



STAFF REPORT TO COMMITTEE

DATE OF REPORT March 11, 2024

MEETING TYPE & DATE Electoral Area Services Committee Meeting of March 20, 2024

FROM: Community Planning Division
Land Use Services Department

SUBJECT: Implementing the Requirements of the *Housing Statutes (Residential Development) Act* - Bill 44 (Second Report)

FILE: 6450-20 Bill 44 Suites

PURPOSE/INTRODUCTION

The purpose of this report is to update the Committee on the process of complying with new Provincial Bill 44 – *Housing Statutes (Residential Development) Act* and other enhancements to suite regulations.

RECOMMENDED RESOLUTION

That it be recommended to the Board:

1. That the draft zoning amendment bylaws for all electoral areas for the purpose of increasing opportunities for suites in CVRD electoral areas, bylaw maintenance, and satisfying provincial legislative requirements, be forwarded to the Board for consideration;
2. That improvement districts and private utilities within the areas affected by the proposed amendments be notified of (not referred to) the draft bylaw that applies in their service area;
3. That amendment bylaws applicable to lands within 800 m of a Controlled Access Highway be referred to the Ministry of Transportation and Infrastructure; and
4. That a public hearing not be held and that notice be provided in accordance with CVRD Bylaw No. 4483 – Development Application Procedures Bylaw, 2023.

BACKGROUND

On February 7, 2024, staff presented a report to Committee that aimed to update the CVRD regulations concerning suites in order to comply with Bill 44 - *Housing Statutes (Residential Development) Act*.

Following the Committee meeting, the matter was referred from the Board back to Committee, so staff could provide further clarity. One of the points of contention was the non-Bill 44 related content that staff had initially proposed.

The first report was simplified in the interests of time and administrative efficiency. Discussion at the February 2024 EASC meeting revealed that Directors would appreciate a more thorough exploration of exactly what Bill 44 requires and to separate other proposed changes from the proposed Bill 44 elements.

ANALYSIS

Bill 44 Requirements – “Restricted Zone”

Bill 44 requires that any local government that has land in what the legislation considers to be a “Restricted Zone” must enable attached suites in such areas, with no minimum site area (parcel area) required, with no restriction upon who lives in the main residence, and no specifications regarding the suite entrance.

A “Restricted Zone” under Bill 44 is any zone that has as the only principal permitted use “single detached (family) dwelling”.

To be interpreted literally, this means that some zones that would otherwise seem to be single family zones may be excluded from the purview of Bill 44 because they also permit other principal uses, for example – from South Cowichan Zoning Bylaw 3520:

The following principal uses and no others are permitted in the R-3 Zone:

a. Single-family dwelling;

b. Horticulture;

The inclusion of point b. in the above example would mean this is not a Restricted Zone and therefore, amendments in respect of Bill 44 for that zone are not required. If we were to survey the number of R-3 zoned parcels in Electoral Areas A and C that currently have only horticulture present as a principal permitted use, the count would likely be zero. Therefore, not imposing Bill 44 requirements in this case seems inappropriate. Horticulture was added to the list of principal permitted uses in the above zone to permit “community gardens” and backyard gardening, not to reduce density in anticipation of Bill 44.

Bill 44 applicability to some other zones is clearer, in that only “single family dwelling” might appear as a principal permitted use; but in other instances, it may be more confused. For example, in the three zoning bylaws (Electoral Areas B, E and H) that list all uses (principal and accessory) together, determining whether it is a Restricted Zone would be more difficult.

Administrative Solution to Bill 44 Compliance

Superimposing the Province’s Restricted Zone upon the CVRD’s bylaws’ zones, strict compliance means that a separate set of suite rules would have to be prepared for Restricted Zones and the existing rules would apply to the other areas. As the example above points out, this would be extraordinarily complex to manage and administer. Having two sets of regulations to comply with the exact letter of the law of Bill 44 is overly complicated. We are, therefore, proposing to use a broader approach to compliance:

- updating attached suite regulations in all areas that Bill 44 clearly identifies as Restricted Zones;
- also updating attached suite regulations for zones where it’s not clear if Bill 44 would consider it a Restricted Zone or not, or if it’s clearly not a Restricted Zone.

