

ATTACHMENT A
2023-DEC-18 STAFF REPORT TO COUNCIL

DATE OF MEETING |December 18, 2023|

AUTHORED BY |CALEB HORN, PLANNER, CURRENT PLANNING|

**SUBJECT GENERAL AMENDMENTS TO CITY OF NANAIMO ZONING
BYLAW**

OVERVIEW

Purpose of Report

To present, for Council’s consideration, general text and mapping amendments to “City of Nanaimo Zoning Bylaw 2011 No. 4500”. |

Recommendation

That:

1. “Zoning Amendment Bylaw 2023 No. 4500.219” (General text and mapping amendments to “City of Nanaimo Zoning Bylaw 2011 No. 4500”) pass first reading;
2. “Zoning Amendment Bylaw 2023 No. 4500.219” pass second reading; and,
3. Council direct Staff to not hold a Public Hearing for “Zoning Amendment Bylaw 2023 No. 4500.219” prior to consideration of third reading and to provide notice if a Public Hearing is not held.|

BACKGROUND

The “City of Nanaimo Zoning Bylaw 2011 No. 4500” (the “Zoning Bylaw”) was adopted by Council on 2011-AUG-08 and is amended from time to time. A total of nine general amendment bylaws have been adopted and the last round of general amendments were adopted by Council on 2021-DEC-06. Council has previously recognized that the Zoning Bylaw is iterative and subject to revisions to update the content, improve clarity, and maintain the relevancy of zoning regulations. As the Zoning Bylaw is applied in practice, Staff evaluate the effectiveness and clarity of existing regulations and identify areas for improvement. Mapping changes are also made periodically, for example, to City-owned or split-zoned parcels. |

DISCUSSION

Proposed Amendments

The proposed amendment bylaw, if adopted, will result in 52 text amendments and 25 mapping amendments to the Zoning Bylaw which are summarized in Attachment A. The proposed text amendments include changes to provide consistency and clarifications, correct errors, or better align with emerging best practices. For example, proposed amendments 13-14 will remove setback requirements for heat pumps to align with current best practices, and proposed amendments 34, 38, and 41 will provide clarity on how mixed-use developments can achieve additional density. The proposed mapping amendments to Schedules A and E of the Zoning Bylaw will rezone parkland acquired through subdivision and resolve discrepancies in zoning.

The scope of text amendments to the Zoning Bylaw include updates to Part 3 – Establishment of Zones; Part 5 – Definitions, Part 6 – General Regulations, Part 7 – Residential, Part 8 – Agricultural Rural Residential, Part 9 – Corridor, Part 10 – Commercial Centre, Part 11 – Downtown, Part 13 – Industrial, Part 16 – Comprehensive Development Zones, Part 17 – Landscaping, and Part 18 – Development Permit Area (DPA) Guidelines.

It is anticipated that more substantial Zoning Bylaw amendments will be required next year to address new Provincial housing-related bills and regulations.

Next Steps

Under the Provincial *Local Government Act* (LGA) Section 464(2), a Public Hearing for a proposed zoning bylaw is not required where the bylaw is consistent with the Official Community Plan (OCP). It is Staff's opinion that "Zoning Amendment Bylaw 2023 No. 4500.219" is consistent with the City of Nanaimo OCP ("City Plan"). If no Public Hearing is held, notice must be given in accordance with the LGA Section 467. |

SUMMARY POINTS

- The proposed amendment bylaw, if adopted, will result in 52 text amendments and 25 mapping amendments to the Zoning Bylaw.
- The proposed text amendments include changes to provide consistency and clarifications, correct errors, or better align with emerging best practices.
- The proposed mapping amendments to Schedules A and E of the Zoning Bylaw will rezone parkland acquired through subdivision and resolve discrepancies in zoning. |

ATTACHMENTS

ATTACHMENT A: Summary of Proposed Amendments
"Zoning Amendment Bylaw 2023 No. 4500.219" |

Submitted by:

Lainya Rowett
Manager, Current Planning |

Concurrence by:

Jeremy Holm
Director, Planning & Development |

#	Section of Zoning Bylaw	Proposed Amendment	Rationale
1, 22	3.1 7.1	Change the name of the R4 zone from 'Duplex Residential' to 'Two Unit Residential'.	To clarify that the two units do not need to be attached (ie. in a duplex building form).
2, 28	3.1 8.1	Change the name of the AR2 zone from 'Urban Reserve' to 'Semi-Rural'.	For consistency with the City Plan future land use designation.
3	5 - Definitions	Revise the definition of 'Corner Lot'.	This will more accurately describe the relation of a corner lot to adjacent front and flanking side lot lines.
4	5 - Definitions	Amend the definition of 'Emergency Shelter'.	This will align the definition more closely with the definition in the <i>Assistance to Shelter Act</i> .
5	5 - Definitions	Delete the definition of 'Pedestrian Trail'.	The term is no longer used in the bylaw for this purpose.
6	5 - Definitions	Amend 'Rooming House' definition to change 'residential building' to 'single residential dwelling'.	This will clarify the type of residential buildings where the residential shelter use can occur.
7	5 - Definitions	Revise the definition of 'Single Residential Dwelling' to reference the <i>Community Care and Assisted Living Act</i> .	This change will reflect the current title of the Provincial act.
8	5 - Definitions	Revise definitions to replace 'sloping roof' with 'sloped roof'.	For consistency throughout the bylaw.
9	5 - Definitions	Revise the definition of 'Social Services Resource Centre' to reference a 'enclosed building'.	This will clarify where such uses are intended to operate.
10	6.1.1	Permit emergency shelter in all zones, when an extreme weather alert has been issued.	This will align with the <i>Assistance to Shelter Act</i> .
11	6.2.1.9	Permit containers in parks with certain conditions.	Will allow parks operations to utilize repurposed shipping containers for storage or other purposes.
12	6.5.1	Revise permitted projections to allow canopies.	This will accommodate weather-protection and protected outdoor areas in setbacks for multi-family and commercial developments.

#	Section of Zoning Bylaw	Proposed Amendment	Rationale
13-14	6.5.2	Revise the heat pump regulations to remove setback requirements.	This will allow for more permissive siting of heat pumps, while also still including a provision for screening from the street.
15	6.6.2	Include setbacks between accessory buildings, and clarify setbacks for accessory buildings without foundations.	This will provide clarification on separation between accessory buildings.
16	6.6.4	Revise accessory building setbacks to include a 1.5m setback from side lot lines.	This will prevent accessory buildings from being built in side yard setbacks on lots with 0m setbacks and where a form & character development permit is not triggered.
17	6.10.2	Increase the maximum side and rear yard fence height in the CS1 zone from 1.2m to 1.8m.	The increased fence height will be more appropriate for institutional uses in the CS1 zone, and is in line with fence heights for residential, corridor, and downtown zones.
18	6.15.3.2	Amend this subsection to read "no secondary suite within an accessory building shall be stratified from the principal dwelling unit to which it is accessory".	The intent of this subsection is to ensure that secondary suites in accessory buildings (detached suites) are not sold separately from principal dwelling units. This amendment will allow for the creation of new fee simple lots containing structures that were formerly a detached suite, so long as subdivision and building requirements are met.
19	6.19.1.5	Revise the regulations for home-based daycare to clarify that such a use must operate in the primary residence of the daycare operator.	The new wording will include reference a 'primary residence' which has been defined in the Zoning Bylaw since 2022.
20	6.20.3	Add 'automotive detailing' and 'carpentry, cabinet-making, and the like' as prohibited uses in Type 1 and Type 2 home-based businesses.	While these types of uses have previously operated as home-based business (HBBs), they typically generate noise complaints. The uses are not seen as appropriate in Type 1 and Type 2 HBB lots.
21	6.22.3	Remove the delegation of minimum frontage regulations to the Approving Officer.	This is now delegated by the City of Nanaimo "Officer Designation and Delegation of Authority Bylaw 2022 No. 7353".

