities that support increased housing supply and growth. The new *Bills* are:

- *Bill 44 Housing Statutes (Residential Development) Amendment Act, 2023;*
- *Bill 46 Housing Statutes (Development Financing) Amendment Act;* and
- *Bill 47 Housing Statutes (Transit-Oriented Areas) Amendment Act.*

All three *Bills* have common themes overriding local government authority, giving the Province more power to reduce Council and Board powers in land use planning and housing approval processes. If enacted, *Bill 44* will make the most substantial amendments to the *Local Government Act* Part 14 since 1985. Each Bill is now described in general terms.

Bill 44 – Housing Statutes (Residential Development) Amendment Act, 2023

Bill 44 supports communities in delivering housing faster across BC. The legislation will apply to many areas of the province and will allow up to four units in single-detached and duplex zones (or three, depending on the size/type of lot) and up to six units permitted in single-detached and duplex zones close to bus stops with frequent service. It will also allow secondary suites or accessory dwelling units of single-detached lots throughout BC.

Bill 44 also changes housing needs reporting and public hearing requirements. It requires more frequent updating of official community plans to meet Provincial requirements in as-yet undisclosed guidelines, together with pre-zoning that accommodates a 20-year housing supply and effectively eliminates public hearings. Key highlights include the following:

- **Housing Needs Report** A new interim Housing Needs Report (HNR) is required and must be prepared in a format and level of detail prescribed in the Housing Needs Report Regulation. The HNR must be prepared by a date prescribed by regulation for the purpose of the official community plan and zoning bylaw amendments prescribed by the Province. The new HNR must consider growth for 20 years.
- **Official Community Plan** The new HNR results will inform DRAFT Bylaw No. 4373 – Official Community Plan for the Electoral Areas in its review of capacity analysis and may inform changes to DRAFT Schedule G – Growth Containment Boundaries and Schedule L – Land Use Designations. An OCP and zoning bylaws must plan to accommodate the HNR projections whether there is existing servicing or not. OCP amendments are required by December 2025. *Bill 44* requires that OCP statements and map designations for residential development must accommodate the 20-year housing demand documented in the Housing Needs Report and requires housing policies to address each class of housing need addressed in the HNR.
- **Zoning to Accommodate Housing Needs** Local governments will be obliged to use their zoning authority to accommodate at least the number of housing units required to meet anticipated housing needs as identified in the HNR and consistent with the OCP, without relying on density bonuses, which are now being referred to as “conditional density rules”.

Step 1 – Applies to all Electoral Area Residential Zones Regardless of Servicing

In *LGA* s. 481.3(3) applicable in zones that currently permit only a one-family dwelling (that is, no secondary suite or other accessory dwelling currently allowed), zoning bylaws must allow a secondary suite and/or accessory dwelling in addition to the one-family dwelling.

In the CVRD, zoning analysis indicates there are several parcels which do not allow suites, accessory dwelling units or duplexes (out of a total 6,995 parcels). CVRD zoning bylaws will require amendments to use, parcel size and setback depending on regulations (not fully understood at this time).

This step applies regardless of how the parcel is serviced.

For areas served by CVRD water or sewer, any capacity issues that arise from this additional density would have to be managed by means of the utility bylaws, which are not addressed in *Bill 44*.

Step 2 – Applies to Electoral Area Parcels Within an Official Community Plan Urban Containment Boundary Served by CVRD Systems

In *LGA* s. 481.3(4) and (5) there are additional density requirements for parcels that are connected to a municipal or regional district water or sewer system. Parcels served only by improvement district water or sewer systems or private utilities aren't subject to *this part* of *Bill 44*. The additional density requirements will be prescribed by regulations issued by the government after *Bill 44* comes into force.

Under (4), the additional density requirements apply to parcels that are within an urban containment boundary (UCB) designated in a regional growth strategy, a UCB designated in an OCP for a municipality with a population specified in a provincial regulation (the government is saying this will be 5,000) or merely within a municipality with a specified population.

The only part of this that could apply in the CVRD electoral areas would be the part that applies to rural parcels within the UCB served by CVRD systems.

Bill 44 requires at least three units to be allowed on parcels smaller than 280 square metres (m²) and at least four units on larger parcels.

Utility bylaws could potentially address development rights under the zoning bylaw that cannot be accommodated due to infrastructure limits.

