



Council Report For the Meeting of July 18, 2024

To: Council **Date:** July 4, 2024
From: Karen Hoesel, Director, Sustainable Planning and Community Development
Subject: Update Report - Land Use Procedures Bylaw Amendment (No. 21) No. 24-021

RECOMMENDATION

That Council:

1. Amend the *Land Use Procedures Bylaw* (No. 16-028) as proposed in Attachment 1, to align the bylaw with the *Local Government Act* with regards to the City's public hearing and notification procedures, eliminate reference to Land Use Contracts, streamline additional processes, adjust fees for duplexes and garden suites, and delegate additional permit approval authorities to the Director of Sustainable Planning and Community Development.
2. Give first three readings to the *Land Use Procedures Bylaw, Amendment Bylaw* (No. 21), No. 24-021.

EXECUTIVE SUMMARY

The purpose of this report is to update Council on proposed amendments to the Land Use Procedures Bylaw (LUPB).

Consistent with Council's direction from the meeting of May 23, 2024, the proposed bylaw amendments achieve several key policy objectives relating to streamlining development review/approval processes, clarifying procedures, and aligning current municipal practice with provincial legislation.

The amendments to the bylaw include adjustments to notification distances and revisions to sign posting requirements. To align with the *Local Government Act*, public hearings for residential developments will be prohibited, and reference to the opportunity for public comment will be removed. The proposed amendments include other administrative changes such as removing references to expired Land Use Contracts (LUCs) and adjusting fees for duplexes and garden suites based on previous Council directives.

Additionally, the bylaw changes would also grant the Director of Sustainable Planning and Community Development (SPCD) additional authority to approve Development Permits and Heritage Alteration Permits for Small-Scale Multi-Unit Housing (SSMUH) applications in restricted

zones as well as for all primarily residential multi-unit buildings up to six stories with a 2.5:1 Floor Space Ratio (FSR) in any Development Permit Area (DPA) or Heritage Conservation Area (HCAs).

The proposed bylaw amendments before Council for consideration relate to Phase 1 and Phase 2 of a three phased approach for updating the bylaw. A separate follow-up report will be presented to Council to outline additional scope of Phase 3 amendments, which will involve a more extensive review of the LUPB and the City's development processes.

PURPOSE

The purpose of this report is to propose amendments to the Land Use Procedures Bylaw (LUPB) that achieve the following objectives:

- Implementing public hearing amendments that are 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*.
- Implementing other amendments that help align the bylaw with the *Local Government Act*, such as public notice procedures and opportunity for public community, removing reference to land use contracts (LUCs) and providing greater clarity and consistency in the language and wording of the bylaw.
- Delegating to the Director of Sustainable Planning and Community Development (SPCD) the authority to approve Development Permits and Heritage Alteration Permits for Small-Scale Multi-Unit Housing (SSMUH) in restricted zones. This is consistent with how the City processes missing middle development applications. Additional permit approval delegations are also proposed for residential or mixed-use buildings up to 2.5:1 FSR and six storeys in all DPAs and HCAs. This path to approval would apply for projects that meet zoning regulations in terms of use and density, as well as applicable design guidelines, otherwise Council consideration would be required.
- Updating application fees in Schedule A to clarify fees for one dwelling unit or two dwelling units in DPA 15F: Missing Middle and adjusting fees for garden suite applications (as per Council direction given May 2022).

The proposed bylaw amendments are provided in Attachment 1 for Council's consideration for introductory readings, with a summary table of the changes outlined in Attachment 3.

BACKGROUND

The review of the Land Use Procedures Bylaw was initiated in response to recent legislative changes by the Province, specifically Bill 44, whereby local governments are prohibited from holding a public hearing for certain rezoning applications.

On May 9, 2024, Council requested the following with regards to the LUPB:

1. *Amend the Land Use Procedures Bylaw as proposed in Phase 1 and Phase 2 as described in Attachment 3, 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 and to increase the consistency, clarity, efficiency, transparency and innovation of our land use procedures.*

2. Give first three readings to the Land Use Procedures Bylaw, Amendment Bylaw (No. 22) at Council to follow the June 27, 2024, Committee of Whole meeting.
3. Direct staff to conduct additional review of the City's Land Use Procedures Bylaw, based on the scope and guiding values outlined in Attachment 3, and bring forward an amended bylaw for Council's consideration.
4. Direct staff to report back to Council before August 1, 2024, on Phase 3 items including information on scoping, timing, and resource implications.

On May 16, 2024, Council also requested amendments to the LUPB to delegate permit approval to the Director of SPCD for applications related to small-scale multi-unit housing in restricted zones. This direction resulted in a portion of Phase 3 amendments (related to additional delegations) being brought forward as part of Phase 2.

