

**TO:** MAYOR & COUNCIL  
**FROM:** GENERAL MANAGER PLANNING AND DEVELOPMENT  
**SUBJECT:** **LOCAL GOVERNMENT ACT UPDATE – PROVINCIAL HOMES FOR PEOPLE ACTION PLAN**  
**PURPOSE:** To provide an update on proposed changes to the *Local Government Act* related to residential development and financing growth.

### RECOMMENDATIONS

**THAT** the report titled “*Local Government Act* Update – Provincial Homes for People Action Plan” dated December 11, 2023, be received for information.

**THAT** staff be directed to include in future Rezoning application and Zoning Bylaw text amendment reports a recommendation to not hold a public hearing if the application or amendment is consistent with the Burnaby Official Community Plan, as outlined in Section 3.5.1 of the report of the General Manager Planning and Development dated December 11, 2023.

### CHIEF ADMINISTRATIVE OFFICER’S COMMENTS

I concur with the recommendation of the General Manager Planning and Development.

### EXECUTIVE SUMMARY

This report provides a summary of changes to the *Local Government Act* as part of the Province’s Homes for People Action Plan. Bill 44-2023 *Housing Statutes (Residential Development) Amendment Act, 2023* was introduced in the BC Legislature on November 1, 2023. Bill 46-2023 *Housing Statutes (Development Financing) Amendment Act, 2023* and Bill 47-2023 *Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023* were introduced on November 7 and 8, 2023, respectively. At the time of drafting this report, these Bills were anticipated to receive Royal Assent on November 30, 2023, but for the most part, the legislative changes do not come into force until related regulations are passed. The changes to the *Local Government Act*, once they come into force, will impose requirements and restrictions on the City’s zoning authorities in relation to residential development within the City and provide additional authorities to the City to finance future growth.

## 1.0 POLICY SECTION

The following report aligns with the provincial and municipal, laws, bylaws and policies, including:

- *Local Government Act* (2015)
- Corporate Strategic Plan (2022)
- Burnaby Official Community Plan (1998)
- Burnaby Housing Needs Report (2021)
- Burnaby Zoning Bylaw (1965)

## 2.0 BACKGROUND

On November 01, 07 and 08, 2023, the BC Legislature introduced Bills 44, 46 and 47, respectively, as part of the Province’s Homes for People Action Plan, which aims “to deliver more homes for people faster” through the following four pillars:

- Unlocking more homes, faster
- Delivering better, more affordable homes
- Supporting those with the greatest housing needs
- Creating a housing market for people, not speculators

At the time of drafting this report, it was anticipated that the Bills will have received Royal Assent on November 30, 2023, and for the most part the changes come into force by regulation. When the Bills were introduced, the Province released backgrounders and technical bulletins that provide some insight into the content of future regulations and policies which will supplement the legislative changes.

On a high level, the Bills address the following:

- Bill 44-2023 – *Housing Statutes (Residential Development) Amendment Act, 2023* addresses small-scale multi-unit housing, housing needs reports, Official Community Plans, and public hearings for rezonings that involve all or majority residential development.
- Bill 46-2023 – *Housing Statutes (Development Financing) Amendment Act, 2023* authorizes local governments to create new amenity cost charges (ACCs) for certain public facilities amenities and expand development cost charges (DCCs) to fund fire protection, police, solid waste and recycling and cost-shared highway facilities.
- Bill 47-2023 – *Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023* enables the Province to mandate specific densities, size and/or dimensions of buildings within transit-oriented areas (TOAs) based on specific distances to current and planned transit stations (including designated bus stops, bus

exchanges, passenger rail station or other transit facility), and restrictions on residential off-street requirements within these TOAs.

A summary of the legislative changes and information available from the backgrounders and bulletins are provided in Section 3.0 of this report, together with the City’s initiatives and programs that respond to these changes.

Before Bills 44, 46 and 47 were introduced, the City had initiated reviews of the Burnaby Official Community Plan, Burnaby Zoning Bylaw, Development Cost Charge Bylaw, as well as advanced the City’s Housing Choices program and transition to the use of Development Permits. This work was facilitated by the Development Approval Process (DAP) review and established work program priorities relate to housing and development.

