



Committee of the Whole Report For the Meeting of December 13, 2018

To: Committee of the Whole **Date:** December 7, 2018
From: Andrea Hudson, Acting Director, Sustainable Planning and Community Development
Subject: Residential Rental Tenure Zoning Options

RECOMMENDATION

That Council direct staff to:

1. Introduce residential rental tenure zoning in Victoria by:
 - a. preparing general amendments to *Zoning Bylaw 2018* and the *Zoning Regulation Bylaw*;
 - b. adding residential rental tenure regulations to zones permitting secondary and garden suites;
 - c. adding residential rental tenure regulations to all new zones proposing:
 - i. purpose-built rental projects;
 - ii. projects seeking bonus density per the draft *Inclusionary Housing and Bonus Density* policy;
2. Add Residential Rental Tenure Zoning as a priority action item in the forthcoming *Victoria Housing Strategy, 2016-2025* update to explore options for broader utilization, with implementation to begin in 2019;
3. Participate in a University of British Columbia School of Community and Regional Planning (SCARP) sponsored rental tenure zoning research project, with costs estimated to be approximately \$2500 and allocated from the contingency fund.

EXECUTIVE SUMMARY

On May 24, 2018, Council directed staff to explore resource considerations relating to new provincial legislation allowing municipalities to establish rental tenure in zoning. Staff have been examining this new authority, including liaising with different levels of government and municipal partners to determine potential risks and benefits, and have developed a three-step approach to introduce residential rental tenure zoning in Victoria. The three steps are:

1. Add residential rental tenure to zones that allow secondary and garden suites, and to all new applicant initiated projects that are all or partly purpose built rental (per the draft *Inclusionary Housing and Density Bonus* policy) to take advantage of the new authority on a priority basis.
2. Add Residential Rental Tenure Zoning as a priority action item to the *Victoria Housing Strategy* update to analyze and explore options for broader utilization to the authority.

3. Participate in a multi-jurisdictional SCARP-sponsored research project to fully examine risks and benefits of residential rental tenure zoning.

By taking this approach, the City of Victoria will position itself as one of the first municipalities to implement residential rental tenure into select zones to strengthen security of tenure in rental zones, while still taking a measured approach to broader applications of an untested authority.

PURPOSE

The purpose of this report is to provide recommendations to Council on options for implementing the City's recently legislated ability to introduce residential rental tenure zoning.

BACKGROUND

On May 31, 2018, the Province of British Columbia amended the *Local Government Act* to allow municipalities to enact zoning bylaws that limit the permitted form of tenure of housing units to rental. Following earlier provincial announcements, on May 24, 2018, Council approved the following motion:

"That Council direct staff to report back at the next Quarterly Update on the resource implications of undertaking the following action: That staff be directed to review the Local Government Statutes (Residential Rental Tenure Zoning) Amendment Act, 2018, and report back on a priority basis on next steps for implementing Residential Rental Tenure Zones within the City of Victoria.

Following this direction, staff have been examining this new authority and liaising with different levels of government and municipal partners to determine potential risks and benefits, including obtaining further clarification on some of the parameters of the legislation through sessions with provincial government staff.

To date, only one municipality in BC (Burnaby) has adopted bylaws incorporating residential rental tenure zoning; although, they have not yet applied these bylaws to any zones in the City.

ISSUES & ANALYSIS

Residential rental tenure zoning gives municipalities the legislative authority to limit housing tenure to rental in multi-family residential zones. The province has advised that it has deliberately not included definitions with this authority in order to offer municipalities some flexibility in application. This is important given that each city has different zoning regulations, neighbourhood compositions, and community and housing policy goals; however, there are several considerations which may impact the application of this new authority, including:

- the legislation has room for interpretation, so there is no 'one-size-fits-all' approach;
- this is an untested authority without precedent anywhere in North America, so risks and benefits are unknown and no best practices exists
- rental tenure can only be applied where 'multi-family residential' is a permitted use
- there will be situations of non-conformity; for example, buildings with tenure other than rental cannot be compelled to switch to residential rental tenure.

Currently, the City of Burnaby is the first and only municipality to take up this new authority, though at this stage, it has only adopted bylaws and has not yet applied the authority to any districts. Burnaby's implementation involves creating new rental zoning sub-districts to integrate housing into its existing zoning framework, while maintaining consistency in building form and density; and by

adding residential rental tenure in commercial districts to take advantage of underutilized floor area (in Burnaby, projects in commercial zones do not typically use all of the permitted floor area due to the lack of market demand for commercial use on floors above ground level). Burnaby has made use of the flexibility of the legislation by creating a bespoke approach, though as noted, it has not yet been tested on the ground (i.e. no parcels have been rezoned to date) as it has not yet created policy to accompany the bylaws. Analysis as to the best policy approach is still underway.

While it is useful to observe the application of this new authority in Burnaby, it is clear that due to the broadness of the legislation and different municipalities' existing policies, needs and demands, each jurisdiction will need to craft its own city-specific policy to inform their use of this tool.