In May 2022, Council also provided the following direction, which has been incorporated into the Phase 2 amendments to the LUPB:

1. Prepare and bring forward, for first and second readings, amendments to the Land Use Procedures Bylaw revising the Development Permit application base fee for Garden Suites from \$1,000 to \$3,000, increasing to \$3,500 if the application is not consistent with the applicable Design Guidelines and must be referred to Council for consideration.

That the proposed fees in the report be reduced to \$2,000 for a base fee.

Phase 3 Review - Bylaw Amendments

A follow-up report will come to Council (initially requested for August 2024) to outline the additional scope of work in Phase 3 of the LUPB update. This phase will include a more in-depth review of the bylaw, with a focus on the pre-application process, modernizing procedures for applicant-initiated community engagement, revising and adjusting application fees, and considering the opportunity for additional delegated authorities.

Consultation

As these bylaw amendments are mainly technical (relating to provincial legislation or house keeping updates), and do not impact applicants or pre-application community engagement, Council did not request specific feedback from the Urban Development Institute (UDI) and the Community Association Land Use Committees (CALUCs).

Guiding Values

Based on the City's Guiding Values and Objectives identified in the [2023-2026 Strategic Plan](#), 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 have been used to guide the bylaw review process.

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.

Attachment 3 - Summary and Analysis of Bylaw Amendments provides an explanation of how each proposed bylaw change aligns with the six guiding values.

ISSUES & ANALYSIS

Each affected section of the bylaw is described below. Additionally, Attachment 1 outlines the proposed amendments to the LUPB, and Attachment 2 shows the new wording as track changes inserted within existing bylaw. Attachment 3 offers a summary of the amendments, including proposed revisions, the policy objectives each change fulfils, and their alignment with the guiding values.

Phase 1 Public Hearing Related Changes

Through provincial Bill 44, which came in effect on November 30, 2023, local governments are prohibited 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, and;
- (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.

Amendments have been prepared for Council's consideration to update the LUPB to be consistent with legislative changes regarding public hearings. These proposed amendments will 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.

- **Section 29 - Public Hearing:**

The proposed change outlines when public hearings are not permitted, not required, and may be waived, consistent with the *Local Government Act*. Wording is also added to clarify that a public hearing is still required for heritage designation, when a heritage revitalization agreement is being entered into or amended, and when residential rental tenure is being altered. The proposed bylaw amendment also removes mention of LUCs, which are no longer in place.

- **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 a zoning amendment bylaw application that is consistent with the OCP and when the hearing is not already prohibited.

- Section 31 - Notice of Public Hearing, Zoning Bylaw Amendment or Permits**
 The requirement for public notification is still included in the *Local Government Act* and needs to be completed before first reading of the rezoning bylaw even in cases where no public hearing is required or permitted. Public notice requirements will continue to apply as outlined in the LUPB (including publishing and mailing of rezoning notices); however, the proposed bylaw amendment adds wording to clarify that the notification distance is 100m 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 table added to Section 31 also identifies distance for certain permit types. The notice distances exceed the requirements of the LGA (which generally sets the minimum notification standard as being the owners, as well any tenants occupying the property at the time of mailing or delivery) to achieve greater transparency with the public.

Phase 2 Bylaw Updates

The proposed revisions focus on several key adjustments: removing reference to the opportunity for public comment, modifying the notification requirements for certain applications, standardizing the notification distances for OCP amendments, and standardizing sign posting requirements for specific permit application types. In addition, mentions of LUCs are removed, and there are minor revisions regarding fees for garden suites and duplexes specifically related to previous Council direction.

- Section 5 – Applications Subject to This Bylaw**
 These amendments would remove all mention of LUC applications. All LUCs were required (by the province) to be terminated as of June 30, 2024.
- Section 7 – Notification Distance**
 The proposed change clarifies that the pre-application notification for all Official Community Plan (OCP) amendments is 200m.
- Section 21 – Refund**
 The proposed amendments clarify that the timing for withdrawn or cancelled applications to receive a 75% refund on application fees within 16 to 40 business days of the submission date. It also adds wording to clarify current policy relating to the refund amount for an applicant meeting the *Tenant Assistance Policy* and Tenant Assistance Plan. These applicants are eligible for a refund that does not exceed the application fee they paid, up to a limit of \$5,000.
- Section 26 – Application Sign Posting Requirements for Permits**
 The proposed amendments would require that development application information signs be posted consistently for certain application types, rather than only in instances where there is an opportunity for public comment. It also eliminates references to the opportunity for public comment.
- Sections 27 & 28 – Application Sign Posting Requirements for Other Applications**
 The proposed amendment removes mention of LUC applications in S.27 and makes a minor change to the structure of S.28.
- Section 31 – Opportunity for Public Comment**
 The opportunity for public comment has been removed to standardize the public input process, and to better align notification requirements with what is specified in the *Local Government Act*. The notice process continues to allow the public to submit written comments or to attend/watch the meeting live.

