

DATE OF MEETING | May 6, 2024 |

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**SUBJECT                    INCREASING HOUSING OPTIONS & SMALL-SCALE MULTI-UNIT HOUSING**

## **OVERVIEW**

### **Purpose of Report**

To provide an overview of recommended changes for implementation of the Increasing Housing Options initiatives and Provincial Small-Scale Multi-Unit Housing legislation, and to seek Council direction to bring forward amendment bylaws. |

### **Recommendation**

That Council direct Staff to bring forward the draft Zoning Amendment Bylaw and draft Building Amendment Bylaw to implement the Increasing Housing Options initiatives and Provincial Small-Scale Multi-Unit Housing legislation.

## **BACKGROUND**

At its meeting of 2023-JUN-19, Council directed Staff to proceed with community consultation for “Increasing Housing Options” initiatives which occurred in Fall 2023. On 2023-DEC-18, Staff provided Council with an Information Report summarizing the results of community engagement and outlining potential impacts from Provincial housing legislation that was enacted in November 2023. Staff subsequently presented an overview of the Provincial housing legislation to the Governance and Priorities Committee (GPC) on 2024-JAN-22. Since that time, Staff have undertaken a comprehensive review of the Provincial legislation as outlined in this report. Draft Zoning and Building Amendment Bylaws are attached to this report for the implementation of Increasing Housing Options initiatives and Provincial Small-Scale Multi-Unit Housing legislation. Pending Council direction, Staff anticipate bringing forward the zoning and building amendment bylaw for introduction on 2024-MAY-27 and for Council consideration of bylaw adoption on 2024-JUN-17, prior to the Provincial deadline of 2024-JUN-30. |

## **DISCUSSION**

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

The Increasing Housing Options initiatives presented to the public in 2023 have been impacted by the Provincial housing legislation. A summary of the four projects under Increasing Housing Options (Secondary Suite Regulations, Infill in Existing Neighbourhoods, Family-Friendly Housing, and Adaptable Housing) and their current status is provided in Attachment A.

The Province's 2023 housing legislation included amendments to the *Local Government Act (LGA)* through "*Bill 44 – Housing Statutes Amendment Act, 2023*" that obligate local governments to allow for "Small-Scale Multi-Unit Housing" (SSMUH) by 2024-JUN-30. The form of housing required by SSMUH is three or four housing units, depending on the size of the lot, in all areas determined by the Province to be "restricted zones". Restricted zones are generally defined as single residential dwelling and duplex lots. The "Zoning Review" section of this report outlines proposed changes to address the Provincial requirements.

Where a lot is within 400m of a frequent transit route stop, the *LGA* requires a local government to permit a minimum of six housing units. Staff have consulted with the Regional District of Nanaimo and determined that no bus route stops in Nanaimo currently meet the Provincial definition of a frequent bus route (with service at least every 15 minutes between 7 a.m. and 7 p.m. Monday to Friday, and between 10 a.m. and 6 p.m. Saturday to Sunday), and therefore no additional zoning is required at this time to permit a maximum density of six dwelling units.

In addition to the SSMUH requirement to allow three to six housing units, the *LGA* now allows secondary suites province-wide in all single family residential zones. Secondary suites have been permitted in the City of Nanaimo since 2005 and only minor amendments to the City's secondary suite regulations are proposed.

## **Zoning Review**

Many aspects of the SSMUH regulations are similar to what the City has been exploring through Increasing Housing Options (see Attachment A), with a notable difference being the extent of land considered for a change in zoning ("pre-zoning"). While the City had consulted with the public regarding strategic areas for pre-zoning in proximity to transit and services, the Provincially-mandated SSMUH regulations will apply more broadly to all restricted zones within the City.

