



## REQUEST FOR DECISION

To: Development & Planning Services Committee

From: Manager of Planning and Building

Title: Zoning Bylaw Amendment Application No. 1288 – Accessory Dwelling Unit Definitions, General Regulations, Removal of R1, R2 and R8 zones, and Addition of R-10 Zone

Date: April 2, 2024

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### **Executive Summary/Purpose:**

The first of three text amendments to the Zoning Bylaw in order to bring the City's bylaws into compliance with the Local Government Act regulations to allow for Small Scale Multi Unit Housing (SSMUH). The amendments proposed in this report are specific to the following sections of the Zoning Bylaw:

- Section 2. Definitions,
- Section 4. General Regulations,
- Section 5. Establishment of Zones, and
- Section 6. Residential Zones.

### **Motion for Consideration:**

THAT: a bylaw be prepared for Council's consideration that if adopted would have the effect of amending Zoning Bylaw No. 2303 adding definitions, general regulations, amending establishment of zones, and removing the R-1 Single Family Residential Zone, R-2 Single Family/Duplex Zone and R8 Residential Zone and replacing with the R-10 Residential Zone in order to be compliant with Provincial legislation to implement Small Scale Multi Unit Housing (SSMUH).

### **Staff Recommendation:**

That the motion for consideration be adopted.

### **Proposal:**

This report summarizes the required Small Scale Multi Unit Housing (SSMUH) legislation the Province has implemented and details changes to section 3 Definitions and section 4 General Regulations. It also explains how this is proposed to be incorporated into the Zoning Bylaw via the new R-10 Zone. This zone would replace the R-1, R-2 and R-8 zones of Zoning Bylaw 2303, allowing up to four dwelling units on almost all properties currently zoned for one or two dwellings.

Subsequent changes to the R-7 Large Lot Single Family Residential Zone and R-9 Estate Residential Zone and the three Agriculture Zones will be less complicated as those can build upon the framework of amendments explained in this report.

**Background:**

*SMUHH Policy Manual*

The *Housing Amendment Statute* (formerly Bill 44) is accompanied by a 95 page manual (the “Policy”) which details the standards that must be considered by municipalities when making the necessary bylaw changes to meet the increased densities across what is now one and two family residential zoning.

While density is prescribed by legislation, other zoning provisions remain under municipal authority. The key is that these must not undermine the spirit or intent of the density changes. The Policy standards that needs to be considered in making the bylaw changes, includes:

- Building type/form – *recommend to be more broad and permissive*
- Parcel setbacks – *recommend to keep to minimum*
- Building height/number of storeys –*recommend 3 storey*
- Parcel coverage – *recommend ~50%*
- Floor area ratio – *recommend to eliminate this zoning provision*
- Off-street parking requirements – *recommend to reduce*



The Policy is drafted with a focus on large urban centres with relatively small parcels, little snow, and frequent transit.

Small-Scale, Multi-Unit Housing

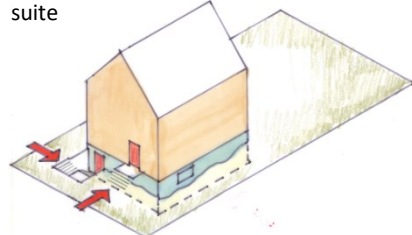
*Salmon Arm Context and Scope*

According to recent geo-spatial information, the average parcel area across Salmon Arm suburban residential land is 0.35 acre, three to five times larger than the assumed urban context in the Policy’s site standards. The vast majority of serviced residential lands within the Urban Containment Boundary (UCB) are zoned R1 and will have increased density of up to 4 units. There are 16 small R1 lots in the City, having less than 280m<sup>2</sup>, which may have up to three housing units. The proposed bylaw will impact the following number of parcels (*source: SA GIS mapping*):

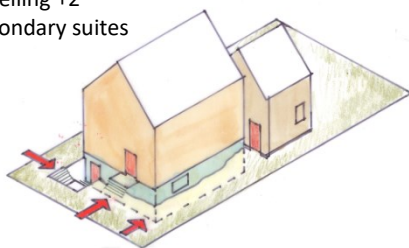
R1	3666	parcels (incl. 3 strata parcels and 18 comprising of more than one zone)
R2	12	parcels (incl. 2 strata condo and 2 fee simple –i.e. duplex is one title)
R8	419	parcels (incl. 2 bare land strata and 4 comprising of more than one zone)

There are ample opportunities for landowners to add accessory dwelling units to their yard or, if yards/topography do not allow, several secondary suites into or onto their home (as illustrated below). While it is reasonable to anticipate that most landowners will maintain the status quo, some will seek to add dwelling units where and as permitted.

