



Committee of the Whole Report For the Meeting of May 9, 2024

To: Committee of the Whole **Date:** April 25, 2024
From: Karen Hoese, Director, Sustainable Planning and Community Development
Subject: **Land Use Procedures Bylaw Amendment No. 22, 2024 - Prohibition on Certain Public Hearings following Bill 44 – Housing Statutes (Residential Development) Amendment Act**

RECOMMENDATION

That Council:

1. Amend the Land Use Procedures Bylaw as proposed in Attachment 1, to align the City's public hearing procedures with Bill 44 – *Housing Statutes (Residential Development) Amendment Act, 2023* that placed a prohibition on certain public hearings.
2. Give first three readings to the *Land Use Procedures Bylaw, Amendment Bylaw (No. 22)* at Council to follow this Committee of Whole meeting.
3. Direct staff to conduct additional review of the City's *Land Use Procedures Bylaw*, described as Phase 2 in this report, based on the scope and guiding values outlined in Attachment 3, and bring forward an amended bylaw for Council's consideration along with any feedback received through consultation with the Urban Development Institute and Community Association Land Use Committees.
4. Direct staff to report back to Council on Phase 3 items, including information on scoping, timing, and resource implications.

EXECUTIVE SUMMARY

In response to the Provincial Government's recent legislative changes regarding housing and development, amendments are proposed to the City's *Land Use Procedures Bylaw (LUPB)* to ensure the City's public hearing process is consistent with the *Local Government Act*. The proposed bylaw amendments relate specifically to rezoning applications for housing that are consistent with the Official Community Plan.

Additionally, staff are seeking direction from Council with regards to conducting a comprehensive review of the LUPB. The intent of the review is to simplify and streamline development processes as well as bring the bylaw into further alignment with provincial legislation.

As part of the review process, it is recommended that the City seek focused input from the Urban

Development Institute and the Community Association Land Use Committees to inform the proposed changes to the Land Use Procedures Bylaw.

PURPOSE

The purpose of this report is to propose amendments to the *Land Use Procedures Bylaw (LUPB)* in alignment with Bill 44 – *Housing Statutes (Residential Development) Amendment Act, 2023*. These amendments will prohibit public hearing requirements for certain residential development applications that are consistent with the Official Community Plan, to align with provincial legislation.

In addition, staff are seeking direction related to further review and changes to the LUPB as part of a broader effort to update and improve the City's development processes. The review is outlined in three phases based on the complexity of the potential changes.

- This report, with the public hearing amendments constitutes the first phase.
- Phase 2 involves modernization amendments that require minimal research and engagement as they are generally focused on creating alignment with legislation and updating bylaw language to create more clarity.
- Phase 3 changes could revise the pre-application process and community involvement in application submissions, review and adjust application fees, and update the delegation table and delegated authorities. As these changes would be more resource intensive, additional scope and details about Phase 3 actions would be provided to Council in a subsequent report.

BACKGROUND

The *Local Government Act* and *Community Charter* legislates the specific provisions and procedures for considering the following types of bylaw changes:

- official community plan bylaws
- zoning bylaws
- certain bylaws authorizing temporary use permits
- phased development agreement bylaws
- bylaws for the early termination of land use contracts
- bylaws for heritage revitalization agreements and designation of heritage properties.

Historically, as a part of Council's consideration and deliberation, municipalities were required to hold public hearings prior to final adoption of all zoning bylaw amendments. However, recent legislative changes, specifically through Bill 26 (November 2021) and Bill 44 (November 2023), have revised these requirements to streamline the development approvals process, particularly in response to the housing crisis.

With Bill 44 – *Housing Statutes (Residential Development) Amendment Act, 2023*, the *Local Government Act* was revised to prohibit local governments from holding a public hearing for rezoning applications that meet the following criteria:

- (a) an official community plan is in effect for the area that is the subject of the zoning bylaw
- (b) the bylaw is consistent with the official community plan
- (c) the sole purpose of the bylaw is to permit a development that is, in whole or in part, a residential development
- (d) the residential component of the development accounts for at least half of the gross floor

area of all buildings and other structures proposed as part of the development.

This legislative change came in effect on November 30, 2023 and builds upon existing authority under the *Local Government Act* to not hold public hearings for zoning amendment bylaws that are consistent with the Official Community Plan. The prohibition on public hearings for residential developments applies to all residential zoning amendment bylaws that have not yet received first reading from Council by the date of Royal Assent (November 30, 2023).

With the public hearing prohibition in place, the *Local Government Act* will only require public hearings for the following land use changes:

- OCP bylaws and amendments
- Zoning bylaws that are not consistent with an OCP
- phased development agreement bylaws
- bylaws for the early termination of land use contracts
- bylaws for heritage revitalization agreements and designation of heritage properties.

