



The Corporation of the City of Courtenay

# Staff Report

**To:** Council

**File No.:** 3360-20-2405/RZ000084

**From:** Director of Development Services

**Date:** October 9, 2024

**Subject:** Zoning Amendment Bylaw No. 3140, 2024 (small-scale, multi-unit housing)

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## PURPOSE:

For Council to give first, second and third readings to Zoning Amendment Bylaw No. 3140 (small-scale, multi-unit housing) which amends Zoning Bylaw No. 2500 to change specifications related to the Residential Small-Scale Multi-Unit (R-SSMUH) zone to fix errors and improve clarity and alignment with the intent of the zone.

## BACKGROUND:

In the months since the June 12<sup>th</sup> adoption of Zoning Amendment Bylaw No. 3135, 2024 (small-scale, multi-unit housing), which created a new compact residential development zone for 5649 residential properties, staff have become aware of a number of clerical errors in the text of the zone as well as opportunities to improve clarity and fulfil the intent of Bill 44, *Housing Statutes (Residential Development) Amendment Act, 2023*.

The scope of the present amendment is limited to details concerning or introduced with the R-SSMUH zone including secondary dwelling units related to fourplexes, Accessory Dwelling Unit height, lot depth, lot width for party wall subdivision, rear yard setbacks for Accessory Dwelling Units, outdated or unclear language, parking access aisle width, bicycle parking requirements, and property line screening discussed below.

## DISCUSSION:

The proposed amendments are discussed below in order of their appearance in Zoning Bylaw No. 2500, 2007.

Within Division 6 General Regulations:

1. Titling of general regulations pertaining to accessory dwelling units and secondary suites

A new section was added to the general regulations to provide guidance on the regulation of accessory dwelling units, including secondary suites across all zones. The new section was not accompanied by a title "Part 19" which is now being recommended to assist when navigating the Zoning Bylaw.

2. Clarifying maximum Accessory Dwelling Unit height

Section 6.19.1. (iv) specifies that "An Accessory Dwelling Unit shall not exceed the lesser of 6.5 m in height or the height of the principal residence, unless otherwise specified in the development regulations of a particular zone. Where the width of a dormer or dormers exceeds 50% of the width of the roof on which they are located, the height of the building will be measured to the top of the dormer or to the top of the main roof, whichever is greater."

Staff propose amending this regulation to remove "the lesser of" and "or the height of the principal residence" from Section 6.19.1 so that a detached Accessory Dwelling Unit (ADU) need not be shorter than a principal residence. Limiting the height of an ADU to be less than that of a principal residence, regardless of how tall that principal residence is, is historically not uncommon. The justification being that accessory dwellings should always appear significantly smaller and therefore subordinate to the principal residence on a property. Single-storey detached residences are generally within the height ranges of 3-5

m (measured to the midpoint of a sloped roof). A two-storey carriage house on the other hand is often closer to 6 m.

However, staff note that the R-SSMUH Zone already states a height limit to detached ADUs being 6.5 m (the principal height maximum is 11 m). Requiring ADUs be shorter than principal residences could create a barrier to infill development on lots with existing single-storey houses, particularly older single-storey residences with shorter ceilings and roof heights, areas often of highest potential for infill development. Staff therefore evaluate this proposed amendment as in keeping with the intent of Bill 44 legislation.

Within the R-SSMUH Zone:

3. Clarifying general minimum lot size

Section 8.1.4 (1) i. specifies “A lot shall have an area not less than 300 m<sup>2</sup> for a single residential dwelling or duplex.” This does not reference all permitted uses like Townhouse. In order to achieve clarity, we are removing this reference to single residential dwelling and duplex.

4. Allowing a single real estate entity created by party wall subdivision to contain a secondary suite and an accessory dwelling unit

Section 8.1.4 (1) ii. specifies “Where a lot is developed with a multiple unit form being subdivided along a party wall, the minimum lot area for a fee simple party wall subdivision is 270 m<sup>2</sup>. Where a fourplex is being created by party wall subdivision, no additional secondary dwelling units are permitted.”

A prohibition of secondary dwelling units (accessory dwelling units and secondary suites) for party wall subdivisions unnecessarily restricts housing supply. The reference to a fourplex is also problematic because a fourplex is not a permitted use in the zone. The draft amendment removes “Where a fourplex is being created by party wall subdivision, no additional secondary dwelling units are permitted.” This amendment permits secondary suites and accessory dwelling units to be constructed on a single real estate entity and aligns with the BC Building Code which supports gentle density.

5. Reducing required lot frontage for lots being subdivided along a party wall

Section 8.14 Minimum Lot Dimensions (2) Lot Frontage ii. specifies that where lots are being subdivided along a party wall, the minimum lot frontage shall be 9 m. In consultation with the development industry and working with Ekistics staff recommended an 8 m frontage to support infill designs.

