

ADMINISTRATIVE REPORT



TO: Planning & Development Committee

FROM: J. Zaffino, Chief Administrative Officer

DATE: July 25, 2024

RE: Land Use Bylaw Amendments — Small-Scale, Multi-Unit Housing (X2024.001-ZONE)

For information.

Proposal:

The purpose of this report is to provide an overview of the zoning bylaw amendments contained within Amendment Bylaw Nos. 2800.37, 2024, and 2781.01, 2024, in order to ensure Small-Scale Multi-Unit Housing (SSMUH) Compliance.

Background:

On November 30, 2023, the provincial Legislature adopted Bill 44, which introduced a number of substantial amendments to the *Local Government Act*, the intent of which was the delivery of “more small-scale, multi-unit housing for people, including townhomes, triplexes and laneway homes, and fix outdated zoning rules to help build more homes faster.”

On December 7, 2023, the provincial government released *Provincial Policy Manual & Site Standards (Small-Scale, Multi-Unit Housing)* as a resource to assist local governments with the implementation of zoning bylaw amendments required to comply with the changes to the Act.

Under a new Section 481.3(7) of the *Local Government Act*, the Regional District “must consider applicable guidelines” made by the Minister (e.g. the SSMUH Policy Manual) when developing or adopting a zoning bylaw to permit the use and density required to be permitted under the Act.

The Manual includes recommended approaches to regulations governing building types, density, setbacks, building height, parcel coverage, vehicle parking requirements as well as the use of development permit area designations.

When considering these regulations, the province has advised that “creating a favourable regulatory environment for SSMUH housing to help overcome these barriers will require an openness to new building forms in areas traditionally reserved for detached single-family and duplex homes.”

The Regional District is required to approve a zoning bylaw(s) that comply with SSMUH requirements by **June 30, 2024**, and notify the Minister of Housing, in writing, that the bylaw(s) have been adopted, the location(s) of any exempted land(s) and the legislative provisions supporting the exemptions.

Board Consideration:

At its meeting of February 22, 2024, the Planning and Development (P&D) Committee resolved that the following be applied to the drafting of new zoning regulations required to ensure compliance with the *Housing Statutes (Residential Development) Amendment Act, 2023*:

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- the setbacks for principal structures in the proposed RS1 Zone be 6.0 metres (front & rear), 1.2 metres (interior side) and 3.0 metres (exterior side);
 - the setbacks for accessory structures in the proposed RS1 Zone be 6.0 metres (front), 1.5 metres (rear), 1.2 metres (interior side) and 3.0 metres (exterior side);
 - the maximum building height for a “single detached dwelling” be increased from 10.0 metres to 11.0 metres in the RS and SH zones;
 - a maximum building height of 8.0 metres for accessory dwellings be introduced;
 - the maximum building height in the RM1 Zone be increased from 12.0 metres to 15.0 metres;
 - the maximum floor area limit of 125 m² for secondary suites be deleted;
 - the minimum building width requirement for principal dwelling units of 5.0 metres be deleted;
 - the density restriction prohibiting a “secondary suite” if an “accessory dwelling” has already been developed on a parcel zoned SH3, SH4, LH1, LH2, AG1, AG2, AG3 or RA be deleted.

At its meeting of June 13, 2023, the Board resolved, amongst other things, to approve first and second reading of Amendment Bylaw Nos. 2800.37, 2024, and 2781.01, 2024.

At its meeting of July 4, 2024, the Board resolved to defer consideration of third reading of Amendment Bylaw Nos. 2800.37, 2024, and 2781.01, 2024, and directed the bylaws be reviewed at a forthcoming meeting of the Planning and Development (P&D) Committee.

Analysis:

Further to the discussion that occurred at the Board’s meeting of July 4, 2024, in relation to the zoning amendment bylaws related to SSMUH Compliance, Administration offers the following:

Provincial Density Requirements:

Between 2002 and 2020, the Board supported a number of different zoning bylaw amendments to facilitate the development of secondary suites and accessory dwellings in a variety of different zones as a way to improve housing affordability, introduce a greater range of housing types and aging in-place.