Affordability

The most obvious benefit of rental tenure zoning is the ability for municipalities to preserve existing rental housing and encourage the development of future rental supply. While the protection and facilitation of rental housing has implied affordability benefits, this new authority does not build affordability outright into zoning regulations; however, there may be innovative applications that could establish affordability in zoning. If Council chooses to add residential rental tenure zoning to the Housing Strategy as a priority action item, staff could explore these innovative approaches during action implementation.

Security of Tenure

Rezoning multi-family residential land for residential rental tenure means that projects developed within the new zoning will be required to operate as residential rental in whatever form the zoning conditions describe (entire building, percentage of units, etc.), and generally, a rezoning would be required to build or operate an existing project under a different form of tenure. Protecting and encouraging rental increases security of tenure for renter households in Victoria; however, Council may wish to direct staff to explore mechanisms that can be used in conjunction with this authority to further strengthen its intention to secure zones as rental-only. These could include the continued use of housing agreements, restrictive covenants, and bonus density zoning.

Non-Conforming Properties

As with any type of rezoning, amending a zone to establish residential rental tenure may result in some projects legally not conforming to the new zoning, and being permitted to legally continue with their prior form of tenure. Examples of projects that would be legally non-conforming in the instance of rezoning to residential rental tenure include:

- existing owner-occupier: where a unit is occupied by its owner at the time the underlying zone changes to residential rental tenure, that form of tenure may continue, even if there is a transfer in ownership
- instream development projects: where a project is in possession of a development or building permit at the time of a zoning bylaw amendment, the project will be exempt from the new tenure regulations.

Considering the potential positive impacts of this new authority, but also its lack of examples to learn from, and the unknown nature of risks and benefits, Staff recommend Council consider the following blended three-step implementation approach. The blended approach will add rental protections to certain zones, positioning Victoria as the first municipality to implement rental tenure zoning into existing zones while allowing for opportunities to more closely examine risks and benefits of broader applications.

Step One: Begin Applying Residential Rental Tenure Zoning in Specified Zones Now

The following steps to begin implementing residential rental tenure zoning in Victoria could be taken immediately:

1. *Amend Zoning Bylaws to Enable Implementation of Residential Rental Tenure Zoning*

The first step to implementing residential rental tenure zoning is to amend the City's *Zoning Bylaw 2018* and the *Zoning Regulation Bylaw* to enable use of the new authority, including the development of an appropriate definition of "residential rental tenure" and standard regulations applicable to residential rental tenure housing units.

2. *Apply Residential Rental Tenure Zoning to Zones with Secondary or Garden Suites as Accessory Uses*

Once bylaws are in place to establish residential rental tenure zoning, the City has an opportunity to immediately apply this application to zones with secondary or garden suites to strengthen the City's intention that these secondary dwelling units be used for the purposes of long-term rental accommodation only. Going forward, the authority could also be utilized where the City makes zoning changes to encourage more ground-oriented infill development, such as allowing single-family dwellings with an accessory secondary suite and garden suite on the same lot, more than one secondary suite, or other iterations of rental infill.

3. *Apply Residential Rental Tenure Zoning to All New Applicant-Initiated Rezoning for Rental Housing*

A. Rezoning Applications Proposing Purpose-Built Rental

The City could begin applying residential rental tenure to all new rezoning applications received for purpose-built, multi-unit residential rental projects. Specifying residential rental tenure in these new zones would be a straightforward way to introduce this new legislation into zoning ahead of more large-scale zoning initiatives, which require a deeper level of analysis and exploration of risks and benefits. By restricting application to applicant-initiated rezonings until further research is completed, the City will create further security in new rental housing developments while avoiding possible unintended consequences of applying a new authority broadly without precedent. In these cases, housing agreements will still need to be employed to secure affordability as appropriate.

B. Rezoning Applications Seeking Bonus Density

The residential rental tenure authority allows municipalities to establish tenure in a variety of forms, from city blocks, to a percentage of units in a building. Where affordable housing is included onsite in strata buildings through the forthcoming Inclusionary Housing and Density Bonus policy, residential rental tenure zoning could be applied to the new zones to further secure rental tenure in units provided as part of community amenity contributions. The commitment to long-term residential rental tenure and affordability would still need to be secured through housing agreements in accordance with the *Local Government Act*.

Step Two: Add Residential Rental Tenure Zoning to the Housing Strategy as a Priority Action

Residential Rental Tenure Zoning can be added as a priority action item in the Victoria Housing Strategy 2016-2025 update and implementation can begin in 2019 following further analysis and options for Council consideration:

1. Support the Protection and Regeneration of Rental Housing

One of the stated purposes of this new authority is to give municipalities tools to support the preservation of existing rental housing. An opportunity exists to utilize an inventory of market rental housing that was completed as part of the City's recently completed Market Rental Revitalization Study (MaRRS). The City could consider using residential rental tenure zoning to assist in preserving parcels identified in MaRRS as rental. This would create added assurance that these developments would remain rental as landowners would be required to undergo a rezoning should they wish to change the use in future. However, issues such as diminished zoning rights, legal non-conformity, and enforceability warrant deeper exploration prior to implementation. Adding residential rental tenure zoning on existing rental properties as an action in the Housing Strategy will give the City the ability to examine more fulsomely the potential risks and benefits before proposing broad zoning changes.

