



## Committee of the Whole Report For the Meeting of May 2, 2024

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**To:** Committee of the Whole **Date:** April 18, 2024

**From:** Karen Hoese, Director, Sustainable Planning and Community Development

**Subject:** **Bylaw Amendments Pursuant to Bill 44: Housing Statutes (Residential Development) Amendment Act, 2023, Bill 46: Housing Statutes (Development Financing) Amendment Act, 2023, & Bill 47: Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023**

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### RECOMMENDATION

1. That Council instruct the Director of Sustainable Planning and Community Development (the “**Director**”) to prepare the necessary Zoning Regulation Bylaw amendments in order to:
  - a) Comply with the requirements of Bill 44: Housing Statutes (Residential Development) Amendment Act, 2023 and allow the required number of housing units in accordance with the legislated requirements for small-scale multi-family housing while utilizing the zoning requirements contained in the Missing Middle Regulations (the “**SSMUH Bylaw**”), and
  - b) Comply with the requirements of Bill 47: Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023 and designate the Legislature Exchange as a transit-oriented area and eliminate parking requirements for residential uses in that area (the “**TOA Bylaw**”).
2. That, pursuant to section 30 of the *Land Use Procedures Bylaw*, Council waives the requirement for the holding of a public hearing with respect to the TOA Bylaw.
3. That, after publication of notification in accordance with section 467 of the *Local Government Act*, first, second and third reading of the SSMUH Bylaw and TOA Bylaw be considered by Council.
4. That Council instruct the Director to draft a bylaw to amend the *Land Use Procedures Bylaw* to delegate Development Permits and Development Permits with Variances, related to small-scale multi-unit housing in restricted zones, to the Director.
5. That Council:
  - a) Consider who would be affected by an Amenity Cost Charge Bylaw to support anticipated changes to zoning and land use as part of the ongoing OCP 10-year Update and the SSMUH Bylaw and determine that the following persons, organizations and authorities will be affected:
    - i. the general public;

- ii. the development community;
- iii. the Esquimalt and Songhees Nations;
- iv. the Township of Esquimalt;
- v. the District of Saanich;
- vi. the District of Oak Bay;
- vii. Greater Victoria Public Library; and
- viii. School District 61 Board.

- b) Provide an opportunity for broad public consultation pursuant to section 570.3 of the *Local Government Act* and instruct the Director to engage the entities identified in 5.a) on amenity needs associated with projected growth to inform an Amenity Cost Charge Bylaw as part of the OCP 10-year Update Process currently underway.
- c) Instruct the Director to report back to Council with a summary of the feedback received pursuant to the above resolution and any additional technical analysis required prior to seeking instructions to draft a bylaw.

6. That Council advance this matter for ratification at the May 2, 2024 daytime Council meeting.

## EXECUTIVE SUMMARY

This report primarily discusses implications and Zoning Regulation Bylaw amendments that have been mandated by the Province through *Bill 44 Housing Statutes (Residential Development) Amendment Act, 2023* and *Bill 47 Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023*.

The proposal is to amend the *Zoning Regulation Bylaw* as required by *Bill 44 Housing Statutes (Residential Development) Amendment Act, 2023* and *Bill 47 Housing Statutes (Transit Oriented Areas) Amendment Act, 2023*, to:

- allow the mandated number of housing units in “restricted zones”, in accordance with the small-scale multi-unit housing (SSMUH) requirements
- designate the “Legislature Exchange” as a Transit Oriented Area (TOA)
- eliminate certain off-street parking requirements for SSMUH within 400m of prescribed bus stops and within TOAs.

It is anticipated that the amendments pertaining to the SSMUH housing unit requirements will be surpassed in the near future as a result of ongoing work relating to the *Official Community Plan (OCP)* 10-year update, Zoning Bylaw Modernization and a comprehensive review of off-street parking requirements.

*Bill 46: Housing Statutes (Development Financing) Amendment Act, 2023*, allows local governments to implement a new amenity cost recovery bylaw to support the provision of public amenities that may be needed as a result of new development. During the development of an amenity cost charge bylaw, local governments are required to consult with: the public and persons, public authorities and organizations that may be affected. The recommended motion would begin this consultation process.