The following legislative changes are significantly impactful to the City and how developments are processed and approved. Many of the legislative requirements are mandates and will require compliance by the City within specific timeframes. As a result of the mandated changes under Bill 44 and Bill 47, the City will need to utilize the tools under Bill 46 (including ACCs and DCCs) to finance the mandated growth.

**3.0 GENERAL INFORMATION**

The following outlines the key legislative changes to the *Local Government Act* introduced by Bills 44, 46 and 47 and the City’s initiatives and programs that respond to these changes. The legislative changes fall into the following key themes:

- Small-Scale Multi-Unit Housing
- Financing Growth
- Transit Oriented Areas
- Updates to Housing Needs Reports and Land Use Bylaws
- Public Hearings

**3.1 Small-Scale Multi-Unit Housing**

The key changes in Bill 44-2023 – *Housing Statutes (Residential Development) Amendment Act, 2023* are amendments to the *Local Government Act* to mandate Small-Scale Multi-Unit Housing (SSMUH) to be permitted on lots currently zoned for single and two family housing. Examples of SSMUHs are secondary suites in single and two family homes, detached garden suits or laneway homes, triplexes, townhomes and house-plexes.

When the SSMUH provisions and its related regulations come into force, local governments will have until June 30, 2024 (subject to an application to the Province to extend this date) to amend their Zoning Bylaws to meet the following requirements:

- All local governments will be prohibited from limiting residential zoned lots to only single family housing. All residential properties zoned for detached housing must

allow one or both of the following: (a) at least one secondary suite; (b) at least one accessory dwelling unit (i.e. laneway home, detached garden suite, etc).

- In certain communities (i.e. those within an urban containment boundary or over a certain population), local governments will be required to permit additional units set by the Province on lots zoned for single and two family housing.
- For lots of a certain size within a certain distance from frequent service bus stops, an even greater number of housing must be permitted and one of these units can be restricted to affordable or special needs housing by way of a Housing Agreement.
- Other than the one (1) unit in SSMUHs within a certain distance from frequent service bus stops, density conditions (e.g. affordability requirements) are not permitted for the minimum number of SSMUHs that must be allowed on single and two family housing lots. Density conditions can be applied to additional units beyond the minimum set by the Province.
- Local governments must not require minimum off-street parking and loading spaces for SSMUHs on lots within a certain distance from frequent service bus stops.
- SSMUHs are not required on lots that are:
  - protected by the *Heritage Conservation Act*
  - protected by a heritage designation bylaw when Bill 44 comes into force
  - not served by a municipal water or sewer system
  - within a zone with minimum lot area of or greater than 4,050m<sup>2</sup> (1 acre)
  - greater than 4,050m<sup>2</sup> (1 acre) in size

Provincial policy guidelines will be issued to provide guidance on the process for developing and adopting, as well as the content of, bylaws relating to SSMUHs and related parking and loading space requirements. Local governments will need to consider these policy guidelines when amending their Zoning Bylaws to accommodate SSMUHs.

While specific details will not be confirmed until the SSMUH-related regulations are passed by the Province, the backgrounders and technical bulletins that were issued by the Ministry of Housing when Bill 44 was introduced in the Legislature outline the following requirements for lots within urban containment boundaries and municipalities with a population of more than 5,000:

- minimum 3 units on residential lots with an area less than 280m<sup>2</sup> (3,014 sq.ft.)
- minimum 4 units on residential lots with an area greater than 280m<sup>2</sup> (3,014 sq.ft.)
- minimum 6 units on residential lots with an area greater than 280m<sup>2</sup> (3,014 sq.ft.) and near bus stops with frequent service

Further, no minimum parking or loading spaces can be required if the lot is within 400 metres of a frequent service bus stop. The applicant will determine the parking and loading spaces, if any, that will be provided on the lot.

To facilitate early adoption of SSMUH legislative changes, local governments are required to update Zoning Bylaws to accommodate the minimum number of units and parking standards for SSMUH developments no later than June 30, 2024. The legislation allows local governments to apply to the Minister of Municipal Affairs for an extension beyond June 30, 2024, but an extension would only be granted if: (a) the local government is in the process of upgrading infrastructure that services the area; (b) the infrastructure that services the area is in a condition that is likely to increase risk to health, public safety or the environment if the SSMUH requirements are implemented by June 30, 2024; or (c) extraordinary circumstances that otherwise prevent compliance with the SSMUH requirements in the area. If the Zoning Bylaw is not amended by June 30, 2024, and an extension is not granted, the Minister with the approval of the Lieutenant Governor may make an order to enact or amend a Zoning Bylaw to comply with the Provincial legislation.