Dwelling +1 secondary suite



Dwelling +2 secondary suites



Dwelling + 3 secondary suites



Other than density, floor area ratio (FAR), and parking requirements, the majority of existing Zoning Bylaw provisions for setbacks, building height, and parcel coverage are generally acceptable as measured against the provincial Policy. This is a benefit because a zoning change that is more restrictive results in a non-conformity albeit a lawful one (i.e. “grandfathering”). Where possible, it is preferable to avoid non-conformity as this can impact insurance and rebuilding in the case of a loss. There is an opportunity to make some refinements to Bylaw provisions, in line with the added density and build-out, to avert unintended and/or negative consequences.

As compared to typical municipal zoning bylaws from across the province, the Salmon Arm bylaw is shorter, less complex and less regulatory, so the main change will in fact be the increase in density.

### *R-10 Residential Zone*

Based upon staff analysis, seven of the nine “R” zones in Bylaw 2303 will be substantially impacted. Three of these zones are effectively rolled into one zone, named “R-10”. The R2 and R8 zones are redundant given the R1 will allow up to four dwelling units. Various revisions to existing bylaw definitions and some additional provisions that will effectively regulate build-out are recommended for Council consideration.

The “Purpose” statement at the beginning of each zone speaks to why we have the given zone. The new R-10 Purpose reads as follows:

“The purpose of the R-10 Zone is to permit ground-oriented small scale residential use comprising of *single family dwellings* and *duplexes*, either with or without *secondary suites*, and detached *accessory dwelling units*, developed up to a maximum density that is based upon *parcel area*.”

The list of permitted uses and the number of permitted dwellings/buildings on R-10 properties have been updated to enable density based upon parcel area, specifically:

“No more than two dwelling units are permitted on a parcel of area 4050 square metres (1 acre) or more, where the largest building is deemed the principal building; and

No more than three dwelling units are permitted per parcel of area less than 280 square metres (3014 square feet), where the largest building is deemed the principal building; and

No more than four dwelling units are permitted per parcel of area between 280 and 4050 square metres (3014 square feet and 1 acre), where the largest building is deemed the principal building.”

The limit to two dwellings on parcels over an acre is to protect orderly future subdivision, including provision of utilities, sidewalks, road/bike lane dedications, etc. It is similar to the increase in density across all rural and semi-rural zones, outside the urban containments boundary, where two dwelling units, either a secondary suite or an accessory dwelling unit, must be permitted.

### *Zoning Bylaw Changes*

The points below list the changes and provide a short summary followed with the rationale and background for each change. Some of these are quite minor and proposed to align with the terminology in the Act and for consistency through the Bylaw. A draft of the proposed bylaw is attached as Appendix 1 for reference.

1. **Accessory Dwelling Unit (ADU) definition** will replace the current “detached suite” definition and will remove the limit to dwelling unit gross floor area. It also clarifies and continues to spell out what is not a dwelling unit; for example a mobile home or recreational vehicle are not permitted ADUs.

*The change is to apply consistent terminology used in both legislation and the Policy. The proposed term covers the full range of building type (i.e. carriage house, garden suite, laneway home, etc.). The area restriction is proposed to be eliminated – but even if it was to be maintained (or some revised limit is added), this should be set out in a bylaw body and not in the definitions section.*

2. **Duplex definition** revised to clarify it may or may not be subdivided by strata or fee simple.

*The proposed change clarifies that a duplex can have various forms of ownership while secondary suites and ADUs cannot and do not invite subdivision - their purpose is to create rental housing.*

3. **Dwelling Unit** definition is updated to read that it must have (not “usually” have) a kitchen, bathroom, etc.