### *Proposed Pre-Zoning of Existing Lands*

Staff have reviewed the Provincial legislation and determined that the following zones in the City of Nanaimo "Zoning Bylaw 2011 No. 4500" (the "Zoning Bylaw") are considered restricted zones:

- R1 / R1a / R1b – Single Dwelling Residential;
- R2 – Single Dwelling Residential – Small Lot;
- R4 – Duplex Residential; and,
- R13 – Old City Duplex Residential.

Unless an exemption applies (see Attachment B), the Province requires that restricted zone properties be pre-zoned to allow three units, or four units where the lot size is 280m<sup>2</sup> or greater. Staff's recommended approach is to pre-zone all properties in restricted zones where exemptions do not apply to the following zones:

- R5 – Three and Four Unit Residential, outside of the Old City Neighbourhood and Corridor future land use designations in City Plan;
- R14 – Old City Fourplex Residential, within the Old City Neighbourhood designation; and,
- COR1 – Residential Corridor within the 'Interim Corridor Area', in the Corridor designations (described in the "City Plan Policy Review" section of this report).

The existing R5 zone allows single family residential and multi-family residential with a maximum of three or four dwelling units, depending on the size of the lot, and the R14 zone allows up to

four dwelling units. The R5 and R14 zones will continue to allow the same accessory uses already permitted by the R1, R2, R4, and R13 zones (e.g. daycare, home-based business, secondary suite, and short-term rental).

The type of home-based business (HBB), however, permitted by the Zoning Bylaw is more restrictive in a multi-family residential dwelling than the type of HBB permitted where there is a single residential dwelling. For example, customer vehicle trips and on-site non-resident employees are not permitted on lots with more than one principal dwelling unit, and this will need to be considered by property owners wishing to develop on lots with an existing HBB.

The COR1 zone permits multi-family residential development with a maximum Floor Area Ratio (FAR) of between 1.00 and 1.75 for additional density, depending on whether amenities are provided, and a maximum permitted building height of 18.0m where underground parking is provided.

Excluding exempted properties, approximately:

- 22,000 properties would be pre-zoned to R5;
- 550 properties would be pre-zoned to R14; and,
- 1,000 properties would be pre-zoned to COR1 'Interim Corridor Area'.

The proposed zoning changes can be found in the draft "Zoning Amendment Bylaw 2024 No. 4500.223" (Attachment D), which includes the maps of existing lands to be pre-zoned to address Provincial SSMUH requirements. If adopted, the mapping changes would amend the City of Nanaimo Zoning Map, which is 'Schedule A' to the Zoning Bylaw.

*Proposed Changes to Zoning Regulations*

In addition to pre-zoning, text amendments to the R5 and R14 zoning regulations are proposed with draft "Zoning Amendment Bylaw 2024 No. 4500.223". While preparing text amendments, Staff considered both feedback through Increasing Housing Options consultation as well as applicable guidelines in the Provincial Policy Manual & Site Standards (the "Policy Manual", released 2023-DEC-07), as required by the *Local Government Act* (s.481.3[7]).

The two relevant example zoning regulations in the Provincial Policy Manual are "Site Standards Package B", for lots less than 1,215m<sup>2</sup> in size, and "Site Standards Package C", for lots that are 1,215m<sup>2</sup> and greater in size. Both Site Standards Packages were considered as the Zoning Bylaw does not differentiate most zoning regulations based on the lot size, and the average existing lot size of restricted zone properties in Nanaimo is approximately 1,000m<sup>2</sup>. A comparison between the Site Standards Packages, the existing R5 and R14 zoning regulations, and the proposed R5 and R14 zoning regulations are shown in the table below.