### ***3.1.1 Burnaby's Response***

Since 2014, the City's Zoning Bylaw has permitted secondary suites in single family homes. More recently, the City's Housing Choices program has allowed for suites in semi-detached dwellings and laneway homes on single family lots with a lane or on a corner lot. This meets the requirement under the SSMUH legislative changes for all residential properties zoned for detached housing to allow at least one additional dwelling unit. Once regulations relating to SSMUHs are in place, the City will need to amend the Zoning Bylaw to accommodate the other SSMUH legislative changes.

As part of the Planning and Development Department's established work program was the advancement of the City's Housing Choices Program, which was identified to be launched in three phases. Phase 1a permitting suites in semi-detached dwellings and laneway homes on some single lots has been adopted, which partially meets the Province's requirement for minimum SSMUHs in urban areas. Phase 1b permitting multi-plexes is underway and was anticipated to be completed in 2024. Phase 2 encouraging row-houses, townhouses, and low-rise apartments is being advanced in concert with the OCP and neighbourhood plan advancements for approval in 2025. The Phase 1b of the Housing Choices program will be incorporated into SSMUH legislative changes, and a separate more detailed report to Committee and Council will be advanced to summarize "what we heard" during public consultation for Phase 1b. A further report that was already underway prior to the introduction of Bill 44 was an interim Zoning Bylaw text amendment to simplify Residential Districts (R Zones) to enable multi-plex approvals and to speed up single and two-family housing approval times. While the Province's requirements do not directly align with the multi-plex proposals advanced through the Housing Choices program, the R Zone simplification amendment is being adjusted to meet Provincial

requirements and will be advanced for Committee and Council approval prior to the June 30, 2024 deadline. A further interim amendment to the OCP will be also be required prior to the June 30, 2024 deadline to allow 4 and 6 unit dwellings. Prior to the Province’s required deadline significant consideration of the impacts to development approval processes, growth modeling, cost recovery, service delivery, infrastructure, heritage retention, trees, parking, other related issues will need to be undertaken. It is noted that the legislative changes will have a dramatic effect on the City’s ability to regulate and service SSMUH development.

**3.2 Financing Growth**

Through Bill 46-2023 – *Housing Statutes (Development Financing) Amendment Act, 2023*, additional tools are being made available to local governments for how services and amenities can be financed through development. Since Bill 46 came into force on Royal Assent, local governments can start the process for making use of these tools.

The first tool is in relation to Development Cost Charges (DCCs). Currently, Section 559 of the *Local Government Act* under Division 19 Development Cost Recovery provides that:

- (1) A local government may, by bylaw, for the purpose described in subsection (2) or (3), impose development cost charges on every person who obtains
  - (a) approval of a subdivision, or
  - (b) a building permit authorizing the construction, alteration or extension of a building or structure.
- (2) Development cost charges may be imposed under subsection (1) for the purpose of providing funds to assist the local government to pay the capital costs of
  - (a) providing, constructing, altering or expanding sewage, water, drainage and highway facilities, other than off-street parking facilities, and
  - (b) providing and improving park land

Bill 46 expands the list of facilities that DCCs can be imposed for to include:

- fire protection facilities
- police facilities
- solid waste and recycling facilities

In addition, the definition of highway facility has been expanded to include highway facilities that serve both provincial and municipal interests such as provincial highway access, connections and overpasses that meet all of the following criteria: (a) the municipality and the Province enter into an arrangement to share the costs of the highway facility; (b) the highway facility serves to connect provincial and municipal highway networks; and (c) the highway facility services the development. In this circumstance, the costs of the highway facility may be funded through a DCC.

In addition to amendments to the DCC framework, Bill 46 establishes a new authority for local governments to establish and impose Amenity Cost Charges (ACCs) to fund facilities or features that provide social, cultural, heritage, recreational or environmental benefits to a community to serve the growth in residents or workers expected from new development. The types of amenities that may be funded by ACCs include, but are not limited to:

- community, youth or seniors' centre
- recreational or athletic facility
- library
- day care facility
- public square

The facility must be owned by the local government or be owned or operated by a party that has entered into a partnering agreement for the facility with the local government.