## BACKGROUND

On November 30, 2023, the Province of British Columbia (the Province) gave Royal Assent to *Bill 44: Housing Statutes (Residential Development) Amendment Act, 2023* (Bill 44) and *Bill 47:*

*Housing Statutes (Transit Oriented Areas) Amendment Act, 2023* (Bill 47). These Bills made a number of changes to the *Local Government Act*, and as a result, the City is required to:

- allow small-scale multi-unit housing (SSMUH) in “restricted zones”
- designate a Transit Oriented Area (TOA)
- prohibit certain off-street parking requirements within TOAs and for SSMUH within 400m of prescribed bus stops.

Municipalities are required to pass bylaws by June 30, 2024, to comply with this legislation and subsequently notify:

- The Minister of Housing in writing that the final zoning bylaw amendment necessary for compliance with the SSMUH requirements has been adopted, the locations of any exempted lands and the legislative provisions supporting the exemptions.
- The Minister of Transportation and Infrastructure in writing of the final adoption of the bylaw that is compliant with TOA requirements, including a copy of the bylaw.

Failure to comply with the above requirements may result in a ministerial order directing the City to comply with the legislation or overriding the City’s bylaws altogether to meet the Provincial requirements associated with SSMUH and TOAs.

Therefore, this report outlines the required changes necessary to comply with Bill 44 and Bill 47.

The Province further amended the LGA through *Bill 46: Housing Statutes (Development Financing) Amendment Act, 2023* (Bill 46) to provide new tools for local governments to fund infrastructure, amenities and services associated with new development. In order to utilize the new Amenity Cost Charge (ACC) tool, Council must first consult with the public and affected parties to inform them of the development of the bylaw. It is recommended that this required consultation occur alongside the ongoing OCP 10-year update process.

### **Small-Scale Multi-Unit Housing**

Similar to the City’s Missing Middle Regulations, the Province implemented regulations pertaining to Small-Scale Multi-Unit Housing with the expressed aim of providing more affordable and attainable housing for middle-income families. Examples of SSMUH include, but are not limited to:

- secondary suites
- garden suites
- duplexes
- houseplexes
- townhouses.

Bill 44 requires a minimum of three to six housing units to be permitted on properties that are subject to “Restricted Zones”, which are defined as follows:

*a zone in respect of which the residential use would be restricted to:*

- a. Detached single-family dwellings, or*
- b. Detached single-family dwellings and one additional housing unit located within the detached single-family dwelling or on the same parcel or parcels of land on which the detached single-family dwelling is located, or*
- c. duplexes, or*

- d. *duplexes with one additional housing unit located within each dwelling comprising the duplex or no more than 2 additional housing units on the same parcel or parcels of land on which the duplex is located.*

Where properties that qualify as “restricted zones” have a site area of 280m<sup>2</sup> or less, up to three housing units must be permitted. For properties over 280m<sup>2</sup>, up to four housing units must be permitted. Finally, for properties greater than 281m<sup>2</sup> and within 400m of a prescribed bus stop (defined by frequency of bus service), up to six housing units must be permitted. For clarity, a single housing unit includes a dwelling unit, secondary suite or garden suite. Multiple housing units can be achieved through a variety of building forms and typologies including townhouses, houseplexes and multi-unit residential buildings.

Notwithstanding the above there are exemptions to the SSMUH requirements that are applicable to the City of Victoria:

- Land that is, on the date the SSMUH legislation came into force (December 7, 2023), protected under a heritage designation bylaw or subject to a heritage revitalization agreement.
- Parcels of land that are larger than 4,050m<sup>2</sup> or within a zone in respect of which the minimum lot size that may be created by subdivision is 4,050m<sup>2</sup>.
- Land that is not connected to a water or sewer system (parcels must be connected to both) provided as a service by a municipality or regional district.
- Land within a designated Transit-Oriented Area (discussed in the following section).