6. Reducing required lot depth

Section 8.14 Minimum Lot Dimensions (3) Lot Depth i. specifies that a lot shall have a depth of not less than 30 m, measured from the front lot line to the rear lot line. This corresponds with the required frontage of 10 m and the required minimum lot size of 300 m<sup>2</sup>. Specifying a minimum lot depth of 30 metres prevents the creation of wide shallow lots or ability to address site conditions such as steep slopes or environmental conditions. In discussion with the development Industry, they requested staff to consider a 25-metre lot depth. Staff support this reduction from 30 to 25 metre lot depth.

7. Accessory Dwelling Unit rear yard setback correction

The rear yard setback for Accessory Dwelling Units (ADUs) not flanking a street is intended to be 1.5 m but was written as 5.0 m. Section 8.1.6 setbacks (1) ii is adding that the rear lot line for accessory dwelling

units can be 1.5 metres except where it flanks a corner it will be 3.0 metres. This was discussed in the on [Page 5 of the staff report for the May 22, 2024 regular Council meeting](#) entitled Zoning Amendment Bylaw No. 3135, 2025 (small-scale multi-unit housing).

#### 8. Removal of outdated terms: secondary residence

The term “secondary residence” was removed from the definitions section of Zoning Bylaw No. 2500 June 12<sup>th</sup> 2024 (replaced with Accessory Dwelling Unit) but is used twice in the text of the SSMUH zone alongside the term ADU. This is a clerical error and any reference to secondary reference in the R-SSMUH Zone is proposed to be deleted.

#### 9. Amending Section 8.1.8 to distinguish between habitable and non-habitable secondary buildings

The heading 8.1.8 Accessory Buildings and Accessory Structures may be unclear. This heading is generally understood and consistently interpreted throughout Zoning Bylaw No. 2500, 2007 to exclude buildings with residential units, and the bylaw formatting specifies setbacks, heights etc. of Accessory Dwelling Units (ADU) within the same headings as those of principal residences. However, that ADUs are not included under Accessory Buildings and Accessory Structures may not be intuitive to some readers.

The draft amendment bylaw relabels this heading to “Section 8.1.8. Accessory Buildings and Structures (Not including Accessory Dwelling Units)”.

#### 10. Reducing required parking aisle width for strata access roads

Division 7 Schedule 7B – Parking Stall and Aisle Dimensions specifies minimum aisle width for accessing parking stalls at different parking angles. Parallel parking (0-degree) requires a 3.0 m aisle width, 90-degree parking requires a 7.2 m aisle width, and 30, 45- and 60-degree parking angles require aisle widths between those extremes. When the former R-1E zone was developed, turning analysis showed that a 6.5 m aisle would suffice for 90-degree parking in the context of a handful of units with driveways accessing a shared private roadway, and language was built into the zone to allow the narrower aisle width and increase site plan flexibility. This was limited to strata access roads because there could be situations where a 7.2 m aisle would be more appropriate, such as a public lane, and there has not been a comprehensive study at the City verifying that 6.5 m is adequate in all situations.

The situational 6.5 m drive aisle width specification was not initially brought into the R-SSMUH zone. Work by EKISTICS has shown that strata access aisle width allowance can be a significant factor for enabling designs that reduce front yard parking when subdividing larger lots. Staff propose adding to Section 8.19 “(3) Where a parking aisle is a strata access road, the minimum parking aisle width shall be 6.5 m for 90-degree parking”.

#### 11. Reducing bicycle parking requirements

Division 7 Part 3 details number and specifications for two classes of bicycle parking space (Class II intended for residents and Class I for visitors) for multi-residential developments (interpreted as 3+ units). Two Class II spaces plus 0.2 Class I spaces are required per *dwelling unit* where this section applies. 32 specifications are given among General, Class I, Class II, and further subdivided sections, covering topics such as physical dimensions and variations, weatherproofing, grouping, relative location, electrification, materials, lighting and visibility. Developers frequently remark that the City’s bicycle parking requirements are overly onerous and prescriptive and comprehensive development zones have been approved through

Council with reduced requirements. Additionally, there has been some concern raised about fire safety impacts of charging electric bikes that have been modified and do not meet Canadian requirements.

For R-SSMUH developments of one or two units, existing bicycle parking requirements do not apply. For R-SSMUH developments with 3-4 units, meeting existing bicycle requirements may impose overly onerous constraints for adding infill residential units to small lots. Staff propose removing the 0.2-per-unit Class I parking requirement in this zone and reducing the 2 per unit requirement to 1 per unit for studio and 1-bedroom units, as well as removing all additional specifications in this zone but requiring that the bicycle parking be secure and covered. Staff do not propose changing bicycle parking requirements outside the R-SSMUH zone at this time but are expecting to examine this in the future.

