

Date January 31, 2024
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Subject Housing Statutes (Residential Development) Act Amendment Direction

REQUEST

To authorize the preparation of bylaw amendments to implement changes to permitted residential dwelling units resulting from the *Housing Statutes (Residential Development) Act*.

OPTIONS

1. THAT bylaws amendments to permit one secondary suite in restricted zones as defined by the *Housing Statutes (Residential Development) Act* and updated related regulations be prepared as identified in the January 31, 2024 staff report.
2. THAT bylaws amendments to permit one secondary suite in currently restricted zones as defined by the *Housing Statutes (Residential Development) Act* and updated related regulations as identified in the January 31, 2024 staff report be prepared with the following amendments _____.

RECOMMENDATION

Option # 1

BACKGROUND

In November 2023, the Provincial Government enacted legislation to create more housing options and to work towards implementing the Homes for People Action Plan. The *Housing Statutes (Residential Development) Amendment Act*, or Bill 44, 2023, is one of the latest pieces of legislation to implement the goals of the Plan. The Act amends the *Local Government Act* and includes mandatory requirements for all local governments to change applicable zoning regulations to increase the number of permissible dwelling units per lot by June 30, 2024.

Zoning regulations must be amended to permit one secondary suite and/or one detached accessory dwelling unit (ADU) in any zone that currently does not permit any ADU. The additional density or type of housing unit(s) to be accommodated by local government is at their discretion if the required minimum is permitted.

The Province has issued a Provincial Policy Manual & Site Standards document to support local governments in making the required amendments to their bylaws. The publication includes guidance for each of the levels of mandatory density (2, 3, 4 or 6 units). Provincial staff have identified that each local government is expected to consider this guidance in making decisions around how to amend their bylaws. The site standards applicable to the RDEK are for lots requiring a minimum of two dwelling units. The Province has identified recommended benchmark regulations for specific zoning regulations that are intended to be permissive enough to accommodate a second dwelling unit on all parcels. The guidance is clear that local governments must not introduce or retain zoning regulation requirements that would result in the new density being impossible to achieve. For example, the province recommends reducing the off-street parking requirements or eliminating the requirement for an additional space for secondary suites.

ANALYSIS

Restricted Zones

A limited number of zones currently do not permit a second dwelling unit and are restricted zones under the Act. These zones must be amended to permit a second dwelling unit. These restricted zones are generally small urban sized residential parcels with required minimum parcel sizes in the smallest range permitted by the bylaw. An overview of the restricted zones that must be amended is outlined below:

Bylaw	Zones <u>requiring</u> amendment
Columbia Valley	R-1, Single Family Residential R-1(B), Single Family Residential (Small Lot)
Electoral Area C	RS-1(A), Residential (Semi-Rural Single Family)
Electoral Area E	R-1(A), Residential (A) RES-1(A), Recreation Residential (A)
Elk Valley	None
South Country	RS-1(A), Residential (Semi-Rural Single Family)
Steeple	RS-1(A), Residential (Semi-Rural Single Family) RR-1(A), Single Family Residential (Small Lot)
Sweetwater	R-1(C), Single Family Small Lot
Wycliffe	None
Jaffray, Tie Lake, Rosen Lake Land Use Bylaw*	RS-1(A), Single Family Residential (A)

Consequential amendments may also be required on a bylaw specific basis depending on the current definitions and regulations. Proposed changes must also consider the Provincial Policy Manual & Site Standards. An overview of the guidance provided by the province and preliminary analysis is provided in Appendix A.

Bylaw amendments to bring the zoning into conformity with the Act allows for an exemption for the bylaw to be contrary to the objectives and policies of an OCP. For example, amendments to permit secondary suites will conflict with policies of the Fairmont Hot Springs and Columbia Lake OCP. The mandatory requirement to update OCPs by the end of 2025 does not apply to Regional District, however, provincial guidance recommends that the OCP be updated as soon as feasible.