Zoning Regulation	Site Standards Package B (<1,215m <sup>2</sup> )	Site Standards Package C (≥1,215m <sup>2</sup> )	R5 Zone Four and Three Unit Residential		R14 Zone Old City Fourplex Residential	
			current	proposed	current	proposed
Maximum Density	3 to 4 dwelling units	4 dwelling units	3 to 4 dwelling units; 0.55 FAR	3 to 4 dwelling units	4 dwelling units; 0.65 FAR	4 dwelling units

Zoning Regulation	Site Standards Package B (<1,215m <sup>2</sup> )	Site Standards Package C (≥1,215m <sup>2</sup> )	R5 Zone Four and Three Unit Residential		R14 Zone Old City Fourplex Residential	
			current	proposed	current	proposed
Maximum Lot Coverage	50%	40%	40%	40%	40%	40%
Maximum Building Height	11m	11m	8m* flat roof; 9m* sloped roof	9m* flat roof; 10.5m* sloped roof	7.75m*	7.75m*
Minimum Front Yard Setback	2m	4-6m	4.5m	3m	6m	3m first storey; 4.5m above
Minimum Rear Yard Setback	1.5m	6m	7.5m; 1.5m for accessory	7.5m; 1.5m for accessory	7.5m; 1.5m for accessory	7.5m; 1.5m for accessory
Minimum Lot Area	n/a	n/a	800m <sup>2</sup> ; 700m <sup>2</sup> on a lane	600m <sup>2</sup> ; 550m <sup>2</sup> on a lane	750m <sup>2</sup>	750m <sup>2</sup>

\* In the R5 zone, building height is measured from average finished grade to roof peak. In the R14 zone, building height is measured to the midpoint of a sloped roof.

The zoning regulations have been proposed with consideration given to both the Provincial Policy Manual and the feedback received through Increasing Housing Options engagement. While the Policy Manual provides broader blanket recommendations, Nanaimo's local context has been considered in the development of the R5 and R14 zones. Further details and rationale for the proposed zoning regulations are provided in Attachment A

Some of the other proposed text amendments to these zones include:

- removing maximum Floor Area Ratio in the R5 and R14 zones so that SSMUH development isn't unreasonably restricted;
- permitting up to one additional unit (beyond the SSMUH requirement) in the Old City Neighbourhood where an existing older single residential dwelling is retained in accordance with the proposed regulations; and,
- requiring all principal dwelling units in the R5 zone to be contained in no more than two buildings; and
- removing 'Rooming House' (more than five sleeping units with a shared kitchen) as a permitted land use in the R5 zone. While there are known rooming houses in many of the City's multi-family residential zones, Staff are not aware of any rooming houses in the R5 zone and this land use is not recommended to be permitted in all lands being pre-zoned.

It will be important for property owners to understand that the maximum allowable density will not necessarily be feasible on all eligible lots when taking into account site constraints and other regulations (e.g. utility infrastructure, building code requirements, parking regulations, etc.). For properties where existing Section 219 covenants or other charges on title restrict density, these charges will prevail over zoning.

The proposed changes to the zoning regulations for the R5 zone, which will cover most of the City, have been drafted to provide flexibility for property owners to achieve the SSMUH allowable densities. The scenarios of building forms that are proposed to be permitted by the R5 zone are described below:

- Single Residential Dwelling;
- Single Residential Dwelling with a secondary suite;
- Single Residential Dwelling with a detached suite (i.e. a “carriage house”);
- Single Residential Dwelling with a secondary suite and a detached suite;
- Attached Duplex;
- Attached Duplex with secondary suites;
- Two Dwelling Units (detached);
- Two Dwelling Units (detached) with secondary suites;
- Three Dwelling Units (in 1 or 2 buildings) and no secondary suites; or
- Four Dwelling Units (in 1 or 2 buildings) and no secondary suites on lots with a lot area of 280m<sup>2</sup> or greater.

The same scenarios of building forms will be permitted by the R14 zone, except with no restriction on the number of principal buildings. An additional dwelling unit will also be permitted in the R14 zone where an existing older single residential dwelling is retained.

#### *SSMUH Exemptions*

The Province has exempted certain properties and certain zones from the SSMUH requirements, depending on various factors. Staff have reviewed the Provincial SSMUH exemptions and proposed that eligible lots be exempt from pre-zoning, where appropriate, as outlined in Attachment B.