The *Local Government Act* also requires local governments (that have adopted an OCP or Zoning Bylaw) to define the procedures by which owners of land may apply for an amendment to the plan or bylaw. Most commonly a procedures bylaw would describe who is entitled to make an application, the information required to make an application, details about application forms, application fees, sign posting requirements, and reapplication restrictions. A procedures bylaw must, at minimum, comply with other statutory requirements set out in the *Act* (such as notification distances or public hearing requirements). Procedures bylaws are not required to specify the sequencing of steps in the application process, or time limits for each step.

The City of Victoria's *Land Use Procedures Bylaw* (LUPB) was adopted in 2016. In addition to what is required under the *Local Government Act*, the City's LUPB includes non-statutory requirements specific to the City. For example, pre-application consultation and Community Association Land Use Committees (CALUC) processes, Opportunities for Public Comment, and varied notification distances for different application types are all specific to the City of Victoria and are not required by legislation.

ISSUES & ANALYSIS

Public Hearing Changes

Under the current *Local Government Act*, the City must establish procedures for land development applications. As a result of changes to Provincial legislation, the LUPB requires updating to remain consistent with the *Local Government Act*. The following sections have been identified for the proposed bylaw amendment (see Attachment 1).

- **Section 29 - Public Hearing:**
The proposed bylaw amendment adds wording to clarify when a public hearing must be held, is not permitted to be held, or is optional, consistent with the *Local Government Act*.
- **Section 30 - Right to Waive a Public Hearing**
The proposed bylaw amendment clarifies that Council may only waive the holding of a public hearing for zoning amendment bylaw applications that are consistent with the Official Community Plan and where the hearing is not already prohibited.
- **Section 32 - Notice of Public Hearing**

Notification requirements are still included in the *Local Government Act*, and public notice requirements will continue to apply (including publishing and mailing of rezoning notices) and will need to be completed before first reading of the rezoning bylaw in cases where no public hearing is required or permitted. The proposed bylaw amendment adds wording to clarify that the notification distance is 100 m for zoning bylaw amendment applications when the public hearing has been waived, as well as for zoning bylaw amendment applications when a public hearing is not permitted.

The proposed amendments ensure alignment with the enabling legislation and clarify the circumstances under which a public hearing may be held or waived by Council for zoning bylaw amendments.

Additional Review of Land Use Procedures Bylaw

As the City's needs have changed since its adoption, the LUPB has been amended nineteen times, resulting in a complex bylaw that is challenging to understand and implement. Therefore, the bylaw could benefit from additional review to modernize and simplify the structure and language, as well as ensure alignment with Provincial legislation.

Phasing

Identifying the scope and objectives for further review requires Council direction for staff to implement. Three phases have been outlined in Attachment 3 for this purpose, recognizing that some aspects of the bylaw could be revised quickly, with minimal research and engagement, while other aspects of the bylaw are more complex, requiring additional resourcing and consultation.

The additional review options are described as Phase 2 and Phase 3 below, and these would be in addition to the immediate changes (described in Phase 1) that address changes to the *Local Government Act* public hearing procedures.

Phase 1 – Immediate Procedural Public Hearing Changes (Recommendations 1 and 2)

- These bylaw amendments, which are recommended for immediate adoption, will align the LUPB with the new Provincial legislation prohibiting public hearing requirements for certain residential development applications that are consistent with the Official Community Plan.

Phase 2 – Simple Modernization Changes (Recommendation 3)

- The goal of this phase of bylaw updates would be to simplify wording and processes across the bylaw, provide more flexibility and clarity for applicants and the public, and create more consistency with the *Local Government Act*.
- Areas of consideration include creating consistent notification distances, modifying the refund and sign posting sections, assessing Opportunity for Public Comment, and identifying other sections of the bylaw for updates to streamline the development application review process.
- These amendments would require minimal research and external engagement as they are generally straightforward technical updates.

Phase 3 – Additional Complex Changes (Recommendation 4)

- Some of the remaining sections of the LUPB would be more complex and could involve changes to the pre-application process, adjustment of application fees, and opportunities for further delegation.

- As these amendments may have additional resourcing requirements staff would report back on scoping, timing, and resource implications, to facilitate additional Council direction prior to implementation.

Development Process Review

The City's Development Process Review project is currently underway as well. The intent of this project is to review the Rezoning, Development and Building Permitting processes, identify the highest-priority opportunities for short and longer-term improvements, and build internal capacity for making continuous improvements. This project has been supported through an interdepartmental working group that will lead future process improvement efforts as identified.

Specific projects implemented and underway as part of the Development Process Review project have a strong customer service focus and include new tools and software to support application intake and review. In addition, staff are working on a priority review process for affordable and rental housing projects, an enhanced pre-application process to provide greater certainty for applicants and reduce the number of steps in the development approval process, and new training for staff to support these changes. These projects are intended to make the City's development process more effective and accelerate housing development. Several of these projects also align with the City's Housing Accelerator Fund work related to Process and Approvals Modernization, such as expanding e-apply, creating a new online customer portal and virtual assistant, and replacing legacy software.