The SSMUH legislation will have no impact on areas covered by the *Zoning Bylaw 2018*, which does not contain any restricted zones, and the impact on all other neighbourhoods will be minimal, as SSMUH requirements do not apply to properties where the site zoning permits greater residential development potential than a duplex with two secondary suites (i.e. such properties would not be considered a Restricted Zone).

The City of Victoria’s Missing Middle Regulations and the House Conversion Regulations in effect exempt most low-density properties from the new provincial requirements, since the City’s regulations would allow for an equal or greater number of housing units than required by the SSMUH regulations. A map of the restricted zone lots has been attached to this report.

Restricted zone lots in the City of Victoria primarily fall into two categories.

- The first category is small lot zones, as these zones only permit one single-family dwelling on a property. These will now allow for three to six units, depending on the size of the property and the location in relation to a frequent transit stop.
- The second category is a standard low-density residential zone (R1-A, R1-B, R1-G or R-2) that is not within the Traditional Residential Urban Place Designation (UPD) in the OCP and does not qualify for a house conversion.

Only low-density lots located within the Traditional Residential UPD are included within the City’s Missing Middle Regulations. This creates several unintended consequences:

- First, most parkland and school properties use the R1-B or R-2 Zone as a placeholder zone. However, these properties are identified as Parks, Institutional or Recreation in the OCP (so do not fall within the Missing Middle Regulations) and are therefore now considered restricted zones.
- Second, properties that are identified for higher density in the OCP such as in the Urban

Residential UPD, but are still zoned for low-density, are also now considered restricted zones. This could create an effect where the Provincial regulations are undermining planned increased densities in the City.

As previously noted, the requirement for six housing units applies only to restricted lots within 400m of a prescribed bus stop, which is determined by transit frequency and timing. A prescribed bus stop is defined as served by at least one bus route that is scheduled to stop at least every 15 minutes, on average, between the hours of:

- 7 am and 7 pm, Monday to Friday, and
- 10 am and 6 pm on Saturdays and Sundays.

BC Transit has identified Route 95, also known as the RAPIDBUS, as meeting these prerequisites. Fourteen of Route 95 bus stops are located within the City of Victoria and one bus stop is in Saanich where the 400m radius encroaches into the City of Victoria. These bus stops are primarily located along the Douglas Street corridor.

In addition to the requirement to permit six units, municipalities are not permitted to require residential parking minimums, including visitor parking minimums, for the first six housing units in SSMUHs located within 400m of a prescribed bus stop.

It was anticipated that as part of the ongoing work relating to the OCP 10-year update and Zoning Bylaw Modernization, there would be no zones that would be limited to single-family or duplex uses within the next two years. However, recommendations associated with these projects will not be ready for Council consideration until after the June 30, 2024 provincial deadline to adopt the SSMUH bylaws. Therefore, the City is required to proceed with a zoning bylaw amendment in advance of this work to address the requirements of Bill 44. In response, this report proposes the preparation of a bylaw that would meet the Provincial requirements and allow the mandated minimum number of housing units on lots that are “restricted zones”.

The primary consideration for Council at this time is in relation to siting and height regulations associated with SSMUH proposals. The Province has created one-size-fits-all site development standards to help meet the June 30, 2024 deadline; however, the City of Victoria has already created regulations that work for the Victoria context. Following the six-month review of the Missing Middle Housing Initiative, Council recently adopted revised regulations associated with Missing Middle projects of a similar scale (i.e. houseplexes with up to six dwelling units). These regulations are the result of rigorous architectural testing and review and have been developed to carefully balance the need to make it easy to build this type of housing while addressing objectives related to diversity of housing supply, climate action, and sustainable mobility. As the Missing Middle Regulations do not regulate a minimum lot size, they are also appropriate to be used for SSMUHs. Existing design guidelines would assist in ensuring new developments are compatible with the neighbourhood context.

Municipalities are generally not permitted to use density bonusing towards achieving the minimum number of SSMUH units required by the legislation. This means that unlike Missing Middle, the City cannot require a road dedication within the zoning. This will negatively impact the priorities from other City departments, such as land acquisition for the creation of separated boulevards and bicycle lanes. However, the Province recently introduced Bill 16: Housing Statutes Amendment Act, 2024, which may give tools to require road dedications. Staff will return to Council on this matter once there has been an opportunity to review the new legislation.