As a result, when the provincial government enacted the *Housing Statutes (Residential Development) Amendment Act* in late 2023 and required local governments across the province to permit a minimum density of two (2) dwelling units per parcel through zoning, the Regional District’s zoning bylaws were already 98% compliant.

Only the Low Density Residential One (RS1) and Low Density Residential Duplex (RS2) zones, which apply to approximately 167 parcels in the various Electoral Areas, were determined to be non-compliant and constituted what the Act now considers to be a “restricted zone”.

Amendment Bylaw No. 2800.37, 2024, will address the “restricted zone” aspect of the current RS1 and RD1 zones by introducing new zoning that meets the requirement to allow 2 dwelling units per parcel.

With regard to Electoral Area “G”, it is seen to be 100% compliant with the new provincial density requirements and the proposed zoning amendments are generally related to providing flexibility in dwelling types (e.g. by allowing an accessory dwelling or a secondary suite) and building envelopes.

With regard to the required changes to the Okanagan Falls Primary Growth Area, and the need to allow 3-4 units per parcel where serviced by the Regional District’s community water and sewer systems, this will be dealt with through a separate amendment bylaw, and subject to a provincial determination on the Board’s request to defer SSMUH Implementation for this area to 2030.

Recommended Building Envelopes:

Unlike minimum densities per parcel, the recommended approach to building envelopes in the provincial Policy Manual are not mandatory, however, the legislation does require the Board to consider Ministerial direction when amending its zoning bylaws to ensure SSMUH Compliance.

In this instance, the direction being provided by the Minister, through the Policy Manual, is to apply a flexible approach as “it is typically not a single zoning rule that impacts the viability of a SSMUH project, but rather the cumulative and cross-cutting impacts of several regulations combined.”

By way of example, the provincial Policy Manual provides the following guidance on maximum height allowances:

Limits of 1, 2 or 2.5 storeys will affect project viability or increase lot coverage to the point of reducing site permeability and livability. If height maximums are too low, it can also create challenges for evolving building technologies designed to improve sound and fire separation.

A universal maximum height limit that permits at least three stories regardless of the method of measurement, site gradient, or roof style improve the viability and diversity of SSMUH housing forms. This will also enable configurations and designs to be flexible so they can accommodate competing objectives (e.g., permeable surfaces, tree retention, open space for residents, parking spaces). 11 metres is often considered an appropriate building height limit to facilitate three storeys

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A further consideration for Administration has been the number of development variance permits (DVPs) that have been submitted to the Regional District over the past six years. For comparison purposes, this number is contrasted with the volume of DVPs that have been submitted to some of the member municipalities:

Year	RDOS	Penticton	Summerland	Osoyoos	Oliver
2018	26	56	29	4	7
2019	38	32	22	4	1
2020	24	42	39	7	0
2021	62	38	33	2	0
2022	59	40	19	1	5
2023	46	28	31	2	3
Total	255	236	173	20	16
Average	42.5	39.3	28.8	3.3	2.7

As can be seen, the Regional District is processing a significant number of DVP applications on a yearly basis.

Importantly, an analysis of DVP applications processed by the Regional District between 2013 and 2022 indicated the following:

- over 66% of DVP applications involve development on parcels zoned residential (RS) or rural-residential (SH) zones (see Attachment No. 3);
- while no one type of variance is predominant, the top 6 types are related to setbacks and building height (see Attachment No. 4);
- 96.7% of DVP applications are approved by the Board (275 application sample size).

Together, these numbers appear to indicate that the zoning regulations applied to setbacks and building height in the residential and rural-residential may be too onerous and that greater flexibility is required.

