



REGIONAL
DISTRICT
OF NANAIMO

Bills 44 and 46 Requirements and Implementation Status

RECOMMENDATION

That the Board receive the report on Bills 44 and 46 Requirements and Implementation Status for information.

BACKGROUND

In the fall of 2023, the Province of British Columbia (BC) passed several pieces of comprehensive legislation that change the local government land use planning framework with the intent to enable local governments to provide more housing. Three different bills were adopted each with a different focus: Bill 44 Housing Statutes Amendment Act, Bill 46 Housing Statutes (Development Financing) Amendment Act, and Bill 47 Housing Statutes (Transit-Oriented Areas) Amendment Act. The Regional District of Nanaimo (RDN) is required to take actions to implement Bills 44 and 46. Bill 47 does not apply to the RDN electoral areas and as such has no requirements for the RDN.

Bill 44 resulted in changes to the Local Government Act (LGA) aimed at requiring local governments to allow more housing in land use zones that are otherwise restricted to single-family dwellings or duplexes. These changes include:

- requirements that secondary suites be permitted on all parcels that are zoned for single unit or duplex development;
- a requirement to permit up to three or four dwelling units on parcels currently zoned for one dwelling unit; and
- a requirement that Housing Needs Reports be updated using a standard method on a regular basis for a more consistent assessment of local housing needs over 20 years.

The Bill 44 requirement to complete reviews of Official Community Plans (OCP) and subsequent zoning amendments do not apply to Regional Districts and are limited to municipalities.

A local government is not permitted to hold a public hearing in association with bylaw amendments required by Bill 44. The process for bylaw adoption is to follow the process for proposed bylaws with no public hearing.

Secondary Suites

Bill 44 requirements mandate all local governments to exercise their zoning powers to permit at least one secondary suite or accessory dwelling unit on a parcel where the zone would otherwise restrict the permitted residential use to detached single-family dwellings. This means that all zones that currently permit a single dwelling must be amended to also permit a secondary suite.

For the RDN electoral areas, most zones that permit a single-family dwelling also permit a secondary suite as an accessory use. For those remaining zones that permit a single-family dwelling but do not permit a secondary suite, a zoning amendment will be drafted. The deadline for local governments to complete the zoning changes is June 30, 2024.

Small Scale Multi-unit Housing (SSMUH)

The locations where the requirement to permit additional dwellings are referred to as Restricted Zones in the new legislation. In all of the Restricted Zones local governments are required to adopt zoning that permits Small Scale Multi-unit Housing. For the RDN, the two main criteria for the areas that must permit the SSMUHs are lands within the Growth Containment Boundary and lands within an area serviced by community water and community sewer provided by a regional district or municipality. There are only two areas that meet this criteria in the RDN: lands within the Fairwinds Sewer Local Service Area and lands within the area served by French Creek Water. The deadline to complete the zoning amendments is June 30, 2024.

The legislative requirement for the SSMUHs does have provisions for exemptions and extensions. For exemptions, the local government must show that the areas mandated for the additional housing is subject to a hazardous condition. To qualify for this exemption the local government must have a report from a qualified professional that certifies that adding the housing will increase the threat from the potential hazard and that the threat cannot be mitigated.

A local government can apply to the Ministry of Housing for an extension on when the zoning amendments will be completed. One of the criteria for an extension is that “Compliance is likely to increase risk to public health, safety or the environment”. One of the associated risks identified is that additional development will cause insufficient water supply concerns. All requests for an extension must be supported by an assessment from a qualified professional. Each request must include a timeline for when the risk will be addressed. Neither of the two areas identified above has additional water supply for additional development. In both areas a finite amount of water is available. In the case of Fairwinds, a cap on the number of residential units has been set based on water supply that is available from the Englishman River Water Service. For French Creek Water, a cap has also been set by an agreement with the Town of Qualicum Beach that water will be provided for existing users only.

RDN staff are currently evaluating whether to proceed with the zoning amendments or pursue an extension for one or both areas as there are legitimate concerns about insufficient water supply.

Housing Needs Reports

The RDN is required to prepare an updated Housing Needs Report (HNR) based on new criteria. Building on existing requirements, all local governments must update their HNR to include a more consistent, robust understanding of both local housing needs currently and over the next 20 years. The Province has indicated that they will be providing a new set of guidelines with which to prepare the HNRs. The new guidelines have not yet been released.

The deadline to complete the Housing Needs Report is January 1, 2025. With the updated Housing Needs Reports the regional district is expected (not required) to update its OCPs based on the HNR. The further expectation is that the RDN will then amend its zoning bylaws to permit the amount and type of housing identified in the OCPs and Housing Needs Report.

Development Financing

Bill 46 expanded the use of Development Cost Charges (DCCs) to update the scope of infrastructure eligible to be funded through DCCs to include fire protection facilities (e.g., fire halls), police facilities, and solid waste facilities.

Amenity Cost Charges (ACCs) are a new development finance tool that allow local governments to collect funds for amenities like community centres, recreation centres, daycares, and libraries from new development that results in increased population. The new ACC tool is intended to provide an alternative to Community Amenity Contributions and be more transparent and provide certainty.

Implementing an amenity cost charge will follow the same process as a development cost charge and local governments will be required to:

- Identify areas where more housing supply is planned (based on Official Community Plans and other planning documents) and what amenities are needed to support that supply. ACCs would apply to new development in those areas.
- Determine the ACC amounts following the rules set out in legislation (for example, the capital costs must be allocated between existing users and new users).
- Consult during the development of the ACC bylaw and charge rates.
- Pass a bylaw that implements the charges.

For the two types of charges the RDN will be considering an expansion to the DCCs and adoption of ACCs. There are no legislative deadlines for the adoption of DCCs or ACCs.

The Province is requiring local governments to either adopt the zoning amendments or submit a request for an extension by June 30, 2024. The next step for RDN staff is to prepare a report on the course of action to meet the Provincial deadlines with a workplan and further detail on the bylaws and policies to be amended.

FINANCIAL IMPLICATIONS

The RDN has been provided with \$345,913 to assist with implementation of Bills 44 and 46. Funding can be allocated to any planning and implementation activities local governments need to undertake to successfully meet the legislative requirements of Bill 44 Housing Statutes (Residential Development) Amendment Act, Bill 47 Housing Statutes (Transit-Oriented Areas) Amendment Act, and to update or adopt tools from Bill 46 Housing Statutes (Development Financing) Amendment Act.

Development and Emergency Services staff are currently considering how best to use these funds for consultants and/or hiring new staff. A portion of the funds will be used to complete the new Housing Needs Report. A report on use of the funds will be prepared and presented to a future meeting of the EASC.

STRATEGIC PLAN ALIGNMENT

Bill 44 and the associated Bills 46 and 47 are intended to result in more housing being built faster. This intent for the legislation is consistent with Strategy 3.3 Planning and Managing for Growth - Explore strategies to address the housing affordability crisis in the region.

REVIEWED BY:

- P. Thompson, Manager, Current Planning
- L. Grant, General Manager, Development and Emergency Services
- D. Holmes, Chief Administrative Officer