Discussion

In considering how to accommodate the additional density, a decision must be made on whether to accommodate the second dwelling unit as a secondary suite in the principal dwelling or as a detached accessory dwelling unit (ADU). ADUs are often referred to as carriage houses, granny flats, garden suites and laneway housing. The bylaws currently have accommodations for detached ADUs, although use and parcel size limitations limit when the option is available. Residential ADUs are currently permitted in the eight zoning bylaws through regulations to accommodate: carriage houses (dwelling unit on second storey of a detached garage), residence for relative requiring care regulations (manufactured home) and secondary dwelling unit for farm hand(s). The Jaffray, Tie Lake, Rosen Lake Land Use Bylaw does not currently permit carriage houses.

*The Jaffray, Tie Lake, Rosen Lake Land Use Bylaw may be exempt from the requirements of the Act if it was adopted as a Rural Land Use Bylaw. Provincial staff have recommended that the RDEK seek independent legal advice to determine if the exemption applies.

The Provincial guidance is that while local governments have the option of a secondary suite and/or a detached ADU, that detached ADUs should not be permitted on parcels less than 1 ha (2.47 ac) unless they are connected to community servicing operated by a local government. Despite the current regulations that allow detached ADUs on parcels contrary to this guidance. In consideration of the small minimum parcel size requirements of the restricted zones requiring amendment and the absence of community servicing, at this time only the addition of secondary suites in the principal dwelling unit within the restricted zones is proposed.

Through considering the impacts of the Act, staff has identified potential opportunities to amend regulations to ensure flexibility in housing options in the rural areas and how to align zoning regulations with recent changes in provincial legislation, such as allowance of a second residence by the *Agricultural Land Commission Act*. However, to ensure that the scope of these amending bylaws aligns with the requirements of the Act, including the public hearing exemption, and the limited timeframe within which to proceed with the bylaw process, the staff recommendation on how to proceed is limited to changes to secondary suites within a principal dwelling unit only. Further consideration of regulatory changes to detached ADUs should proceed through a separate process that can incorporate the appropriate community consultation, OCP amendments, and fully consider the provincial guidance on servicing requirements and site standards.

In accordance with the Act, public hearings will not be held for these amending bylaws. Instead, a bylaw amendment notice process will be followed where a public review period will be held in advance of Board consideration of the Bylaws. The Bylaws will be required to be approved by the Ministry of Transportation and Infrastructure (MOTI). As such, the bylaws must be considered by the Board no later than the May Board Meeting. The public review period will be held for as long as possible in advance.

Recommendation:

The bylaw amendments for revised regulations to align the bylaws with the Act, the current BC Building Code and in consideration of provincial guidance on servicing requirements and site standards are:

- 1) Amend the restricted zones to permit a secondary suite within a principal dwelling unit only.
- 2) Remove the 90 m² (968 ft²) cap for the size of secondary suites located within a principal dwelling unit.
- 3) Retain the requirement that the secondary suite be limited to 40% of the principal dwelling unit.
- 4) Expand the types of dwelling units in which secondary suites are permitted to align with current BC Building Code regulations, e.g. townhouse or row house.

SPECIFIC CONSIDERATIONS

Priority Projects

Review of Secondary Suite Size Limits is identified as a 2023 Strategic Priority.

Regional Sustainability Strategy

6.3.5 Quality Development

Among the goals for promoting quality development in the rural area are:

- b) Balancing new density with appropriate requirements for community servicing.

6.3.6 Corporate

RDEK staff will:

- a) Reference policy, context and past decisions to support the administration of land use applications.

Communication

A dedicated Engage Page with information resources will be established for the restricted zone amendment Bylaws. A communications plan will be developed for the initiative to provide information in advance of, during and post bylaw process.

Timeline

- February to March – Bylaw Drafting
- April – Interagency Referral (as determined to be appropriate)
- Late April to Early May – Public Review Period on Draft Bylaws
- May – Bylaw Introduction – 1st, 2nd & 3rd Reading
- June – Bylaw Adoption

Attachments:

Appendix A - Analysis of Provincial Guidance Document Recommendations for lots requiring a minimum of 2 units