2. Consider Opportunities for Rental Tenure Regulations in Future Zoning Initiatives

An analysis of the inclusion of residential rental tenure regulations in City-initiated zoning updates following the completion of neighbourhood plans could be completed as part of this Housing Strategy action.

3. Explore Risks and Benefits of Pre-zoning Areas of the City for Rental Tenure

Another possible application of rental tenure zoning could be to pre-zone selected areas of the City for residential rental tenure. However, a thorough exploration of this option ahead of implementation is necessary, as large-scale zoning changes can have impacts and potentially unintended consequences. In particular, considerations for a diminishment of existing development rights and complications related to legal non-conformity should be further examined. A comprehensive risk and benefit assessment before application would enable the City to strategically align large-scale zoning initiatives with other existing tools and actions, in order to enhance outcomes and more effectively achieve Victoria Housing Strategy objectives.

By exploring potential risks of residential rental tenure zoning through Housing Strategy implementation (as well as the research opportunity outlined below), staff would be able to recommend new policies and guidelines for mitigating any negative consequences of large-scale city-initiated rezonings, and would have more information to share with the public during engagement events related to these types of initiatives.

Step Three: Participate in a SCARP Sponsored Multijurisdictional Research Project on Rental Tenure Zoning

The City has been invited to participate in a multi-jurisdictional research study led by the Housing Research Collaborative, a research arm of the School of Community and Regional Planning (SCARP) at the University of British Columbia. All the municipalities consulted with on this issue are grappling with how to best utilize this new authority, especially as the authority is without precedent, and thus, there are no best practices to learn from. For this reason, staff recommend Council approve the City's participation in this study to explore the implications, benefits, and

potential risks of using residential rental tenure zoning in both small and large scale applications. With the results of this study in hand, the City could more confidently consider larger-scale initiatives contemplated in the Housing Strategy update, such as pre-zoning larger swaths of land for residential rental tenure. The exact cost of participation is as yet undetermined but is estimated to be approximately \$2500.

OPTIONS & IMPACTS

Option 1 (Recommended): Direct staff to proceed with the following three-step approach to implementing rental tenure zoning in Victoria:

1. Introduce residential rental tenure into Victoria by amending zoning bylaws for implementation in zones that permit secondary suites and garden suites, and that all new applicant-initiated rezonings for purpose-built rental, as well as, projects subject to the Inclusionary Housing and Density Bonus Policy.
2. Add Residential Rental Tenure Zoning as a priority action to the *Housing Strategy, 2016-2025* update for implementation in 2019.
3. Participate in a SCARP sponsored multijurisdictional research project on rental tenure zoning

This approach would position Victoria as the first municipality to use this new authority in select zones, while still taking a measured approach to broader applications.

Option 2 (Not Recommended): Direct staff to proceed with applying rental tenure zoning through rezoning applications only.

This approach is a conservative application of the City's new rental tenure authority that would not preserve any existing rental, but would ensure the security of new rental units created through the rezoning process.

Option 3 (Not Recommended): Direct staff to return to Council with a selection of areas of the city suitable for pre-zoning as residential rental tenure.

This approach is not recommended due to the untested nature of this new authority and incomplete understanding of possible risks as outlined in this report. Staff recommend this approach be explored following the SCARP research project and as part of the full analysis of risks and benefits of broader applications of residential rental tenure zoning as an action item in the *Victoria Housing Strategy 2016-2025*.

Accessibility Impact Statement

There are no immediate accessibility impacts to these recommendations.

2015 – 2018 Strategic Plan

The further revision of the Victoria Housing Reserve Fund aligns with the *2015 – 2018 Strategic Plan* Strategic Objectives 1: Innovate and Lead; 3: Strive for Excellence in Planning and Land Use; 6: Make Victoria More Affordable; and 13: Demonstrate Regional Leadership.

Impacts to Financial Plan

Council's approval of the recommended option would have a cost of approximately \$2500 to participate in the proposed SCARP-sponsored research project. These funds could be sourced from the City's contingency fund.

Official Community Plan Consistency Statement

The introduction of residential rental tenure zoning is well-supported by the OCP, which outlines an array of housing priorities. These priorities include:

- supporting a range of housing types, forms, and tenures across the city and within neighbourhoods to meet the needs of residents at different life stages, and to facilitate aging in place
- encouraging a mix of residents, including households with children, by increasing opportunities for innovative forms of ground-oriented, multi-unit residential housing
- supporting the retention of existing rental units, the regeneration of older rental housing
- developing strategies to address tenant housing security.

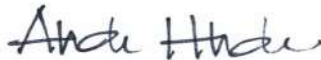
CONCLUSIONS

This report outlines several ways Council might consider applying its newly granted authority to zone for rental tenure in the City of Victoria. The combination of immediate application and opportunity for research proposed is a forward-moving but balanced approach to preserving our existing rental stock while also encouraging new rental stock in future.

Respectfully submitted,



FOR
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Report accepted and recommended by the City Manager:



Date:

Dec 10, 2018

List of Attachments:

- Attachment A: Province of BC Rental Tenure Bulletin