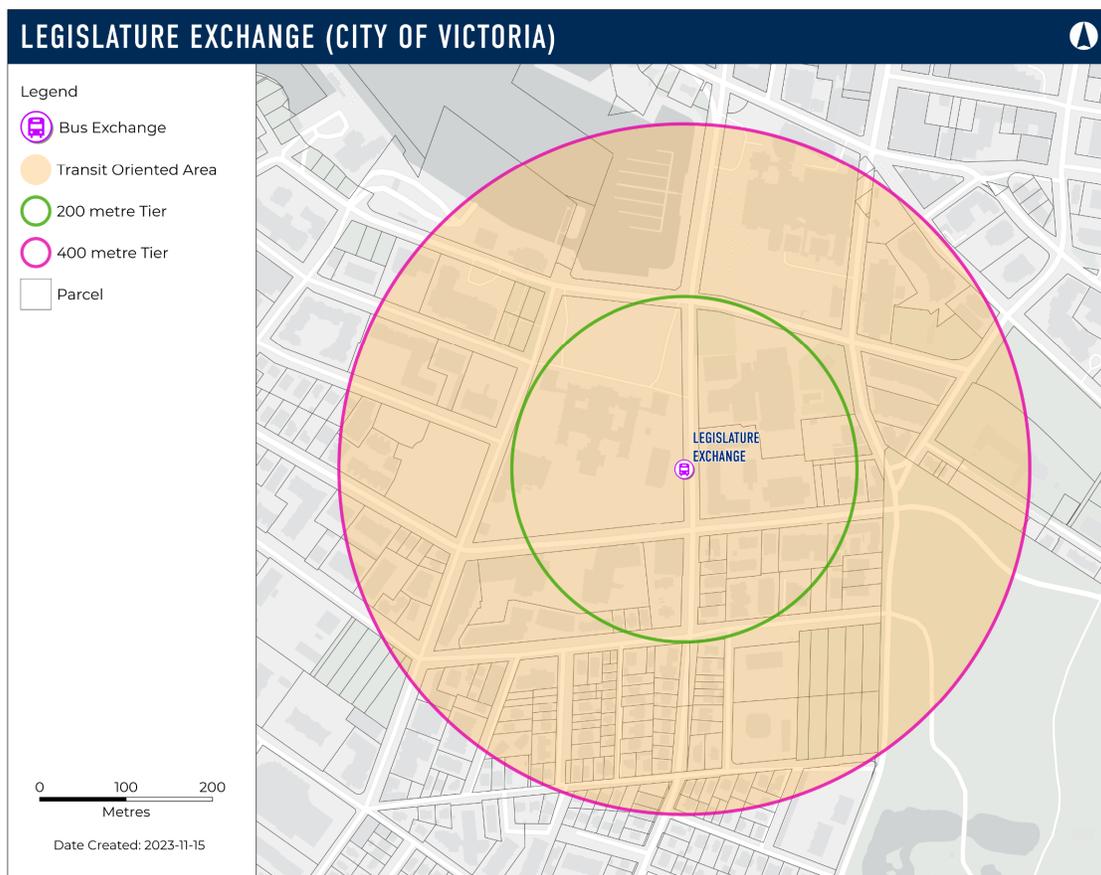
There is one exception in relation to density bonusing, which is that one unit can be used for density bonusing for lots within 400m of a frequent transit stop (i.e. the six unit lots to create affordable or special needs housing). It is not recommended that density bonusing be required in this instance.

As previously noted, existing heritage-designated properties are exempt from the SSMUH requirements. However, any restricted lots that are heritage-designated after December 7, 2023 would be allowed the minimum number of units required by the legislation.

The new legislation prohibits a public hearing on a zoning bylaw proposed for the sole purpose of complying with the SSMUH requirements, which is why the recommendation is silent on a public hearing with respect to this bylaw.