#### 12. Amending Landscaping and Screening section to align with general regulations and allow for Form and Character Development Permit Area guidelines to inform

According to Section 8.1.10 (Landscaping and Screening) (1) reads: "In addition to the Landscape Requirements identified in Division 6, Part 14 of this bylaw, a vegetated buffer or screen fence not more than 1.5 m high shall be provided along rear and side property lines adjoining other properties."

The intent of this section is to provide effective screening between properties, especially where a developing property is more densely developed. A clerical error has the phrasing "not more than" rather than "not less than", reducing effective screening. Upon further review, staff found that the screening is covered more appropriately in Development Permit Areas and staff are working to further improve Development Permit Areas in an upcoming amendment.

In light of the above, the draft amendment bylaw removes the vegetated buffer or screen fence requirement from Section 8.1.10.

#### **POLICY ANALYSIS:**

The proposed Bylaw Amendments address clerical and clarity items resulting from rapid response to Bill 44 provincial legislation and timelines for adoption to align Courtenay bylaws with new requirements.

Additional future revisions to the R-SSMUH may be required as staff continue to work with the local development community and prepare to conduct wider public engagement. Further, revisions to Zoning Bylaw No. 2500, 2007 more broadly are required by December 31<sup>st</sup> 2025 in order to ensure that the Zoning Bylaw supports sufficient residentially zoned land as identified in the most recent Housing Needs Report and in alignment with Courtenay's Official Community Plan Bylaw No. 3070. That Housing Needs Reports be regularly updated, OCPs be regularly reviewed and updated, and Zoning Bylaws regularly reviewed and amended to include sufficient pre-zoned residential land is a requirement of Bill 44.

In order to fully support the Small-Scale Multi-unit Housing initiative, other City Bylaws may need to be amended, and staff will bring those amendments forward at the earliest opportunity for the consideration of Council.

#### **FINANCIAL IMPLICATIONS:**

The province has provided funding to each level of government to support planning and capacity to meet the new provincial housing legislative requirements. The City of Courtenay received \$286,000 from this fund earlier this year.

**ADMINISTRATIVE IMPLICATIONS:**

Staff time requirements for this specific zoning amendment are relatively modest. However, the mandatory timelines imposed by the Province were challenging with regard to the adoption of SSMUH zoning by June 30, 202, required significant staff time.

**STRATEGIC PRIORITIES REFERENCE:**

This initiative addresses the following strategic priorities:

- Buildings and Landscape - Review and update land use regulations and bylaws for consistency with OCP

**PUBLIC ENGAGEMENT:**

In accordance with s. 464 (2) of the Local Government Act (LGA), a public hearing on Zoning Amendment Bylaw No. 3140 (small-scale, multi-unit housing) is not required as the proposed bylaw is consistent with the official community plan. In accordance with s. 467 of the LGA, notice was given that Council will consider first, second and third readings of the Bylaw at the Wednesday, October 9, 2024 regular Council meeting. The opportunity to comment on the application, with written submissions to be received no later than 1:00 pm Wednesday October 9, 2024, was given in the Comox Valley Record on October 2, 2024, and posted on the City's website and social media on September 24, 2024. No responses have been received by staff at time of writing; any responses received prior to the Council meeting will be forwarded to Mayor and Council.

Staff held information sessions with the Development Industry June 5 and July 24, 2024 with EKISTICS consulting firm. The purpose of these meetings was to demonstrate the application of the bylaw and development permit area guidelines and have discussions around interpretation. There will be continued discussion with the Industry as the Zoning Bylaw and Development Permit Areas are amended. Development Permit Areas are detailed in Official Community Plan Bylaw No. 3070, 2022 and adding or amending them will require public engagement including a mandatory Public Hearing.

The Ministry of Transportation and Infrastructure (MOTI) will be required to approve this bylaw after third reading of the bylaw has been adopted.

**OPTIONS:**

1. THAT Council give first reading to Zoning Amendment Bylaw No. 3140, 2024 (small-scale, multi-unit housing); and

THAT Council give second reading to Zoning Amendment Bylaw No. 3140, 2024 (small-scale, multi-unit housing); and

THAT Council give third reading to Zoning Amendment Bylaw No. 3140, 2024 (small-scale, multi-unit housing); and

2. THAT Council provide alternative direction to staff through resolution.
3. THAT Council not proceed.

**ATTACHMENTS:**

1. Zoning Amendment Bylaw No. 3140, 2024 (small-scale, multi-unit housing)

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