Further, as no one zoning regulation is accounting for a majority of DVPs a series of changes, consistent with the recommendations contained in the provincial Policy Manual, is likely required in order to reduce regulatory burdens to the construction of new residential housing, as well as the number of DVPs being applied for.

It is for these reasons that Administration is in favour of implementing the zoning regulations for building height, setbacks and parcel coverage contained in the provincial Policy Manual (see Attachment No. 1).

Respectfully submitted:



C. Garrish, Senior Manager of Planning

Attachments:

- No. 1 – Recommended Site Standards for rural lands outside an Urban Containment Boundary (SSMUH Policy Manual)
- No. 2 – Comparison Table of RS Zones (Zoning Bylaw No. 2800) vs Proposed New RS1 Zone
- No. 3 – Development Variance Permits (DVPs) by Zone (2013-2022)
- No. 4 – Development Variance Permits (DVPs) by Type (2013-2022)

Attachment No. 1 – Recommended Site Standards for rural lands outside an Urban Containment Boundary (SSMUH Policy Manual)

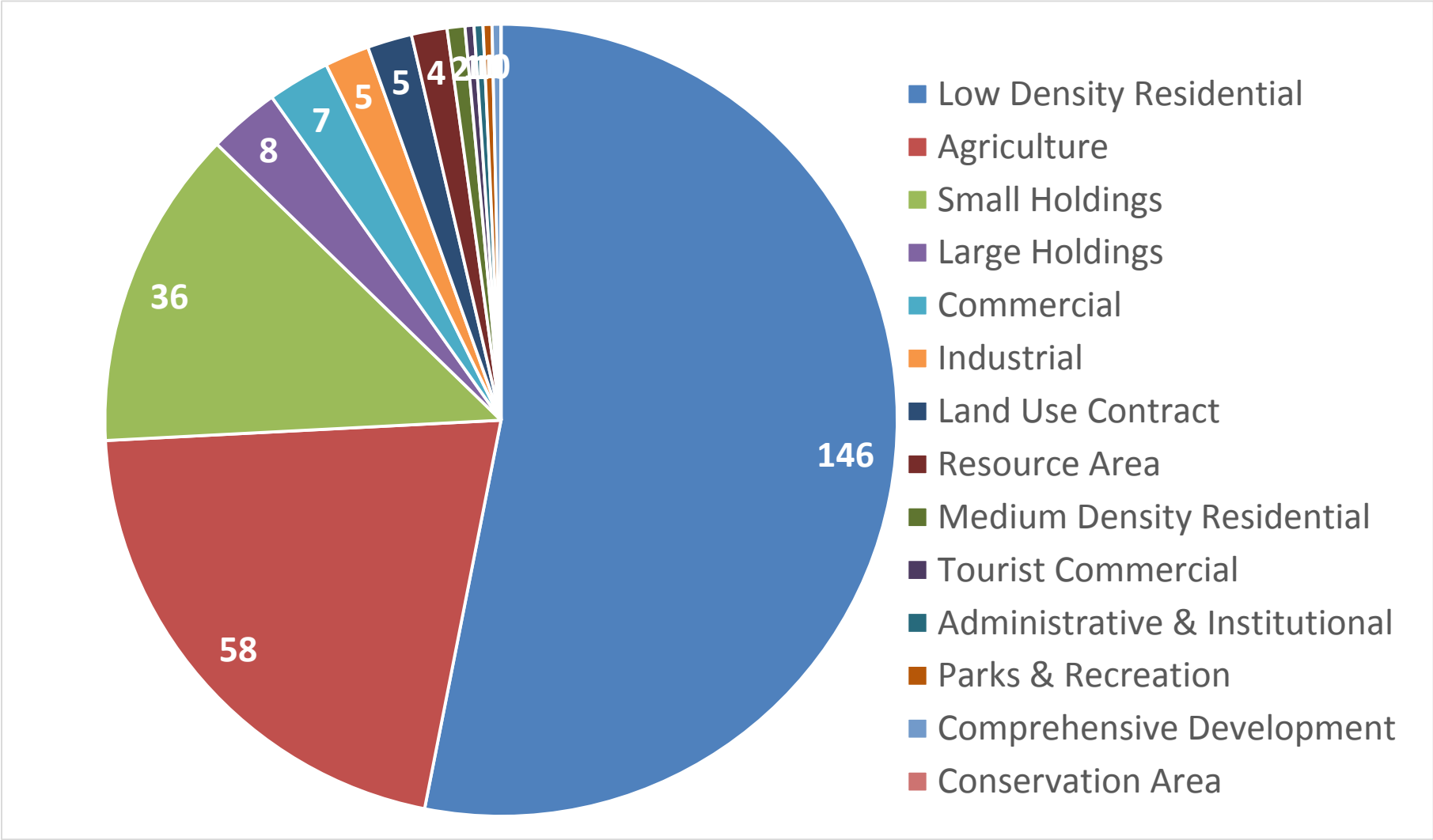
Table 5: Recommended zoning regulations for lots requiring a minimum of 2 units