It is anticipated that this project may also result in changes to the LUPB as part of Phase 2 particularly with regards to aspects of the bylaw that deal with application processing.

Guiding Values and Objectives

Overall, the bylaw review process would strive to promote cooperation, responsibility, and efficiency throughout the evaluation. Based on the City's Guiding Values and Objectives identified in the [2023-2026 Strategic Plan](#) and policy objectives in the [Official Community Plan](#) (2012) and the principles applied in the review of the City of Victoria's governance structures and processes (Governance Review), the following values are proposed to guide the review process (see additional details in Attachment 3).

1. **Alignment with Legislation:** Ensuring that the Land Use Procedures Bylaw is consistent with the *Local Government Act* and other relevant legislation.
2. **Innovation:** Seeking new and creative solutions to improve the development process, while incorporating best practices from other jurisdictions, leading industry standards, and the advancement of new technologies.
3. **Consistency and Clarity:** Ensuring that the bylaw is clear and coherent in its language and application.
4. **Efficiency:** Streamlining the development process to reduce processing times and improve service delivery.
5. **Inclusivity:** Ensuring that the development process is inclusive and accessible to all members of the community.

6. **Transparency:** Providing clear and transparent information about the development process to the public, staff, and applicants.

Consultation

It is recommended that the City seek targeted feedback from the Urban Development Institute (UDI) and the Community Association Land Use Committees (CALUCs) to inform the final recommended changes to be included in the Phase 3 related bylaw amendments. Phase 2 and Phase 3 changes could be brought forward to Council concurrently, though this would delay Phase 2 changes.

OPTIONS & IMPACTS

Option One (Recommended) - Amend the *Land Use Procedures Bylaw* as proposed to address immediate procedural public hearing changes, initiate Phase 2 amendments and report back on Phase 3 amendments. **See recommendations 1-4.**

Advantages:

- This approach quickly advances the changes required to be consistent with the Local Government Act and enables additional procedural changes to further simplify and streamline city development processes.
- With the OCP review, zoning modernization and other ongoing initiatives to improve development processes there is an opportunity to integrate this project to ensure policy alignment across all land use bylaws.
- A modernized bylaw would be written and structured to ensure ease of use.
- Aligns with City's housing objectives and could be reported as part of the progress towards meeting provincial and federal housing targets.

Disadvantages:

- Additional review will have implications for various departments including Development Services, Legal Services, and Legislative Services.
- Depending on Council's direction about the scope of the review for Phase 3, allocation of resources may be required to support research and consultation activities.

Option Two – Amend the *Land Use Procedures Bylaw* as proposed to address immediate procedural public hearing changes and conduct Phase 2 additional review of the bylaw with the intent of updating sections of the *Land Use Procedures Bylaw*. **See recommendations 1-3.**

Advantages:

- Quickly advances the changes required to be consistent with the Local Government Act.
- Enables some additional changes to the bylaw to further simplify and streamline city development processes.
- Resource implications are limited if Phase 3 scope is not considered for the review process, as Phase 2 requires no additional resources.

Disadvantages:

- The Phase 3 subjects for review may have some of the most significant impact on the development process and would not be addressed.

Option Three – Amend the *Land Use Procedures Bylaw* as proposed to address immediate procedural public hearing changes, but do not conduct any further review of the City’s development procedures. **See recommendations 1 & 2.**

Advantages:

- Quickly advances the public hearing changes required to be consistent with the Local Government Act.
- Staff time required to facilitate the review process will be allocated to other tasks and projects.

Disadvantages:

- Does not enable additional procedural changes to further simplify and streamline city development processes.
- Does not allow for broader research or engagement with key stakeholders to facilitate improved processes.

2023 – 2026 Strategic Plan

Reviewing the *Land Use Procedures Bylaw* aligns with the City’s goal to “Simplify City processes to accelerate housing development” and to “Streamline permitting and development processes to support small businesses and to reduce costs”.

Impacts to Financial Plan

The proposed scope of work will not impact the Financial Plan.

Official Community Plan Consistency Statement

Modernizing the City’s land use procedures supports effective, transparent, and consistent implementation of the OCP and may help facilitate increased housing construction by reducing development application processing times. This project also aligns with several of the 13 values that inform the goals, broad objectives, policies, and implementing actions identified within the OCP.

CONCLUSIONS

It is recommended that Council amend the *Land Use Procedures Bylaw*, as proposed, to align with the directives of Bill 44 – *the Housing Statutes (Residential Development) Amendment Act, 2023*.

It is also recommended that additional review of the City’s LUPB be conducted and that an updated or new bylaw be brought forward for Council’s consideration. The objective of this project would be to further simplify and streamline City development processes.

Respectfully submitted,

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Karen Hoese, Director
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Report accepted and recommended by the City Manager.

List of Attachments

- Attachment 1: Bylaw Amendment No. 22
- Attachment 2: Consolidated *Land Use Procedures Bylaw* No. 16-028 with Amendments
- Attachment 3: Detailed Overview of Phases for LUPB Review