

Request for Decision



To: Peter de Verteuil, CAO **File No:** Bylaw No. 3166
Meeting Date: November 6, 2017 Committee of the Whole Meeting
From: Michelle Geneau
Re: Zoning Bylaw No. 3166, 2017

RECOMMENDATION:

That the Committee of the Whole recommend that Council rescind first and second readings for Zoning Bylaw No. 3166, 2017.

And that the Committee of the Whole recommend that Council give first and second readings to revised Zoning Bylaw No. 3166, 2017.

And that the Committee of the Whole direct staff to hold a Public Hearing for the Zoning Bylaw on November 27, 2017 and to advertise for the Public Hearing in accordance with the *Local Government Act*.

BACKGROUND:

At the October 2nd Committee of the Whole Meeting, the following resolution was passed:

That the Committee of the Whole direct staff to make the following changes to Zoning Bylaw No. 3166, 2017, as recommended in the staff report:

1. Revise the setbacks for detached secondary suites;
2. Remove the fabric covered structures provision;
3. Add “recreational vehicle” in addition to the total number of motor vehicles and watercraft that may be parked or stored on a low density residential property and reintroduce restrictions to the size of watercraft, recreational vehicles and commercial vehicles, similar to the existing bylaw;
4. Regulate the location of “mechanical equipment” instead of only heat pumps, and add a definition for “mechanical equipment” which includes heat pumps, air conditioners, generators, and other similar equipment;
5. Prohibit the installation of mechanical equipment in front yards;
6. Change the heading “Conditions of Use Regulations” in the Low Density, Medium Density and High Density Residential Zones to “Conditions of Use and Subdivision Regulations”;
7. Add “Except as otherwise permitted in this bylaw” to the beginning of section 3.13.1 Projections into Yards;
8. Remove the incorrect text stating “four storeys” next to “High Density Residential” in the legend of the Zoning Map.

And That staff further explore the inclusion of Floor Area Ratio in Low Density Residential Zones.

Each of the items above were discussed in the report from the Manager of Planning, as well as presented at the meeting. The Committee of the Whole discussed the report with staff as well as Tom Ireland, former Chief Administrative Officer for the City, who attended the meeting. The staff report and presentation also covered other topics and regulations that were brought up by members of the public at the September 18th Public Hearing.

Staff summarized all the ways that information about the new Zoning Bylaw has been communicated to the public in 2017, including Facebook posts, website updates, a PlaceSpeak webpage, newspaper advertisements, open houses and a booth at the Farmers Market. The Committee discussed opportunities to increase public awareness about the bylaw through a direct mail out to property owners, particularly those that do not reside within the City boundary.

The following motion brought forward by a Council member was defeated by the Committee:

That the motion be amended to direct staff to bring forward options for raising public awareness about the zoning bylaw.

It was proposed that staff request that the DDBIA send out information to their members, as well as post additional information on the website and Facebook. Staff prepared an information sheet on downtown zoning changes that the DDBIA distributed to its members and property owners, and updated the website and PlaceSpeak page.

The Committee of the Whole also passed the following motion:

That the Committee of the Whole direct staff to hold a Public Hearing for the Zoning Bylaw on November 20, 2017 and to advertise for the Public Hearing in accordance with the *Local Government Act*.

In the period since the bylaw was given first and second readings on August 21st, a number of small changes to wording and formatting have been made. Staff recommend that Council give first and second reading to the newest version of the bylaw.

In the analysis section the changes recommended to the bylaw are discussed, and background for the potential changes is provided.

ANALYSIS:

1. Detached Secondary Suite Setbacks

Committee of the Whole recommendation: **Revise the setbacks for detached secondary suites**

At the Public Hearing, concern was expressed about the impacts of shading on neighbouring yards with the proposed maximum height and minimum setbacks for detached secondary suites.