Under (5), the requirement for additional density could be greater if the parcel (either within or outside a UCB) has at least an area to be prescribed by provincial regulations (they're saying 280 m²) and is within a prescribed distance from a bus stop. The government is saying that six units must be permitted per parcel in these areas. Likely the regulations will prescribe a radius such as 400 metres (m), which will mean a mapping exercise to identify affected parcels and then local recommendations to avoid having the additional density permitted on portions of parcels.

No public hearing is permitted for amendment bylaws required by (4) or (5) and the OCP consistency rule is not applicable.

Adjustments to off-street parking requirements might also be required depending on provincial regulations.

The requirements under 481.3 (3) are broader than those under (4) and (5), and different exemptions/restrictions apply. There is no statutory restriction on the application of parking requirements. Ordinary building setback rules would apply to residential buildings with secondary suites and to laneway homes, etc. However, there is an option for the Province to make regulations under 481.3(6) respecting matters such as siting. If such regulations are made, CVRD's bylaws will have to incorporate them. Similarly, s. 525 is being amended to require local governments to consider guidelines that the government might issue for off-street parking for housing units, required by s. 481.3(3). This is a softer requirement, and it would be lawful to not follow the guidelines if they're 'considered'.

Notes:

- *LGA* s. 481.6(b) the Cabinet is given authority to make further exemptions. Exemptions from 481.3(3) for un-serviced parcels could be provided.
- *LGA* s. 457.1 states that development permit areas, powers in relation to land use regulation or land use permit may not be exercised in a manner that unreasonably prohibits or restricts the use or density or use required to be permitted under *LGA* 481.3.
- **Urban Containment Boundaries** Local governments will also be obliged, in their zoning bylaws, to allow additional housing units on most land zoned for detached and duplex dwellings, especially within Urban Containment Boundaries (UCBs) and near bus stops, and again, these additional housing units must not be allowed via a "conditional density rule".

- **Public Hearings** Public hearings will be prohibited in connection with the zoning bylaws that are necessary to comply with the new requirements for allowing additional housing units, or for zoning bylaws that permit residential development and are consistent with the OCP.

Bill 46 Housing Statutes (Development Financing) Amendment Act

Bill 46 eliminates the use of negotiated Community Amenity Contributions (CAC) and replaces them with a new Amenity Cost Charge (ACC) that aligns with an expanded list of what Development Cost Charges (DCC) can be spent on. It establishes a legislative framework (which would be under Provincial control) for charging CACs from developers and removes the ability for local governments to continue funding affordable housing through CACs. Key highlights include the following:

- **Development Cost Charges** Local governments will have expanded scope for DCCs to (i) provide funding for fire protection facilities, police facilities and solid waste and recycling facilities and (ii) to allow for the imposition of ACCs. Local governments will need to update or implement a new DCC bylaw to implement the new changes.
- **Amenity Cost Charges** Local government will have scope to continue to impose charges on new development to assist in paying for the capital costs of community amenities (e.g., community centres, recreation centres, libraries) to support livable communities in areas where they are planning for increased growth and requiring ACC reserve funds in an ACC bylaw. Government will provide guidance to support local governments implementing the proposed changes and will monitor the implementation as part of ensuring intended outcomes are met.

To implement an ACC, local governments will need to:

- identify areas where more housing supply is planned (based on official community plans) and what amenities are needed to support that supply. Amenity cost charges would apply to new development in those areas.
- determine the ACC amounts are following the rules set out in legislation (for example, the capital costs must be allocated between existing users and new users).
- consult on the development of the amenities and charge rates.
- pass a bylaw that implements the charges.

Local governments can waive or reduce charges for affordable rental housing—as with DCCs and development cost levies. The Province can also exempt types of affordable housing from ACCs.

The amenity cost charge framework includes checks and balances, such as:

- Charges can only be imposed on development that results in growth and benefits from the amenities.
- Charges are restricted to one-time capital costs, which must be shared between existing and new users—developers only pay the portion assigned to new users.
- Rules to ensure clarity for how the new ACCs work with other tools (such as development cost charges) to prevent double charging.
- Public accountability measures, such as rules about how the charges may be spent.
- An amenity must be owned by the local government or owned or operated by a person who has entered into a partnering agreement with the local government with respect to the amenity.