This approach slightly exceeds the literal scope of Bill 44 mandatory requirements but represents the only reasonable way forward.

The draft Bylaw Nos. 4546 through 4554 have been revised in order to do the strict minimum that ensures Bill 44 compliance, and also in accordance with the notes above. Other elements of proposed amendments will be relocated into separate zoning amendment bylaws, as described below.

Non-Bill 44 Amendments: Bylaw Maintenance and Detached Suites

Accordingly, a second set of draft amendment bylaws has been prepared (**Attachments K-S: Bylaw Nos. 4571-4579**) to make complementary – but not Bill 44-related – changes which would have the effect of opening up additional housing options for CVRD electoral area residents. Other bylaw maintenance elements have also been relocated to these new draft bylaws, which we

believe are responsive to the various comments received at the last EASC meeting and afterwards from individual directors.

As noted in the February 7, 2024, report the CVRD must amend the various zoning bylaws prior to June 30, 2024, in order to comply with the new legislation. We, therefore, are compelled to proceed with Bill 44 amendments, and the complementary amendments will be optional; but staff recommend they be processed on the same timeline.

Amendment Proposed to Works and Services Bylaw

One of the gaps that was highlighted at the February 7, 2024, EASC meeting where this matter was first considered is the proof of water for suites. At the moment, the Works and Services (W&S) Bylaw No. 4431 only requires proof of water at the subdivision stage. The W&S Bylaw not requiring proof of water at the building (permit) stage is a potential loophole, as the Building Officials cannot deny a permit if an open tap at a plumbing check produces water. **Attachment J (Bylaw No. 4570)** is an amendment to Bylaw No. 4431 that imposes a proof of water requirement for new residential buildings. This should assist in ensuring that the water source is properly licensed and there is sufficient capacity for the requested new building. It will also be useful for vacant parcels, when a first unit is proposed.

Complementary Proposed Zoning Amendments

The draft bylaws that contain the non-Bill 44-related proposed amendments follow:

Attachment K – Bylaw No. 4571 – South Cowichan (Areas A and C) Zoning Amendment Bylaw:

- multiple new definitions
- new nomenclature for dwellings
- remove the minimum site area requirement for detached suites
- permit detached suites in the ALR subject to ALC regulations

Attachment L – Bylaw No. 4572 – Area B Zoning Amendment Bylaw:

- multiple new definitions
- new nomenclature for dwellings
- remove site area requirement for detached suites
- permit detached suites on ALR land subject to ALC regulations
- revise suite covenant requirements so subdivision can occur when compliant with bylaw

Attachment M – Bylaw No. 4573 – Area D (Marine) Zoning Amendment Bylaw:

- multiple new definitions
- new nomenclature for dwellings
- change reference to Section 946 to Section 514 of the *Local Government Act (LGA)* in Section 13.16
- Relabel several sections in numerical order

Attachment N – Bylaw No. 4574 – Area D (Upland) Zoning Amendment Bylaw:

- multiple new definitions
- new nomenclature for dwellings
- change reference to Section 946 to Section 514 of the *LGA* in Section 2.5.6
- all density regulations in zones revised to permit suites to be counted as “dwelling unit”

Attachment O – Bylaw No. 4575 – Area E Zoning Amendment Bylaw:

- multiple new definitions
- new nomenclature for dwellings
- change reference to Section 946 to Section 514 of the *LGA* in Section 5.28

Attachment P – Bylaw No. 4576 – Area F Zoning Amendment Bylaw:

- multiple new definitions
- remove site area requirement for detached suites
- permit attached suites on ALR land, subject to ALC regulations

Attachment Q – Bylaw No. 4577 – Area G Zoning Amendment Bylaw:

- multiple new definitions
- new nomenclature for dwellings
- permit detached suites on all residential properties where attached suites are permitted
- remove site area requirement for detached suites
- permit suites on ALR land, subject to ALC regulations