The October version of the proposed bylaw contains the following regulations for accessory buildings:

Accessory Building		Regulation
Maximum Height		5 m
		6 m for <i>buildings</i> with a flat roof where a <i>detached secondary suite</i> is located in the second storey.
		7.5 m for <i>buildings</i> with a roof pitch 8:12 or greater, if a <i>detached secondary suite</i> is located in the second storey.
Minimum Parcel Line Setback	Front	6 m
	Rear	1.2 m
	Side, Interior	1.2 m
	Side, Exterior	3 m

The existing bylaw permits the following height and setbacks:

Accessory Building		Regulation
Maximum Height		4 m
Minimum Parcel Line Setback	Front	12 m
	Rear	3 m
	Side, Interior	1.5 m
	Side, Exterior	4.5 m

Staff reviewed a sample of sixteen other Zoning Bylaws that have been used for comparison throughout the bylaw review process. The permitted setbacks for detached suites vary greatly amongst municipalities, from 0.6 m to 3 m for the minimum interior side setback, and 0.6 m to 5 m for the minimum rear setback. Staff also conducted shading comparisons with digital modeling, comparing shading for an accessory building with 3 m or 1.5 m setbacks. A reasonable change would be to slightly increase the rear and interior side setbacks and introducing an additional setback for a second storey with a detached secondary suite (similar to North Cowichan’s regulations)

Staff recommend the following changes to the bylaw to implement the Committee of the Whole recommendation:

Accessory Building		Regulation
Minimum Parcel Line Setback	Front	6 m
	Rear	1.5 m; 3m for a second storey with a detached secondary suite
	Side, Interior	1.5 m; 3 m for a second storey with a detached secondary suite
	Side, Exterior	3 m

2. Fabric Covered Structures

Committee of the Whole recommendation: **Remove the fabric covered structures provision**

In the October 2nd staff report, staff recommended restricting the number of fabric covered structures allowed to one. The Committee discussed various aspects of the fabric covered structure provisions, including the length of time they are allowed, the unsightliness of aging fabric covered structures, including height provisions, and whether there is a demand for these structures in the City for vehicle or watercraft storage.

Staff recommend the following changes to the bylaw to implement the Committee of the Whole recommendation:

- Add “Storage in a fabric covered structure” to Section 3.2 Uses Prohibited in all Zones;
- Delete the following regulations from Subsection 3.6.3
 - (d) *fabric covered structures on a residential property are only permitted from November 1st to March 1st for the purpose of storing motor vehicles or recreational vehicles and where a setback of 3 m or greater is provided between the principal building and a side parcel line;*
 - (e) *despite subsection 3.6.3 (d), where driveway access is provided to a rear yard, fabric covered structures shall only be permitted within a rear yard; and*
 - (f) *despite subsection 3.6.3 (d), a fabric covered structure is not permitted within the required front yard setback and must not be located in front of the principal dwelling.*
- Remove the size from the definition of fabric covered structure.

3. Storage of Recreational Vehicles

Committee of the Whole recommendation: **Add “recreational vehicle” in addition to the total number of motor vehicles and watercraft that may be parked or stored on a low density residential property and reintroduce restrictions to the size of watercraft, recreational vehicles and commercial vehicles, similar to the existing bylaw;**

In the October 2nd staff report, staff recommended adding recreational vehicles to the total number of vehicles and watercraft that can be stored on a residential property. The existing Zoning Bylaw does not permit the storage of recreational vehicles over a certain length or weight on residential properties, but that the proposed bylaw does not specify a size for these items.

From the existing bylaw:

5.7 Storage of Heavy or Oversize Equipment/Vehicles

No provision shall be made for the storage of the following types of equipment or vehicles on any residentially zoned parcel:

- (i) commercial vehicles in excess of 4086 kilograms (9,000 lbs.) gross vehicle weight;
- (ii) **recreation** vehicles in excess of 5443.20 kilograms (12,000 lbs.) gross vehicle weight;
- (iii) sailing vessels or pleasure motor craft in excess of 10.0 m in length;
- (iv) **commercial vehicles in excess of 6.0 m in length;**
- (v) industrial, construction or logging equipment;
- (vi) more than two commercial vehicles each having a gross vehicle weight of less than 4086 kilograms (9,000 lbs.).

From the October version of the proposed bylaw:

3.35 Commercial and Stored Vehicles

3.35.1 Residentially-zoned land must not be used for parking, storing or repairing a *commercial vehicle* which has, or at any time has had, a licensed gross vehicle weight greater than 8,500 kg, as indicated on a present or past *commercial vehicle* registration.