*This is a minor wording change to align with the Policy and for concordance with other definitions.*

4. **Secondary Suite definition** is replaced/updated to accord with the Policy and remove both the 90m<sup>2</sup> area limit and the cap of 40% of dwelling floor space.

*The proposed change will remove regulatory provisions from the definition. Should Council wish to re-introduce a size limit to secondary suites, this will be in the general regulation or under the given zone in the body of the bylaw. The definition continues to stipulate that it is the same real estate entity as the principal dwelling and so cannot be subdivided.*

5. **Short-Term Rental definition** is added to ensure clarity for potential future enforcement as the use of ADUs and secondary suites is to secure long term rental housing and not compete with motels.

*This term is not currently used in the Bylaw but is proposed to be added for certainty as a prohibition for ADU and secondary suite use. It should be defined to mean rental for less than 30 days.*

6. **Suite definition** is proposed to be deleted.

*The current definition is the common or dictionary definition and so is unnecessary. Also, it may result in confusion with “secondary suite” which is necessary to limit and define in the Bylaw.*

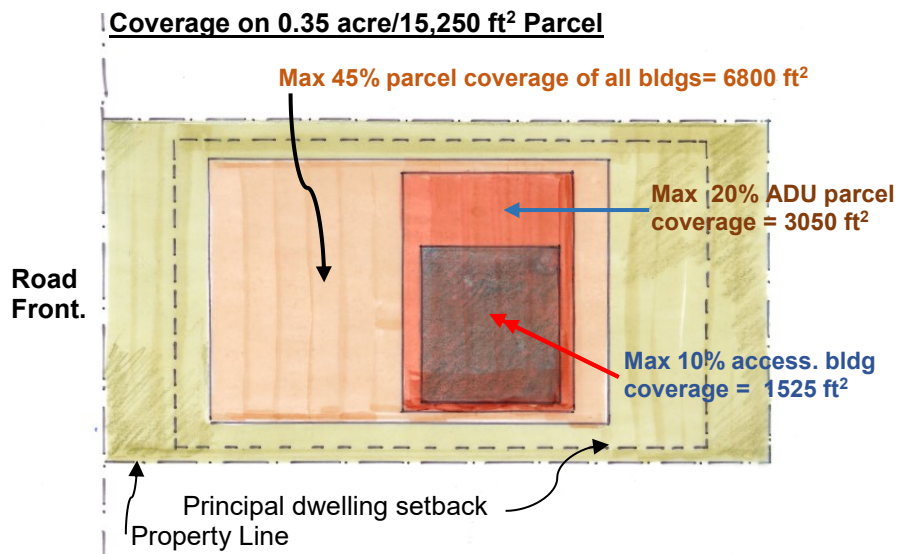
7. **Building parcel coverage** is proposed to be progressively delineated by the building use. The total of all buildings (incl. principal dwelling) remains capped at 45%, whereby of this 45% up to 20% can be accessory dwellings and up to 10% can be all other permitted accessory dwellings.

*The current limit of 45% is proposed to remain as it is in the middle of the 40% to 50%, depending on the given total parcel area, suggested in Policy. What is added is the cap of 20% for ADUs.*

If we are to eliminate the 90m<sup>2</sup> cap of unit size, this is a critical control for regulating parcel build-out. It may prompt developers to create suites in the principal dwelling or additions to the dwelling rather than detach the new construction.

It may also encourage developers to go to 2 storeys rather than cover their yards horizontally with buildings.

In cases where an ADU is combined with an accessory building (e.g. above a garage) this would be calculated to comprise a part of the 20%, to the benefit of the applicant. Please refer to the explanatory diagram above.



**8. Accessory Dwelling Unit (ADU) general regulations in section 4.2 that apply to all case of SSMUH infill are proposed to be renamed and updated as follows:**

- .1 No accessory building or structure shall be used as a dwelling unit except for an approved ADU.
- .2 An ADU entrance shall be accessible via an unobstructed minimum 1.2 metre wide and 2.1 metre high illuminated, constructed pedestrian walkway from the public road and from the off-street parking space(s).
- .3 An ADU address shall be identified and visible from the public road frontage.
- .4 An ADU shall be oriented and appropriately screened with landscaping or solid fencing to provide privacy in relation to neighbouring properties.
- .5 An ADU shall be appropriately serviced.
- .6 No detached ADU shall be used for short term rental or bed and breakfast operation.
- .7 Subdivision and strata subdivision of an ADU is prohibited.