- Section 32 - Notice of Public Hearing** (updated to replace Section 31 - Notice of Public Hearing, Zoning Bylaw Amendment or Permits)
 This section has been renamed to also include notice for public hearings. A table is added that identifies notification distances for different application types, including OCP Amendments, Zoning Bylaw Amendments, Heritage Revitalization Agreements (HRA) or Heritage Designation applications, Development Variance Permits (DVP), Development Permits with Variances (DPVs), Heritage Alteration Permits with Variances (HAPVs), and Temporary Use Permits (TUPs). The distances outlined exceed the requirements in the *Local Government Act* for the purpose of providing information to neighbouring property owners and tenants.
- Section 33 – Notice of Opportunity for Public Comment and Section 34 - Notice Requirements for Temporary Use Permits**
 These subjects have been addressed with the changes to Section 31 (previously Section 32), and therefore these sections are proposed to be deleted.
- Schedule A – Application Fees**
 Clarifies the base fees for one dwelling unit or two dwelling units within Development Permit Area 15F: Missing Middle, and adjusts the fees for garden suites in DPA 15E: Garden Suites as per Council direction.

New Delegated Authority (Phase 3) Changes

These amendments would allow additional Development Permits and Heritage Alteration Permits (with or without variances) to be delegated to the Director of Sustainable Planning and Community Development (SPCD) for approval.

- Schedule D - Row 30**
 The proposed bylaw amendment delegates authority for Development Permits and Heritage Alteration Permits (with or without variances) in restricted zones for small-scale multi-unit housing to the Director of SPCD. This change implements direction previously provided by Council. This is also consistent with how the City processes Missing Middle applications.
- Schedule D - Row 31**
 This change would delegate authority for Development Permits and Heritage Alteration Permits (with or without variances) for new residential buildings or mixed-use buildings with a minimum of 50% residential area, up to 2.5 FSR and six storeys, as well as building additions to the Director of SPCD. This would apply where zoning already permits residential or mixed-use development and the applications would need to adhere to applicable design guidelines; those not meeting the guidelines may be brought to Council for consideration.

Phase 2 Amendments that Require Further Review in Phase 3

As part of the Phase 2 amendments, the following sections were initially proposed for review and revision: receipt of applications, incomplete applications, notification of incomplete applications, application sign posting requirements, and review timelines. However, as Phase 2 was brought forward sooner than originally anticipated, and this work is being undertaken as part of the Development Review Process currently underway, these sections have been deferred to the Phase 3 work plan:

- Section 12 – Receipt of Applications, Section 13 – Incomplete Applications, and Section 14 – Notification of Incomplete Applications.**
 These sections will be considered as part of Phase 3 to allow for consultation with other

departments, continued monitoring and resolution of challenges that may be resulting in incomplete applications in consultation with applicants, and for an analysis of best practices.

- **Section 27 - Application Sign Posting Requirements – Other Applications.**

This section will be further reviewed as part of the Phase 3 analysis to allow for a broader review of all sign posting requirements for rezoning and other application types, with the objective of facilitating consistent sign posting rules for external applicants and the City.

- **Application Review Timelines.**

While originally identified as part of Phase 3, review of operational timelines associated with the City's land use procedures will instead be considered as part of the Development Process Review project, with the objective of ensuring application review timelines are optimized, achievable, and meet the needs of both the City and applicants.

The City's Development Process Review project, which is currently underway, may result in additional changes to the LUPB as part of Phase 3, particularly with regards to application requirements, consultation, and sign posting.

OPTIONS & IMPACTS

Option One (Recommended Approach) – Amend the *Land Use Procedures Bylaw* as proposed.

Advantages:

- The proposed amendments implement previous Council direction.
- Advances changes required to be consistent with the *Local Government Act* and enables additional procedural changes to further simplify and streamline city development processes.
- Aligns with the City's housing objectives and contributes towards meeting provincial and federal housing targets.

Disadvantages:

- Depending on the scope of Phase 3 of the review, there may be further implications for these sections of the bylaw.

Option Two – Provide alternative direction.

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 ensure alignment with Provincial legislation, promote consistency and clarity in the bylaw, and enhance efficiency in the application process.

Respectfully submitted,

Katelyn McDougall
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Report accepted and recommended by the City Manager.

List of Attachments

- Attachment 1: *Land Use Procedures Bylaw* Amendment No. 21
- Attachment 2: Consolidated *Land Use Procedures Bylaw* No. 16-028 with Amendments
- Attachment 3: Summary and Analysis of Bylaw Amendments
- Attachment 4: Committee of the Whole Report from May 9, 2024
- Attachment 5: Council Motion from May 23, 2024
- Attachment 6: Committee of the Whole Report from May 2, 2024
- Attachment 7: Council Motion from May 16, 2024
- Attachment 8: Council Motion from May 5, 2022.