3.35.2 Parking or storage of *motor vehicles* for a *single-unit dwelling* must not exceed a combined total of four (4) *motor vehicles* or *watercraft*, and parking or storage of *motor vehicles* for a *two-unit dwelling* must not exceed a combined total of six (6) *motor vehicles* or *watercraft*.

Sixteen sample bylaws were compared for parking and storage regulations for residential properties for commercial vehicles, watercraft and recreational vehicles.

- Four bylaws limit recreational vehicles by length, four only limit the total number of vehicles including recreational vehicles that can be stored on a property, and eight do not limit recreational vehicle size or amounts at all. Permitted lengths include 7.5 m, 11 m (Town of Ladysmith), 12.2 m, and 14 m.
- Six bylaws limit watercraft by length, four limit watercraft by amounts; and six bylaws do not limit watercraft storage at all. Permitted lengths include 7.5 m, 8.6 m, 9 m, 10 m (Town of Ladysmith), 11 m, and 12.2 m.
- Eleven of the sixteen bylaws limit commercial vehicle storage by weight. Maximum weights range from 762 kg (North Vancouver) to 8600 kg (Nanaimo). Six bylaws have a commercial vehicle gross vehicle weight in the 4500 to 5500 kg range.

Staff recommend the following changes to the bylaw to implement the Committee of the Whole recommendation:

3.35 Commercial and Stored Vehicles

- 3.35.1 Residentially-zoned land must not be used for parking, storing or repairing a *commercial vehicle* which has, or at any time has had, a licensed gross vehicle weight greater than 5,000 kg, as indicated on a present or past *commercial vehicle* registration.
- 3.35.2 Residentially-zoned land must not be used for parking or storage of *recreational vehicles* exceeding 11 m in length;
- 3.35.3 Residentially-zoned land must not be used for parking or storage of *watercraft* exceeding 10 m in length;
- 3.35.4 Parking or storage of *motor vehicles* for a *single-unit dwelling* must not exceed a combined total of four (4) *motor vehicles*, *recreational vehicles*, or *watercraft*, and parking or storage of *motor vehicles* for a *two-unit dwelling* must not exceed a combined total of six (6) *motor vehicles*, *recreational vehicles*, or *watercraft*.
- 3.35.5 Residentially-zoned land must not be used for parking or storage of more than two *commercial vehicles*.

4. Heat Pumps

Committee of the Whole recommendation: **Regulate the location of “mechanical equipment” instead of only heat pumps, and add a definition for “mechanical equipment” which includes heat pumps, air conditioners, generators, and other similar equipment; and Prohibit the installation of mechanical equipment in front yards;**

At the Public Hearing it was suggested that heat pump siting regulations also apply to air conditioners and generators, and that this type of equipment not be permitted in front yards. Some other local governments use a term such as “mechanical equipment” to regulate all utility devices that create external noise, including heat pumps, air conditioning, refrigeration units and permanent generators. “Mechanical equipment” is used elsewhere in the proposed bylaw, but not defined. Some local governments regulate heat pump location only, some also include air conditioning units, and some also include generators. None of the bylaw examples used for comparison permit heat pumps within a front yard.

Staff recommend the following changes to the bylaw to implement the Committee of the Whole recommendation:

- **Mechanical equipment** means heating, ventilation, air conditioning, or refrigeration units, or other noise-emitting equipment, such as stationary power generators.
- Replace “heat pump” with “mechanical equipment” in Section 3.14 and remove regulations permitting mechanical equipment in front yards:
 - 3.14 **Mechanical Equipment**
 - 3.14.1 Ground- or wall-affixed *mechanical equipment* may only be placed in the interior side yard, exterior side yard, or rear of a *building*.
 - 3.14.2 Despite Subsection 3.14.1, where *mechanical equipment* is sited within an *interior side yard* it must be a minimum of 4 m from the side yard *parcel line*.
 - ~~3.14.3 Where a heat pump is located at the front of a *building* it must be screened from view by landscaping or decorative fence enclosure not exceeding the maximum fence height within a front yard.~~

5. Subdivision Regulations for Residential Zones

Committee of the Whole recommendation: **Change the heading “Conditions of Use Regulations” in the Low Density, Medium Density and High Density Residential Zones to “Conditions of Use and Subdivision Regulations”;**

The Low Density, Medium Density and High Density Residential Zones contain “Conditions of Use Regulations” but did not contain “Subdivision Regulations” like the other zones. Staff recommended change the section titles within those zones to include “Subdivision Regulations”.