### Transit Oriented Areas

Transit Oriented Areas are properties within a prescribed distance from a transit station. The Province has identified only one TOA within the City of Victoria boundaries at this time: the Legislature Exchange on Government Street directly adjacent to the Legislature Building. Pursuant to the new legislation, there is a 400m radius that is targeted for higher densities and heights.



**Figure 1: Map of the Legislature Exchange**

Figure 1 above illustrates the provincially prescribed TOA at the Legislature Exchange and the two tiers that correlate with minimum heights and densities prescribed in Bill 47 for residential

development: a 200m tier and a 400m tier. The 200m tier represents minimum heights of ten storeys and minimum densities up to 3.5:1 Floor Space Ratio (FSR) for residential. The 400m tier represents minimum heights of six storeys and minimum densities of 2.5:1 FSR for residential. If a portion of a property is within a tier, then the whole property is within that tier. Municipalities are not required to proactively zone for these prescribed heights and densities, but they are required to not exercise their zoning power to prohibit or restrict the density or size prescribed.

While the City is required to designate the TOA in a bylaw, it is not recommended to apply new zones for the properties within these tiers at this time. It is not required by the new legislation, and these properties will be reviewed more closely as part of the comprehensive OCP 10-Year Update and Zoning Modernization processes, both of which are well-aligned and consistent with the intent of the new provincial legislation. An applied zoning approach that fulsomely considers the implications of these broader processes may be recommended once the work is complete.

In addition to height and density, municipalities are not permitted to require residential parking minimums, including visitor parking minimums, within TOAs. Instead, the Province has signalled that the market will dictate how much residential parking is provided on-site. Commercial, loading and accessible parking minimums can still be required when applicable.

The only requirements to comply with this legislation by June 30, 2024, are for municipalities to:

- Designate the TOA by bylaw and subsequently notify the Minister of Transportation and Infrastructure.
- Remove any requirements for off-street motor vehicle parking for residential development in the TOA.

It is proposed that a zoning bylaw amendment be drafted in accordance with the above requirements.

### **Amenity Cost Charges**

Any new housing supply created imposes demand for new infrastructure, amenities and services. To this end, the Province passed Bill 46 which introduced new and updated tools for local governments to help fund the costs of infrastructure amenities required to support growth.

Amenity Cost Charge (ACC) bylaws are a new tool that allows local governments to collect funds for amenities like community centres, recreation centres, daycares, and libraries, while providing clarity and certainty to the development community through fixed rate charges. The purpose is to attempt to ensure that municipalities still obtain the infrastructure and other amenities that they previously obtained through negotiation during the rezoning application process. The legislation requires municipalities to:

- Identify areas where more housing supply is planned and what amenities are needed to support that supply.
- Determine the ACC amounts following the rules set out in legislation.
- During the development of the ACC bylaw and associated charge rates, consult with the public and those persons, public authorities and organizations who may be affected.
- Pass a bylaw that implements the charges.

At the time of writing this report, the Province has not yet released a policy manual on ACCs, but it is expected to be forthcoming in the coming months.

The OCP 10-year Update currently underway is a city-wide process that will define where new housing supply is planned. Part of the engagement is intended to explore what amenities are needed in these areas to support growth. As such, it is recommended that the City use the OCP 10-year Update engagement as an opportunity to meet the legislative requirements for consulting on a new ACC bylaw.

### **Community Consultation**

Local governments must not hold a public hearing for zoning bylaw updates for the purposes of complying with the SSMUH legislation. Bylaws pursuant to the TOA legislation do not have the same exemption, but pursuant to the *Local Government Act*, a public hearing may be waived if the zoning bylaw amendment is consistent with the OCP.

In this case, the proposed bylaw is considered consistent with the OCP, particularly Section 7: Transportation and Mobility, which identifies numerous goals and objectives towards the creation of mobility hubs and encouraging growth along current and desired rapid transit corridors. As noted in the OCP: *“The City of Victoria supports transit provision through land use planning, investments, and development that supports transit viability and contributes to facility improvements.”*

Pursuant to section 467 of the LGA, notice that a public hearing will not be held must still be given for both the SSMUH bylaw and the TOA bylaw. Therefore, notice will be posted on the City of Victoria website and in the newspaper.