#	Section of Zoning Bylaw	Proposed Amendment	Rationale
23, 50	7.3.1 18.5.4	Changing "on" to "one" and "note" to "not".	These changes will correct typographical errors.
24-25	7.3.4 - 7.3.5 7.37 - 7.3.12	Consolidate and re-order site-specific densities in Residential zones into a single table.	For ease of use.
26	7.4	Revise R12 'Total Lot Area' to 'Total Mobile Home Park Lot Area'.	This will clarify the minimum lot size of an entire mobile home park at the time of subdivision, as opposed to the minimum size of individual mobile home pad.
27	7.6.7 - 7.6.10	Consolidate site-specific building heights in Residential zones into a single table.	For ease of use.
29	8.3.2	Delete the restriction on stratifying two single residential dwellings in the AR2 zone.	This regulation was implemented when the AR2 zone was treated as an "urban reserve" for future development under the previous OCP, where stratification would frustrate future development and road networking. Under City Plan, these areas are now designated "Semi-Rural Neighbourhood" and no higher density future development is anticipated.
30-31, 36-37, 42	9.2.3 10.2.5 11.3.2 11.7.2	Update the legal descriptions of properties with site-specific zoning to the current legal descriptions.	These changes will correct legal descriptions on properties where lots have since subdivided, consolidated, or otherwise changed from what is shown in the current bylaw.
32-33	9.2.3	Update site-specific student housing uses and addresses for 560 Third Street and 525 Third Street.	These changes will remove the site-specific use from 560 Third Street where another use has been constructed (mixed-use multi-family residential and commercial) and 525 Third Street where the property has been subdivided.
34, 38, 41	9.3.1 10.3.1 11.3.1	Include language to reference the definition of 'Mixed Use' in bonus density tables.	This will clarify that only those developments that meet the definition of 'Mixed Use', e.g. with 25%-75% of the floor area dedicated to residential use, are eligible for this bonus density.

#	Section of Zoning Bylaw	Proposed Amendment	Rationale
35	10.2.1	Change 'Social Service Resource' to 'Social Services Resource Centre'.	For consistency throughout the bylaw.
39	11.2.4	Remove a site-specific use for 'Emergency Shelter'.	This use is presently permitted by the underlying DT4 zoning and the site-specific use is redundant.
40	11.3.2	Add a site-specific Floor Area Ratio of 6.0 for the property at 6 Commercial Street (former Jean Burns site).	To align with the City Plan 'Primary Urban Centre' land use designation and incentivize redevelopment of this City-owned lot.
43	13.2.1	Include warehouse as a permitted use in the I4 – Industrial zone.	The warehouse use is implied under the definition of 'Industrial' and this amendment will provide clarity.
44	13.2.2	Change the text "10.2.1" to "13.2.1".	This will correct an error.
45	13.4.5	Add a minimum 15m buffer for industrial buildings from the Agricultural Land Reserve (ALR).	This will reflect a best practice in the 'Guide to Edge Planning' produced by the Provincial Ministry of Agriculture.
46	13.6.1	Replace 'principal dwelling' with 'principal building'.	This will correct an error.
47-48	16.8.3	Remove references to "Zoning Bylaw 1993 No. 4000".	To reflect the current name of the bylaw.
49	17.11	Add R15 zone in the Minimum Landscape Treatment Level table.	This will correct an error.
51	18.6.4	Add a new exemption for DPA6 (Steep Slope Development) for subdivision that does not include street or lane dedication and creates fewer than 3 additional lots.	The Steep Slope DPA Guidelines are intended for new subdivisions where new roads are being dedicated.
52	18.8.5(d)	Change the reference from 'Schedule 13' to 'Schedule 2' in City Plan.	This will correct an error.
53-63	Schedule A	Rezone park properties acquired through subdivision or by other means.	To align with the intended use of the lots.

#	Section of Zoning Bylaw	Proposed Amendment	Rationale
64-70	Schedule A	Rezone portions of properties.	To correct split zones and mapping errors.
71-73, 76	Schedule A	Rezone City-owned and institutional properties.	To align with the intended use of the lots.
74	Schedule A	Rezone the properties at 1050 Cedar Road and 1505 Frew Road.	To revert to the previous zoning before the subject properties were rezoned in 2002 (RA000024) in order to facilitate a subdivision. As this subdivision is no longer viable, the zoning is no longer suitable for the properties.
75	Schedule A	Rezone 6 View Street from industrial to residential.	The lot was erroneously zoned industrial by a previous zoning bylaw. The property has always contained a single residential dwelling and is presently in the 'Neighbourhood' designation of City Plan.
77	Schedule E	Include a portion of a hooked parcel in the Sandstone redevelopment under the 'Sandstone' design guidelines.	To correct a mapping error.