The ACC authority is based on a model similar to DCCs and are likewise collected at the time of subdivision approval or building permit issuance and are for the purpose of funding growth. Unlike DCCs, approval of the Inspector of Municipalities is not required for establishing or amending an ACC bylaw or rates. However, at the request of the Inspector of Municipalities, local governments must provide a report on the status of ACC collection, expenditures and proposed expenditures, and information on setting of ACC rates and development of ACC bylaws and their amendments. The ACC bylaw must specify the area(s) where the ACC will apply, and consultation must be undertaken with the public and those that will be affected during the development of the ACC bylaw. The amenities that will receive ACC funding must be identified in the ACC bylaw and ACC rates can vary for different areas, zones, uses, lot or unit sizes, or other basis permitted by regulation. Exemptions are provided for tax-exempt places of worship and local governments may include, in their ACC bylaw, waivers or reductions for non-profit rental housing, including supportive living housing, and for-profit affordable rental housing. Since the intent of ACCs is to capture the costs for amenities generated by new development and new users, ACCs are not payable where the development will not result in an increase in the population of residents or workers. Also, ACCs cannot be collected for facilities that may be funded by a DCC program. Applicants, however, can provide, construct, alter or expand a facility included in an ACC bylaw (e.g. in-kind contribution) in place of paying the required ACCs.

The ACC authority affects the density bonusing provision under Section 482 of the *Local Government Act* to the extent that a facility that is included in an ACC bylaw cannot also be the subject of density bonusing conditions. Section 482 density bonusing has broader application in that “amenities” is not defined or restricted to specific facilities and also can be used to secure affordable or special needs housing. The greatest difference between ACCs and density bonusing is that ACCs can be imposed as a mandatory charge on all new development that result in a growth in residents or workers, whereas a density bonus is voluntary in order to achieve additional development floor area above a base amount of permitted density.

### **3.2.1 Burnaby's Response**

The City of Burnaby has five municipal Development Cost Charges as outlined below:

1. Parkland Acquisition Charge
2. Metrotown Public Open Space Charge
3. Canada Way Pedestrian Bridge Charge
4. Metrotown Grade-Separated Pedestrian Linkages
5. Edmonds Town Centre South Grade-Separated Crossings

In advance of the DCC legislative changes, the City has been working with the Office of the Inspector of Municipalities to amend the rate and use of the current Parkland Acquisition Charge. Notwithstanding, in light of the comprehensive changes to DCC and ACC provisions, staff have initiated a Financing Growth initiative, including an internal working group, to comprehensively update the City's DCC framework and review how best to utilize the new ACC authority. To assist with the review of the ACC framework, staff had already initiated a Social Infrastructure Assessment through the OCP process, that will document the eligible amenities needed throughout the City over the next 20+ years. The result of this work will be the creation of a new DCC Bylaw and potentially new ACC bylaw through the direction of Council. Consultation with the public and affected parties will be undertaken during the development of these bylaws. Further, as noted, changes to DCCs will require approval by the Inspector of Municipalities on subject of the charges, and the established rates. Early advancement of this work is essential to capture growth facilitated through this new legislation, as such, an initial interim approach to coincide with the June 30, 2024 date will need to be advanced, followed by a final determination of ACC and DCC frameworks for Burnaby to coincide with the adoption of the OCP and Zoning Bylaw in 2025. Finally, consideration must be given to relationship between ACC and density bonusing in the development approvals process, as well as how current amenity bonus reserves are to be allocated.

### **3.3 Transit Oriented Areas**

Once in force, Bill 47-2023 – *Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023* will amend the *Local Government Act* to enable the Province to establish specific densities, size or dimensions of buildings with residential or prescribed uses within transit-oriented areas (TOAs) based on specified distances specified transit stations, including current and planned rail and rapid transit stations and bus exchanges. Further, the legislative changes restrict the ability for local governments to require off-street parking for residential purposes within a TOA, other than those required for use by disabled persons. However, the Province can pass regulations to set off-street parking requirements and City bylaw standards for parking spaces will apply to these spaces as well parking spaces voluntarily provided for a development.