#### *SSMUH Extensions*

The Province has also allowed for local governments to apply for an extension to the SSMUH compliance deadline of 2024-JUN-30 for a five-year period in certain scenarios where infrastructure is being upgraded or where extraordinary circumstances apply. The deadline to apply for an extension is 2024-JUN-01. Staff have reviewed the Province’s extension criteria and City’s infrastructure (see “Engineering Review” section, below) and do not recommend applying for any extensions related to the Province’s SSMUH requirements.

#### **City Plan Policy Review**

As part of the Province’s Fall 2023 housing legislation, the *Local Government Act* (s.788) has been revised so that a bylaw enabling SSMUH does not need to be consistent with the Official Community Plan (OCP), and the OCP does not need to be updated to support SSMUH until 2025-DEC-31. While no OCP consistency is required by the Province at this time, Staff have reviewed the City of Nanaimo’s OCP (City Plan) to identify land use policy areas for inconsistency or alignment with SSMUH.

The proposed zoning map and text changes will be applied to many future Land Use Designations (LUDs) throughout the City (City Plan, Schedule 2). Most lots subject to pre-zoning are in the Neighbourhood and Suburban Neighbourhood designations although many other LUDs will be impacted including: Semi-Rural Neighbourhood, Old City Neighbourhood, Residential Corridor,

Mixed Use Corridor, Neighbourhood Centre, Secondary Urban Centre, Light Industrial, and Waterfront.

### *Neighbourhood Designations*

Through the Increasing Housing Options process, the City had proposed pre-zoning areas to allow infill housing in the Neighbourhood LUD, Old City Neighbourhood LUD, and in parts of the Suburban Neighbourhood LUD in proximity to the Primary Urban Center (Downtown Nanaimo). All three of these LUDs support ground-oriented multi-unit dwelling developments as required by SSMUH. The Neighbourhood LUD can support even higher densities of low-rise apartments (up to four storeys) on larger lots, and owner-led rezonings can be contemplated in the future in appropriate areas.

Allowing up to three or four units on appropriately-sized lots in the Suburban Neighbourhood LUD is contemplated by City Plan in ground-oriented building forms; however, the SSMUH zoning may not be desirable in peripheral areas with recently developed small lot subdivisions where services and transportation networks have been designed and installed to support single residential dwelling lots. The R2 (Single Dwelling Residential – Small Lot) zone was not previously considered for pre-zoning by the City but is a restricted zone and subject to the Province's SSMUH zoning. Properties in this zone are typically less than 370m<sup>2</sup> in area and some small lot neighbourhoods have challenges around on-street parking and waste collection. Further redevelopment in these small lot neighbourhoods could lead to greater densities than the overall target density of 25 units per hectare in the Suburban Neighbourhood LUD. Existing challenges in these small lot neighbourhoods may be exacerbated by SSMUH development and where feasible, mitigations explored as further issues arise.

### *Urban Centre and Corridor Designations*

Outside of the Neighbourhood, Suburban Neighbourhood, and Old City Neighbourhood LUDs, the uses and density under SSMUH zoning would not be consistent with City Plan. The LGA allows local governments to exclude lots in Provincially-mandated Transit Oriented Areas (TOAs) in order to meet prescribed higher densities and building heights. However, the LGA makes no provisions to exempt areas where higher densities are contemplated or desired by a local OCP.

For example, City Plan envisions the Urban Centre and Corridor LUDs supporting higher densities to foster viable transit- and active-mobility-focused communities, and compact building forms in proximity to employment centres and amenities. Should existing single dwelling residential lots in these LUDs be pre-zoned to infill SSMUH zoning, this may encourage property owners to develop at much lower densities than envisioned by City Plan. This is of particular concern on developable blocks on major roads where low density development of a single parcel could effectively preclude lot consolidation and full realization of City Plan land uses and densities.