Attachment R – Bylaw No. 4578 – Area H Zoning Amendment Bylaw:

- multiple new definitions
- new nomenclature for dwellings
- change reference to Section 946 to Section 514 of the *LGA* in Section 13.16
- revise suite covenant requirements so subdivision can occur when compliant with bylaw
- Section 5.25 amended to change “Section 946” to “Section 514”

Attachment S – Bylaw No. 4579 – Area I Zoning Amendment Bylaw:

- multiple new definitions
- new nomenclature for dwellings
- density regulations in zones changed to reflect suites as “dwelling units”
- wording of Section 3.25: “Section 946” changed to “Section 514” of the *LGA*

Referrals and Notice

Given the Provincial prohibition on public hearings for bylaws that are required to give effect to Bill 44 requirements and the short timeline, the referral list should be reduced to the strict minimum for Bylaw Nos. 4546-4554. Given the approval path for amendments, those zoning bylaws, where part of the affected electoral area lies within 800 m of an intersection of a numbered Provincial Highway (#1 and #18), will be referred to the Ministry of Transportation and Infrastructure. This will give them advance notice that the amendment bylaws will be coming shortly for *Transportation Act* approval. This will be the case for Bylaw Nos. 4546, 4547 and 4549-4553. Because Bylaw No. 4548 (Area D Marine) applies to lands within the Cowichan Estuary Environmental Management Plan (CEEMP) area, approval of the Minister of Environment is required prior to adoption. The Area I zoning amendment Bylaw No. 4554 may be adopted without MoTI approval.

Bill 44 has collateral effects upon water purveyors and sewer service providers. In many cases, these services are run by the CVRD, but in other cases they are provided by improvement districts or private utilities. Some are even run by strata corporations. Although not legally required, staff propose to send the draft amendment bylaws and a short explanatory note to all improvement districts within the CVRD, to advise that they may notice an increase in connection requests for suites. In contrast, it's not feasible to connect with every private utility operator.

For the zoning amendment bylaws that are not directly Bill 44-related but address bylaw maintenance and complementary measures to give residents greater access to detached suites, staff propose that the same protocol as above apply. It would be possible to do a more thorough suite of referrals for those complementary bylaws, but this is not the recommended path.

In the opinion of staff, the proposed Works and Services Bylaw amendment does not require referrals.

Option 1 is recommended as follows:

That it be recommended to the Board:

1. That the draft zoning amendment bylaws for all electoral areas for the purpose of increasing opportunities for suites in CVRD electoral areas, bylaw maintenance, and satisfying provincial legislative requirements, be forwarded to the Board for consideration;
2. That improvement districts and private utilities within the areas affected by the proposed amendments be notified of (not referred to) the draft bylaw that applies in their service area;
3. That amendment bylaws applicable to lands within 800 m of a Controlled Access Highway be referred to the Ministry of Transportation and Infrastructure; and
4. That a public hearing not be held and that notice be provided in accordance with CVRD Bylaw No. 4483 – Development Application Procedures Bylaw, 2023.

Option 2:

That it be recommended to the Board:

1. That draft Amendment Bylaw Nos. 4546-4554 and the draft Works and Services Amendment Bylaw – Attachment J – to the staff report dated March 20, 2024, for the purpose of Bill 44 compliance be forwarded to the Board for consideration;
2. That the zoning amendment bylaws – Attachment K through S – that would implement changes to detached suite regulations and correct typographical and other errors in the parent bylaws be referred to Advisory Planning Commissions and agencies for comment, and be brought back to this Committee for further consideration;
3. That improvement districts and private utilities within the areas affected by the proposed amendments be notified (not referred) the draft bylaw that applies in their service area;
4. That amendment bylaws applicable to lands within 800 m of a Controlled Access Highway be referred to the Ministry of Transportation and Infrastructure; and
5. That a public hearing not be held for Bylaw Nos. 4546-4554 as mandated by Bill 44.

Reminder: there is a mandatory deadline of June 30, 2024, for completion of Bill 44-related bylaw amendments.