Regarding the development of a new ACC bylaw, the LGA requires municipalities to provide one or more opportunities for consultation with the public and any affected persons, public authorities and organizations. Given the close linkages of growth, housing and community needs being explored in the OCP 10-year Update, it is recommended that Council consider that engagement process as an appropriate opportunity to also consult on a potential new ACC bylaw and meet the legislative requirements.

### **Required Consideration of Provincial Policy Manual**

In preparing, amending, and adopting bylaws pursuant to the SSMUH legislation and the TOA legislation, a local government must consider the applicable guidelines, including the two Provincial Policy Manual documents. Staff have dutifully considered the Policy Manuals and recommend against using the SSMUH site standard guidelines where there is not already alignment with existing City regulations.

The Provincial guidelines are in place to support municipalities on a large scale and are written in a one-size-fits-all manner. Instead, the City’s existing Missing Middle Regulations are recommended to be used for SSMUH regulations, which have been developed thoughtfully and specifically for Victoria to ensure high-quality urban design, liveability, and ecological as well as human health and resilience while still achieving the same intended outcomes as the SSMUH legislation: an increased number of units on low-density properties. Furthermore, the variance process exists for lots with constraints that may not fit fully within the zoning but can otherwise demonstrate there would be minimal impact to varying the regulations.

The policy manual also recommends not requiring a Development Permit for SSMUH. However, it is recommended to require a Development Permit for these types of development to ensure

design standards are met and community priorities for usable and accessible spaces are addressed through effective design solutions. Victoria's guidelines have been carefully crafted to be intent-focused, ensuring desired social and environmental benefits while still allowing for creative solutions in unique situations to not stifle development opportunities.

To ensure applications are processed in a timely manner a recommendation has been included to delegate SSMUH applications, with and without variances, to staff. This is consistent with previous direction regarding Missing Middle applications. SSMUH applications would be assessed based on their consistency with the *Small Lot Design Guidelines*, *Missing Middle Design Guidelines*, or the *General Urban Design Guidelines for Multi-Unit Residential, Commercial, and Industrial Development*, depending on the Development Permit Area that each property falls within. Proposals that are considered by staff to be inconsistent with the applicable design guidelines would be referred to Council with a staff recommendation of decline for Council's consideration.

For TOAs, the rezoning process will continue to be used to determine regulations on a site-by-site basis. This approach will give the City time to figure out appropriate heights and densities in this location through the OCP 10-Year Update and Zoning Bylaw Modernization, which could allow for regulations that exceed the provincial minimums (for instance to support greater provision of public space or local economic development) or could be more nuanced than simply allowing the minimum heights and densities (e.g. requiring podiums and tower stepbacks). Until the City regulations are adopted, rezoning applications would still be required. However, the provincial legislation states that the City cannot exercise its zoning power to prohibit or restrict the density or height prescribed by the legislation.

## CONCLUSIONS

Council is required to pass a bylaw to comply with some specific aspects of the provincial legislation contained within Bills 44 and 47 by June 30, 2024, and staff are prepared to draft zoning bylaw amendments that address the requirements contained within the legislation for Council's consideration. It is suggested that the Missing Middle Regulations be used with the SSMUH zoning allowances to reduce additional work and maintain consistency with the requirements of Missing Middle.

Furthermore, the ongoing OCP 10-year Update provides an opportunity for Council to direct staff to undertake the required consultation to inform a new Amenity Cost Charge bylaw.

Therefore, it is recommended that Council direct staff to draft zoning amendment bylaws as described, to amend the *Land Use Procedures Bylaw* to delegate Development Permits (with and without variances) to the Director, and direct staff to consult on a new ACC bylaw.

Respectfully submitted,

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Development Services Division

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**Report accepted and recommended by the City Manager.**

### List of Attachments

- Attachment A: Map of Restricted Zones Under Bill 44