Given that no exemption has been offered by the Province for such scenarios, Staff recommend pre-zoning the restricted zone lots in Residential Corridor and Mixed-Use Corridor LUDs to the existing COR1 – Residential Corridor zone and identified as “Interim Corridor Area”. The Interim Corridor Area zoning would allow development on appropriate-sized lots at densities greater than SSMUH. Prior to the introduction of Provincial housing legislation last year, City Staff had been reviewing Urban Centre and Corridor zoning for consideration of updating following adoption of City Plan. The Provincial deadline of June 2024 does not offer enough time to review and update the Corridor zoning, but the interim zone is proposed as a provisional step to address the LGA

and preserve the development potential of Corridor-designated lands. Staff intend to return with a future zoning proposal to revise the Corridor zones and incentivize affordable housing as previously recommended by Council.

### *Land Use Summary*

As observed in other jurisdictions with similar infill housing regulations (e.g. Victoria, BC and Portland, OR), an immediate increase in housing supply is not anticipated through SSMUH. The principal benefit of pre-zoning is that single residential dwelling properties can redevelop incrementally to higher densities supported by City Plan (e.g. in Neighbourhoods) without having to go through a rezoning process which can often be overly burdensome for smaller projects. While the extent of properties slated for pre-zoning is greater than what is anticipated by City Plan or by the Increasing Housing Options initiatives, uptake may be slow throughout the City. Concentration of redevelopment under SSMUH is likely to be greater in neighbourhoods with larger lots and older housing stock.

In Nanaimo, where historically there has been predominantly low-density forms of development outside of Corridor and Urban Centre designated areas, the SSMUH zoning will further enable arbitrary infill development across the City rather than concentrating infill development near growth-priority areas, services, and amenities as envisioned by City Plan.

### **Engineering Review**

In order to better understand the impacts of SSMUH zoning, the City reviewed existing infrastructure networks and engaged with external consultants for more detailed modelling, as summarized in Attachment C. While some potential issues with City infrastructure could arise as SSMUH lands develop, most issues can be addressed on an as-needed basis in the future. Specific attention will need to be paid to available fire flows (the amount of water necessary at the nearest fire hydrant for firefighting purposes), and additional works may be required and limitations on development may apply for property owners wishing to develop where inadequate fire flows are available.

### **Building Bylaw Review**

In addition to the changes to the Zoning Bylaw, two amendments to the City of Nanaimo “Building Bylaw 2016 No. 7224” (the “Building Bylaw”) are proposed:

1. An amendment to Section 24 will clarify where a Building Official may request additional information at the time of building permit application for a standard permit, with confirmation from a professional engineer that adequate fire flows are available; and,
2. An amendment to Section 20 will reduce the required assessed building value of a residential building being relocated in Nanaimo, to align with the incentives for infill housing presented through Increasing Housing Options.

See Attachment E for the draft “Building Amendment Bylaw 2024 No. 7224.07”.

Staff anticipate reviewing the Building Bylaw further in 2024 in response to the SSMUH requirements, and fire access width requirements may be explored where permitted by the *Building Act*

## Development Permits

An indirect consideration of both the Increasing Housing Options initiatives and the Provincial SSMUH regulations is the role of development permits (DPs). In Nanaimo, residential projects with four units or less are currently exempt from a form & character development permit (DPA8) where no variances are requested and where located outside of the Old City Neighbourhood. While some feedback received during the Fall 2023 engagement expressed interest in requiring form & character DPs for three- and four-unit developments, Staff recommend no changes to the DPA8 exemptions at this time. Requiring form & character DPs for SSMUH projects would create an additional process and cost for smaller residential projects, and possibly hinder some projects from moving forward. Additional DP applications for SSMUH projects would also further strain Staff capacity and potentially impact review of other development applications (e.g. larger DP and rezoning applications). The City has engaged with an external consultant to review and update the City's DPA8 design guidelines which is expected to be completed later in 2024.