The Province will be issuing policy guidelines for TOAs and local governments will be required to designate, by bylaw (likely their Official Community Plans or Zoning Bylaws), TOAs through maps or plan or other graphics, taking into consideration the Provincial guidelines. Although the legislation does not include a deadline for local governments to designate TOAs, the Lieutenant Governor in Council may make orders after June 30, 2024, on the recommendation of the Minister of Municipal Affairs, to designate TOAs for a local government after providing notice to the local governments.

Specific standards for TOAs, including densities, will be confirmed by regulation and policy that will be released by the Province in the near term. In meantime, the information provided by the Province at the time Bill 47 was introduced indicate that the following densities and heights are intended for residential buildings and mixed-used residential buildings in TOAs within Metro Vancouver:

TOA Type	Transit Hub Type	Prescribed Distance	Minimum Allowable Density (FAR)	Minimum Allowable Height (Storeys)	Type of Building
TOA Type 1 (Metro Vancouver)	1A) Rapid Transit	< 200m	Up to 5.0	20	Tower
		201m – 400m	Up to 4.0	12	Mid-High Rise
		401m – 800m	Up to 3.0	8	Mid-Rise
	1B) Bus Exchange	< 200m	Up to 4.0	12	Mid-High Rise
		201m – 400m	Up to 3.0	8	Low-Rise/ Townhouse

**Table 1 Summary of TOA Heights and Densities**

Once the regulations are in place, a local government must not adopt a bylaw that prohibits or restricts the density of use (e.g. density bonusing), or size or dimension of buildings, set out in the regulations for residential uses or mixed-use residential buildings. The information provided by the Province indicate that the restriction will not apply to properties zoned for commercial, industrial, institutional or agricultural use.

**3.3.1 Burnaby’s Response**

The establishment of minimum heights and densities for residential and mixed-use residential buildings within TOAs will have a significant effect on the City’s current land use framework, in-stream applications, as well as ongoing OCP and Neighbourhood Plan assumptions and processes. Specifically, the fixed determination of heights and density will affect the recently adopted Bainbridge Urban Village Plan, the draft concepts of the ongoing Royal Oak Urban Village Plan, the ongoing Edmonds Town Centre Plan, and areas to the south of Lake City and Production Way SkyTrain Stations. Most notably, the TOA densities and heights will

affect the provision of ground-oriented row-housing, townhousing and low-rise apartments within these areas.

Since the Province’s expectation is that local governments must designate TOAs by June 30, 2024, staff have started to adjust the preliminary OCP and Neighbourhood Plan designations to reflect the required heights and densities indicated by the Province. While the OCP and Neighborhood Plan updates are anticipated to be completed in 2025, an interim amendment to the current OCP will be required to accommodate the legislative changes relating to TOAs. Further, the scheduled Zoning Bylaw Text Amendment to address the recently approved Transit Oriented Development (TOD) parking standards will be delayed until Spring 2024 to address the parking restrictions outlined in these recent legislative changes. In line with consultation requirements related to OCP amendments, public consultation on the OCP amendment will be required before advancing the OCP Bylaw to a public hearing prior to June 30, 2024. Similar to SSMUH, interim amendments to the Burnaby Zoning Bylaw, DCC Bylaw, proposed ACC Bylaw, and Subdivision Control Bylaw are anticipated to accommodate TOA provisions in legislation. One of the greatest concerns relates to inability to capture density bonusing as part of TOA developments, and the impact that this will have on financing amenities into the future.

**3.4 Updates to Housing Needs Report and Land Use Bylaws**

In addition to introducing requirements for SSMUH, Bill 44-2023 – *Housing Statutes (Residential Development) Amendment Act, 2023* mandates updates to key planning documents, notably Housing Needs Reports, OCPs and Zoning Bylaws, to address additional housing considerations.

Currently under the *Local Government Act*, local governments are required to prepare a Housing Needs Report to identify the number of housing units required to meet current needs and anticipated needs for at least the next 5 years, for different types of housing. Going forward, Housing Needs Reports will need to identify anticipated housing needs for the next 20 years. Local governments will have until a date set by regulation (anticipated to be December 31, 2024) to prepare an interim Housing Needs Report, either by preparing a new report or amending their existing report, to meet these requirements. After the interim report, new reports will be required to be completed by December 31, 2028 and every 5 years afterwards.