Zoning Bylaw Parameter	Recommended Benchmark Regulation	Considerations
Front Lot Line Setback	Minimum of 5 – 6 metres	This front lot line setback maintains some consistency with conditions in most rural and semi-rural areas.
Rear Lot Line Setback	Minimum of 6 metres for principal buildings Minimum of 1.5 metres for ADUs	
Side Lot Line Setbacks	Minimum of 1.2 metres	This minimum requirement will enable flexibility for a large range of lot sizes, configurations, and building types. Larger distances from property lines are likely to be used by builders or developers to meet BC Building Code requirements for combustible buildings, and to accommodate drive aisles to back of the property (if used).
Maximum Height	Maximum building height of 11 metres to the mid-point of a pitched roof or highest point of a flat roof on principal buildings At least 8 metres for accessory dwelling units	A universal height limit that permits three stories regardless of the method of measurement, site gradient, or roof style is recommended to help improve the viability and diversity of SSMUH housing forms.
Maximum Number of Storeys	3 storeys for principal dwellings 2 storeys for accessory dwelling units	In smaller lot settings, permitting 3 stories may reduce the loss of trees, green space, or farmland. In larger lot settings, large distances between adjacent dwellings mitigate relative height and privacy concerns.
Maximum Lot Coverage	25-40%	Relatively low lot coverages will help limit the size and cost of new units on large lots. 25% may be appropriate for large lots and up to 40% for smaller lots.
Off-Street Parking Requirements	One space per dwelling unit	

Attachment No. 2 – Comparison Table of RS Zones (Zoning Bylaw No. 2800) vs Proposed New RS1 Zone