Aside from some minor terminology updates, the two main changes to the preceding are 1) removal of the 90m<sup>2</sup> size limit for ADUs and 2) the dimensioned parameters for unit access, identification, and visibility. The latter is critical for both guests (e.g. parcel

delivery contractors) and emergency service attendants to quickly, confidently and safely way-find themselves to the correct front door.

With regard to 8.7, staff note that the prohibition on the subdivision or strata subdivision of ADUs is in place until the Subdivision and Development Servicing Bylaw amendments are adopted. Until then, units will be constructed under a single title (rental) and may undergo the strata conversion process at a later date.

9. **Water permeable surfaces** such as grass, gravel, gardens must comprise at least 40% of lot area in the R-10 zone. To support this new provision, the following definition and general provision are proposed to be added to the Bylaw front end:

**PERMEABLE SURFACE** means a porous material that enables stormwater to be absorbed and percolated into subsurface soils such that it will not run-off, collect, or pool in the course of normal storm events.

For the purposes of this Bylaw and the calculation of minimum *permeable surface* lot coverage, measured horizontally, the following surfaces or finishes are not *permeable surfaces*:

- .1 buildings and roofed structures, with the exception of those with green roofs that reduce storm water discharge by more than 25% (by both rate and quantity);
- .2 asphalt, concrete, grouted pavers, and similar hard surfacing;
- .3 non-permeable artificial turf;
- .4 tongue in groove and vinyl or fibreglass decking;

And for clarity, structures designed to retain water such as swimming pools, reflecting pools and ornamental ponds, shall be considered permeable.

*Aside from the required density change, regulating the hard surfacing of parcels is arguably the most significant proposed change in the Bylaw. The rationale is that the proposed changes in density will result, in some cases, in significant build-out on a property. Zoning Bylaw 2303 does not currently regulate this attribute of development; however, limiting parcel hard-surfacing is commonplace in urban municipal zoning bylaws.*

*The municipal storm water system, aquifer recharge, as well as aesthetic character of our residential neighbourhoods will all be better served by adding a regulation to keep a meaningful portion of a property green instead of hard-surfaced. This will encourage developers to be more creative and rigorous in their site planning. Where a developer wishes to exceed the 40%, a variance shall be required forcing a fulsome analysis of the development and its stormwater management, topography, catch basins and the capacity of the City stormwater system. A Council Policy to support and guide this will be forthcoming in a report next month.*

*Acknowledging that "improvements" such as paving of a gravel driveway or adding small out-buildings does not trigger any development application, staff propose to educate the public regarding the changes. Bylaw enforcement of these specific regulations would be on a case by case basis. However, after adoption of the bylaw amendments all Building Permits for residential development must provide permeable surface calculations to ensure compliance with the regulations.*

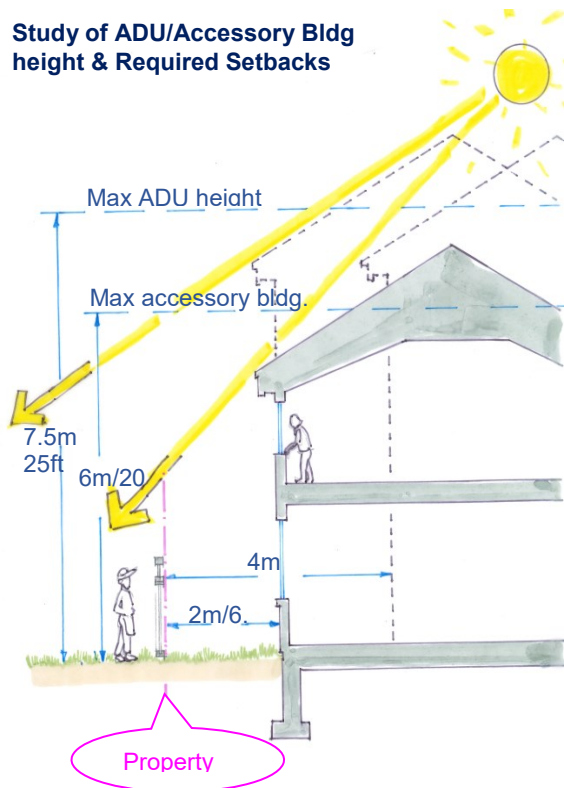
10. **Building Setbacks for Accessory Dwelling Units** are increased but only where higher building heights are proposed.