## Next Steps

The Province has set a deadline of 2024-JUN-30 when a local government must comply with the SSMUH requirements. Pending Council direction, Staff intend to bring forward bylaw amendments for Council consideration on 2024-MAY-27. A Public Hearing is prohibited from being held per the LGA s.464.

See the following proposed timeline for implementation of SSMUH requirements:

- Mid-May 2024 – Notice of First Reading published
- 2024-MAY-27 – Bylaw introduction (Council consideration of 1<sup>st</sup>/2<sup>nd</sup>/3<sup>rd</sup> readings)
- 2024-JUN-17 – Council consideration of bylaw adoption
- 2024-JUN-30 – Provincial deadline for compliance SSMUH
- June/July 2024 – City to provide written notice to the Provincial Minister of Housing on exempted lands exempt from SSMUH
- 2024-2025 – Comprehensive review of the Zoning Bylaw to align with Provincial requirements and City Plan policies

In order to inform the public of the upcoming bylaw changes in response to Provincial housing legislation, a coordinated communication strategy is being developed with both digital outreach and print outreach tools as previously outlined in the "Transit-Oriented Areas" Staff Report to the Governance and Priorities Committee dated 2024-MAR-25.

While the draft Zoning and Building Amendments Bylaw have incorporated feedback from the 2023 Increasing Housing Options engagement where possible (as summarized in Attachment A), the bylaw amendments are largely a technical exercise driven by the Provincial legislative requirements in a short timeframe. While the scope of work for the Increasing Housing Options initiatives has been impacted by the SSMUH legislation, Staff intend to return with future zoning and other bylaw amendments to more comprehensively address City Plan objectives in 2024-2025. |



## **OPTIONS**

1. That Council direct Staff to bring forward the draft Zoning Amendment Bylaw and draft Building Amendment Bylaw to implement the Increasing Housing Options initiatives and Provincial Small-Scale Multi-Unit Housing legislation.
  - *Advantages of this option:* Council can review and consider the draft bylaws that are intended to address the City's Increasing Housing Options initiatives, where possible, and the Provincially-mandated regulatory changes before consideration of bylaw readings.
  - *Disadvantages of this option:* The Provincial SSMUH requirements do not fully align with City Plan policies, and not all Increasing Housing Options initiatives previously presented to the public can be incorporated. Some of the proposed bylaw amendments are interim measures, given the short timeline required by the Province, and a full Zoning Bylaw update will be carried out 2024-2025.
  - *Financial implications:* Staff resources required to respond to the Provincial housing legislation and to communicate the bylaw amendments to the public.
  
2. That Council provide alternative direction. |

### **SUMMARY POINTS**

- The Increasing Housing Options initiatives presented to the public in 2023 have been impacted by the Provincial housing legislation.
- Amendments to the *Local Government Act (LGA)* through *Bill 44 – Housing Statutes Amendment Act 2023* obligate local governments to allow for “Small-Scale Multi-Unit Housing” (SSMUH) by 2024-JUN-30.
- In Nanaimo, where historically there has been predominantly low-density forms of development outside of Corridor and Urban Centre designated areas, the SSMUH zoning will further enable arbitrary infill development across the City rather than concentrating infill development near growth-priority areas, services, and amenities as envisioned by City Plan.
- Pending Council direction, Staff anticipate returning with zoning and building amendment bylaw introduction on 2024-MAY-27.

### **ATTACHMENTS:**

- ATTACHMENT A: Summary of “Increasing Housing Options” Initiatives  
ATTACHMENT B: SSMUH Exemptions  
ATTACHMENT C: SSMUH Engineering Review Considerations  
ATTACHMENT D: Draft “Zoning Amendment Bylaw 2024 No. 4500.223”  
ATTACHMENT E: Draft “Building Amendment Bylaw 2024 No. 7224.07” |

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