Bill 47 Housing Statutes (Transit-Oriented Areas) Amendment Act

Bill 47 amends *LGA* (S. 585.52) and requires designation of transit-oriented development areas (TOD areas) near transit hubs. TOD areas are defined as land within 800 m of a rapid transit station (e.g., SkyTrain station) and within 400 m of a bus exchange where passengers transfer from one route to another (e.g., Newton Bus Exchange in Surrey). To remove parking as a potential barrier to building more homes in these areas, local governments will not be able to require off-street residential parking spaces in TOD areas.

Main transit exchange in the CVRD is the City of Duncan Train Station and Village Green Mall. Parking restrictions may apply in this surrounding area.

Current CVRD bus stops servicing more than one route:

- Town of Ladysmith (Routes 31, 34, 36)
- Town of Lake Cowichan (Route 7/7x, 20 and 21)
- Cowichan Commons (Routes 2, 3, 7, 36)

It is not known whether the Duncan transit exchanges and/or CVRD bus stops servicing more than one route will be considered TOD areas in the regulations. In the CVRD electoral areas, lands within 400 m of the transit exchanges or bus stops servicing more than one route would be examined for applicability.

Key highlights include the following:

- **Transit-Oriented Development Areas** Local governments must ensure that minimum levels of density, size and dimension established by the Province in regulations are allowed in TOD areas. These will vary by municipality and may vary within the TOD area. Local governments can approve densities that exceed the provincial regulations at their discretion.
- **Parking Requirement Removal** Local governments must remove restrictive parking minimums and allow parking volumes to be determined by need and demand on a project-by-project basis.

Requirements under 481.3(4) and (5) are inapplicable to parcels >4050 m² (about an acre) and parcels not connected to a municipal or regional district water or sewer system (see 481.4). By implication, s. 481.3(3) is applicable to such parcels.

Timeline

- December 2023 – Policy manual and site standards provided to local governments.
- January 2024 – Housing Needs Report instructions provided to local governments.
- January/February 2024 – Details announced for \$51 million funding allocation.
- June 30, 2024 – Local governments must have updated their bylaws to accommodate Secondary Suite or Accessory Dwelling requirements (Step 1 outlined in this staff report (November 27, 2023).
- June 30, 2024 – Local governments must have designated TOD areas and removed minimum residential parking requirements.
- January 1, 2025 (date subject to regulation) – Local governments must have completed their interim HNR.

- December 31, 2025 (date subject to regulation) – Municipalities must have completed their review and update of their OCPs and zoning bylaws (based on interim HNR).

Local governments must consider standards and details in the provincial policy manual when planning or amending zoning bylaws.

ANALYSIS

The Province is no longer content to leave zoning authority to local governments entirely with respect to housing. The implications of *Bills 44, 46 and 47* vary by local government and mostly apply to local governments with populations over 5,000; however, there are important legislative changes applicable to all local governments.

For the CVRD electoral areas there is an immediate need (likely by the end of 2025) to produce an interim Housing Needs Report projecting growth needs for 20 years, update the official community plan and zoning bylaws to accommodate the projected needs, and develop an ACC and DCC bylaw.

Next Steps

Staff understand the next steps generally to be as follows:

1. Interim Housing Needs Report (HNR);
2. Zoning bylaw amendments (Steps 1 and 2);
3. Official Community Plan consistent with HNR;
4. Consideration of ACC bylaw;
5. Consideration of DCC bylaw; and
6. Transit-Oriented Area Designation Review – 2024 Q1-Q2 once provincial guidelines are released.

The regulations and exemptions are not yet available at the time of writing this staff report (November 27, 2023) and the extent of the changes is not fully understood.

Staff will report back in 2024 Q1 once the guidebooks and corresponding regulations are provided, and the funding amount is allocated. An interim Housing Needs Report will commence in January 2024.

FINANCIAL CONSIDERATIONS

The Province will provide details for \$51 million in funding to support planning.

The GIS/planning work to complete the requirements of the HNR, OCP capacity analysis, zoning analysis, and updates to the OCP's DRAFT mapping schedules is \$125 K.

Consideration for an ACC Bylaw and DCC Bylaw will not occur until the allocation from the Province is known.

COMMUNICATION CONSIDERATIONS

Electoral area APCs to be advised of the changes and consulted on zoning options (if any).

STRATEGIC/BUSINESS PLAN CONSIDERATIONS

6.6) Review and update key CVRD bylaws that regulate activities on lands in the electoral areas

7.1) Complete a regional housing needs assessment

7.2) Protect existing and encourage the development of additional affordable housing options including those needed to attract workers and those for vulnerable populations

Referred to (upon completion):

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

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