FINANCIAL CONSIDERATIONS

A Provincial grant amounting to over \$323,000 will cover any and all Bill 44-related expenses for OCP and zoning bylaw amendments, required updates to Housing Needs Assessments for electoral areas, and related work.

COMMUNICATION CONSIDERATIONS

N/A

STRATEGIC/BUSINESS PLAN CONSIDERATIONS

Supports Strategic Objective 6 – To create healthy, livable, and efficiently serviced communities.

GENERAL MANAGER COMMENTS

☐ Not Applicable

Draft amendment bylaws will be legally reviewed for consistency with the CVRD Official Community Plan for the Electoral Areas and legislative requirements.

Referred to (upon completion):

- ☐ Community Services (*Arts & Culture, Cowichan Community Centre, Cowichan Lake Recreation, South Cowichan Recreation, Facilities & Transit*)
- ☒ Corporate Services (*Finance, Human Resources, Information Technology, Legislative Services*)
- ☐ Operations (*Parks & Trails, Recycling & Waste Management, Utilities*)
- ☐ Land Use Services (*Building Inspection & Bylaw Enforcement, Community Planning, Development Services, Strategic Initiatives*)
- ☐ Strategic Services (*Communications & Engagement, Economic Development, Emergency Management, Environmental Services*)

Prepared by:

Reviewed by:



Mike Tippett, RPP, MCIP
Manager

Not Applicable
Not Applicable



Ann Kjerulf, RPP, MCIP
General Manager

Reviewed for form and content and approved for submission to the Committee:

Resolution:

Financial Considerations:

☒ Corporate Officer

☒ Chief Financial Officer

ATTACHMENTS:

- Attachment A – Bylaw No. 4546 – South Cowichan Zoning Amendment Bylaw (Bill 44 Compliance)
- Attachment B – Bylaw No. 4547 – Electoral Area B – Zoning Amendment Bylaw (Bill 44 Compliance)
- Attachment C – Bylaw No. 4548 – Electoral Area D – Marine Zoning Amendment B (Bill 44 Compliance)
- Attachment D – Bylaw No. 4549 – Electoral Area D – Upland Zoning Amendment (Bill 44 Compliance)
- Attachment E – Bylaw No. 4550 – Electoral Area E – Zoning Amendment (Bill 44 Compliance)
- Attachment F – Bylaw No. 4551 – Electoral Area F – Zoning Amendment (Bill 44 Compliance)
- Attachment G – Bylaw No. 4552 – Electoral Area G – Zoning Amendment (Bill 44 Compliance)
- Attachment H – Bylaw No. 4553 – Electoral Area H – Zoning Amendment (Bill 44 Compliance)
- Attachment I – Bylaw No. 4554 – Electoral Area I – Zoning Amendment (Bill 44 Compliance)
- Attachment J – Bylaw No. 4570 – Works and Services Amendment (Proof of Water Building Permit)
- Attachment K – Bylaw No. 4571 – South Cowichan Zoning Amendment Bylaw (Detached Suites)
- Attachment L – Bylaw No. 4572 – Electoral Area B – Zoning Amendment Bylaw (Detached Suites)
- Attachment M – Bylaw No. 4573 – Electoral Area D – Marine Zoning Amendment Bylaw (Bylaw Maintenance)

- Attachment N – Bylaw No. 4574 – Electoral Area D – Upland Zoning Amendment Bylaw (Bylaw Maintenance)
- Attachment O – Bylaw No. 4575 – Electoral Area E – Zoning Amendment Bylaw (Bylaw Maintenance)
- Attachment P – Bylaw No. 4576 – Electoral Area F – Zoning Amendment Bylaw (Bylaw Maintenance)
- Attachment Q – Bylaw No. 4577 – Electoral Area G – Zoning Amendment Bylaw (Bylaw Maintenance)
- Attachment R – Bylaw No. 4578 – Electoral Area H – Zoning Amendment Bylaw (Bylaw Maintenance)
- Attachment S – Bylaw No. 4579 – Electoral Area I – Zoning Amendment Bylaw (Bylaw Maintenance)