The increase in density means that there will be cases where a property in an established, treed, large lot neighbourhood is transformed.

A change to setbacks is recommended to give some relief in cases where larger, higher accessory dwelling units (one, two, or three be they attached or detached) are proposed to be added to yards. As illustrated in the adjacent sketch, it will afford some measure of protection of sun and privacy to adjoining properties. The current ADU setback of 3m to the rear lot line and 2m to an interior side are not proposed to change in the case of buildings that are up to 6 metres high.

The existing Bylaw setbacks for the principal building/dwelling and for accessory buildings are not proposed to change. Note that an accessory building can also be up to 6m high and at a setback of only 1m to the rear and 1m to an interior lot line and can present a large building mass; however, these are limited to 10% of parcel coverage and typically do not include a lot of windows. Accessory buildings do not present as a wall of development to the neighbour.



11. **Parking space** requirements are proposed to decrease from 2 to 1 per single family dwelling or duplex and from 1.5 or 1.25 to 1 per unit in multi-family zones. Secondary Suites and detached dwelling will remain at 1 per unit. Note that these are minimum parking requirements and developers / builders can exceed them if they wish.

*The Policy recommends to eliminate minimum parking requirements altogether and enable owners and developers to determine if and how many spaces they wish to develop on a given property. Given that limited transit options and snow removal challenges need to be considered, the Bylaw requirements are recommended to reduce but not be eliminated outright.*

### **Relevant Policy(ies):**

In draft form Development Permit Area Guidelines to be added into the Official Community Plan and a Development Procedures Bylaw with accompanying Council Policies have been brought forward for Council consideration.

Prior to the June 30, 2024 deadline zoning and other bylaws will be brought forward for Council's consideration that would be utilized by Council, staff and the public to review and approve Small Scale Multi Unit Housing (SSMUH).

### **Referral Comments:**

In the drafting of the various bylaws related to SSMUH, planning staff consulted with staff.

Fire Department

N/A

Building Department

N/A

Engineering Department

N/A

Other

N/A

Planning Department

As previously directed by Council, the changes are being implemented progressively with several zoning bylaws, each progressing to second reading. Since the R-10 is the first “new” zone and it will apply to the majority of residential land within the urban containment boundary, this report is fulsome and detailed. The subsequent zoning bylaws will be shorter and will build upon these changes.

Advancing the proposed Bylaw to Council for first and second reading will place it on the agenda and start the process to meet the June deadline.

In closing, staff acknowledge that the changes to density are substantial. How they will play out in new development and how many homeowners or developers of vacant lands will opt to develop to these densities is unknown. As development proceeds after all the SSMUH bylaws are adopted staff may need to initiate ‘house keeping’ amendments to the bylaws in the first year in which the bylaws take effect.

**Financial Considerations:**

N/A

**Committee Recommendations:**

N/A

**Public Consultation:**

The *Local Government Act* prohibits Council from holding a Public Hearing for bylaw amendments that are for the sole purpose of implementing bylaw amendments related to SSMUH. Notice will be given in two consecutive editions of the newspaper in advance of Council considering first reading of the proposed bylaw. It is expected that first reading will be considered that the April 22, 2024 Regular Council meeting.

**Alternatives & Implications:** (alternatives written in motion form)

N/A

Prepared by: Planning Analyst & Manager of Planning and Building

Reviewed by: Director of Planning & Community Services

Approved by: Chief Administrative Officer

Attachments:

- Appendix 1 – Draft Bylaw No. XXXX