Staff recommend the following changes to the bylaw to implement the Committee of the Whole recommendation:

- 4.4 Conditions of Use [and Subdivision Regulations](#)
- 4.8 Conditions of Use [and Subdivision Regulations](#)
- 4.12 Conditions of Use [and Subdivision Regulations](#)

6. Additional Setback Requirements for Storage and Structures

Committee of the Whole recommendation: **Add “Except as otherwise permitted in this bylaw” to the beginning of section 3.13.1 Projections into Yards**

It was discussed that many local governments include language in their setback exceptions regulations stating that no other features or structures other than the listed exempted features may project into setback areas.

Staff recommend the following changes to the bylaw to implement the Committee of the Whole recommendation:

- 3.13.1 **Except as otherwise permitted in this bylaw**, the minimum *parcel line setbacks* in Parts 4 to 6 of this bylaw do not apply to wheelchair ramps or, to the extent indicated, to the following features: ...
- Add:
3.13.3 Children’s play equipment, landscape buffers, fences, retaining walls or other landscape features, swimming pools and clothesline poles may be sited within the required *parcel line setbacks*.

7. Floor Area Ratio for the Low Density Residential Zone

Committee of the Whole recommendation: **That staff further explore the inclusion of Floor Area Ratio in Low Density Residential Zones.**

At the October Committee of the Whole Meeting, staff recommended not adding floor area ratio to regulate building size in the Low Density Residential Zone, as the recommended maximum parcel coverage (35% of the parcel area) and the setbacks in the draft bylaw already control building footprint. The Committee discussed the potential implications of adding floor area ratio instead of or in addition to maximum parcel coverage. The existing bylaw has a floor area ratio in the R-1 Urban Residential Zone (permitting single unit dwellings only) of 0.5 – meaning that the total gross floor area including all the floors of a building can be up to 50% of the parcel area.

The proposed minimum parcel size for Low Density Residential is 400 m². However, low density lots range in size. On a 650 m² lot, removing the maximum parcel coverage and adding a floor area ratio, of 0.5 for example, could mean that a single-storey single family dwelling could have a footprint of up to 325 m². As the Director of Public Works and Development Services pointed out at the meeting, the City is concerned with limiting impermeable surfaces and controlling stormwater runoff. A 35% maximum parcel coverage would limit the footprint to 227.5 m².

Of the sixteen comparison bylaws, half regulate single unit or duplex residential zones with floor area ratio in addition to maximum parcel coverage. No bylaws were found that do not contain maximum parcel coverage regulations. Most of the parcel coverage regulations, with the exception of one bylaw, fall within a range between 30% and 40%. The most common floor area ratio is 0.5.

Staff recommend the following changes to the bylaw to implement the Committee of the Whole recommendation:

- Add a **Maximum Floor Area Ratio of 0.5:1** to Section 4.3.1 Development Regulations

8. Communications

An information sheet on the proposed bylaw was provided to downtown property owners and businesses by the DDBIA. The letter suggested that property owners contact or arrange a meeting with the Manager of Planning. At the date of writing this report, two property owners came in for a face to face meeting and one property owner submitted a question by email. The letter also included the potential timeline for the bylaw adoption process, including the potential Public Hearing date of November 27th.

IMPLICATIONS:

Financial: n/a

DOF Signature

Policy/Legislation: Staff recommend re-reading of first and second readings and a new Public Hearing. Advertisement for the Public Hearing will be in accordance with the *Local Government Act*.

Strategic Priority: n/a

Sustainability: n/a

Communication: n/a

Staffing Implications: n/a

ALTERNATE RECOMMENDATION

That the Committee of the Whole recommend alternative or additional changes to Zoning Bylaw No. 3166, 2017.

ATTACHMENTS:

Attachment A: Zoning Bylaw No. 3166, 2017

Attachment B: October 2, 2017 Staff Report

Attachment C: Public Hearing Minutes and letter

Attachment D: Zoning Bylaw Information Sheet

Respectfully submitted,



Michelle Geneau, Manager of Planning

Reviewed by Director of Public Works
& Development Services

Reviewed by the CAO