RS1 Zone	RS2 Zone	RS3 Zone	RD1 Zone	Proposed RS1 Zone
Principal Uses: [not applicable] single detached dwelling Accessory Uses: accessory building or structure [not applicable] bed and breakfast operation home occupation [not applicable]	Principal Uses: [not applicable] single detached dwelling Accessory Uses: accessory building or structure accessory dwelling bed and breakfast operation home occupation secondary suite	Principal Uses: [not applicable] single detached dwelling Accessory Uses: accessory building or structure accessory dwelling bed and breakfast operation home occupation secondary suite	Principal Uses: duplex dwelling single detached dwelling Accessory Uses: accessory building or structure accessory dwelling bed and breakfast operation home occupation secondary suite	Principal Uses: duplex dwelling single detached dwelling Accessory Uses: accessory building or structure accessory dwelling bed and breakfast operation home occupation secondary suite
Minimum Parcel Size: 350 m ²	Minimum Parcel Size: 500 m ²	Minimum Parcel Size: 1,000 m ²	Minimum Parcel Size: 225 m ² (duplex) / 500 m ² (parcel)	Minimum Parcel Size: 225 m ² (duplex) / 500 m ² (parcel)
Minimum Parcel Width: Not less than 25% of parcel depth	Minimum Parcel Width: Not less than 25% of parcel depth	Minimum Parcel Width: Not less than 25% of parcel depth	Minimum Parcel Width: Not less than 25% of parcel depth	Minimum Parcel Width: Not less than 25% of parcel depth
Maximum Number of Dwellings: one (1) principal dwelling unit [not applicable]	Maximum Number of Dwellings: one (1) principal dwelling unit one (1) secondary suite or accessory dwelling	Maximum Number of Dwellings: one (1) principal dwelling unit one (1) secondary suite or accessory dwelling	Maximum Number of Dwellings: two (2) dwellings in one (1) building	Maximum Number of Dwellings: two (2) dwelling units; despite above, 1 single detached dwelling
Minimum Setbacks (Principal): Front parcel line 6.0 m Rear parcel line 6.0 m Interior Side parcel line 1.5 m Exterior Side parcel line 4.5 m	Minimum Setbacks (Principal): Front parcel line 7.5 m Rear parcel line 7.5 m Interior Side parcel line 1.5 m Exterior Side parcel line 4.5 m	Minimum Setbacks (Principal): Front parcel line 7.5 m Rear parcel line 7.5 m Interior Side parcel line 1.5 m Exterior Side parcel line 4.5 m	Minimum Setbacks (Principal): Front parcel line 7.5 m Rear parcel line 7.5 m Interior Side parcel line 1.5 m Exterior Side parcel line 4.5 m	Minimum Setbacks (Principal): Front parcel line 6.0 m Rear parcel line 6.0 m Interior Side parcel line 1.2 m Exterior Side parcel line 3.0 m
Minimum Setbacks (Accessory): Front parcel line 6.0 m Rear parcel line 6.0 m Interior Side parcel line 1.5 m Exterior Side parcel line 4.5 m	Minimum Setbacks (Accessory): Front parcel line 7.5 m Rear parcel line 1.0 m Interior Side parcel line 1.0 m Exterior Side parcel line 4.5 m	Minimum Setbacks (Accessory): Front parcel line 7.5 m Rear parcel line 1.0 m Interior Side parcel line 1.0 m Exterior Side parcel line 4.5 m	Minimum Setbacks (Accessory): Front parcel line 7.5 m Rear parcel line 1.0 m Interior Side parcel line 1.0 m Exterior Side parcel line 4.5 m	Minimum Setbacks (Accessory): Front parcel line 6.0 m Rear parcel line 1.5 m Interior Side parcel line 1.2 m Exterior Side parcel line 3.0 m
Maximum Building Height: 10.0 metres (principal) 4.5 metres (accessory)	Maximum Building Height: 10.0 metres (principal) 4.5 metres (accessory)	Maximum Building Height: 10.0 metres (principal) 4.5 metres (accessory)	Maximum Building Height: 10.0 metres (principal) 4.5 metres (accessory)	Maximum Building Height: 11.0 metres (principal) 8.0 metres (accessory dwelling) 4.5 metres (accessory structure)
Maximum Parcel Coverage: 50%	Maximum Parcel Coverage: 40%	Maximum Parcel Coverage: 35%	Maximum Parcel Coverage: 45%	Maximum Parcel Coverage: 50% for parcels less than 500 m ² 40% for parcels between 500 m ² and 1,000 m ² 35% for parcels greater than 1,000 m ²
Minimum Building Width: Principal Dwelling Unit: 5.0 metres	Minimum Building Width: Principal Dwelling Unit: 5.0 metres	Minimum Building Width: Principal Dwelling Unit: 5.0 metres	Minimum Building Width: [not applicable]	Conditions of Use: a duplex dwelling, with or without secondary suites, shall be connected to a community sewer system and community water system

Attachment No. 3 – Development Variance Permits (DVPs) by Zone (2013-2022)



Attachment No. 4 – Development Variance Permits (DVPs) by Type (2013-2022)