A local government’s OCP is required to include designations to provide for at least the 20-year total of housing units anticipated to be needed over that period and housing statements for each class of housing needs identified in a Housing Needs Report. Further, each time that a new Housing Needs Report is prepared, the local government will have a specific timeframe to review and, if necessary, amend its OCP to address these requirements, with the initial requirement anticipated to be December 31, 2025. After the initial requirement, like Housing Needs Reports, the OCP will be required to be

updated to reflect current housing needs every 5 years, with a substantive overhaul every 20 years.

In addition to alignment between Housing Needs Reports and OCPs, local governments will be required to align their Zoning Bylaws to with the OCP to permit the use and density necessary to accommodate the totals identified in the Housing Needs Reports. Again, updates are required every 5 years concurrent with updates to the OCP.

### **3.4.1 Burnaby's Response**

As part of the Planning and Development Department's work program priorities, the Department has completed the City's Housing Needs Report (2021), and is currently undertaking a ground up redraft of the Official Community Plan and Zoning Bylaw, which are anticipated to be completed in Summer 2025. While the City has already advanced workplans that will meet the Province's mandates for updating and aligning these key land use documents, interim amendments to the OCP and Zoning Bylaw will be necessary to meet the requirements of the updated legislation and would be advanced to Committee and Council in 2024.

Further, additional work will be required to update other City bylaws and requirements to address practical and procedural implications of the legislative changes. Examples of such work include establishment of a Works and Services Bylaw, review of new DCC and ACC frameworks, implementation of Development Approval Process (DAP) initiatives and comprehensive end-to-end review of development processes, and transition from the current Preliminary Plan Approval (PPA) process to Development Permits (DP), all of which have already been initiated or will be initiated in the near future. The transition to DPs in place of PPAs is scheduled to follow shortly after the adoption of the new OCP and Zoning Bylaw and will be advanced for approval through separate future reports to Committee and Council.

## **3.5 Public Hearings**

Another significant aspect of *Bill 44-2023 – Housing Statutes (Residential Development) Amendment Act, 2023* is the change to the *Local Government Act* to prohibit local governments from holding a public hearing for rezoning applications that are all or predominantly (greater than 50%) residential, where the proposed rezoning is consistent with the local government's OCP. This legislative change came in effect immediately on Royal Assent of Bill 44 and applies to all rezoning bylaws that have not yet received First Reading by the date of Royal Assent. Further, public hearings will be prohibited for zoning bylaw amendments to accommodate the SSMUH requirements. The Province has stated that the intent of phasing out public hearings for housing projects is to "speed up the building of homes for people and support pro-active planning".

The prohibition on public hearings for residential developments builds upon existing authority under the *Local Government Act* to not hold public hearings for rezoning

bylaws and amendments that are consistent with an OCP. Previously, the authority was to waive a public hearing and in 2021, this was changed to allow a local government to “decide not to hold a public hearing” where the rezoning bylaw is consistent with the local government’s OCP for the area. Public notice requirements will continue to apply (including publishing and mailing of rezoning notices) and will need to be completed before First Reading of the rezoning bylaw, rather than prior to a public hearing.

With the public hearing prohibition in place, the *Local Government Act* will only require public hearings for the follow land use changes:

- OCP bylaws and amendments
- Zoning bylaws that are not consistent with an OCP
- Bylaws for temporary use permits in regional districts where there is no OCP
- Phased development agreement bylaws
- Bylaws for the early termination of land use contracts
- Bylaws for heritage revitalization agreements and designation of heritage properties

### ***3.5.1 Burnaby’s Response***

Although general in nature, the City’s current OCP provides a sufficient framework such that most rezoning applications are consistent with the OCP. Where a rezoning application or zoning text amendment is not consistent with the City’s OCP, staff would bring forward an accompanying OCP bylaw amendment to Council for approval and adoption in order to align the Zoning Bylaw with the OCP. With the prohibition on holding public hearings for all or predominantly residential developments, approximately 90% of rezoning applications will not require a public hearing. It is anticipated that this will reduce the number of applications that would typically go to public hearing to approximately 10 per year.

To align with the Province’s intent that public hearings not be held for zoning bylaws and amendments that align with OCPs, it is proposed that the City also not hold public hearings for the remaining non-residential developments that align with the OCP. For rezoning applications that require an OCP amendment, staff will bring forward the OCP amendment for consultation and a public hearing prior to adoption by Council. This will include consultation with the public as well as interest parties (such as First Nations, School District, Agricultural Land Commission, Metro Vancouver, adjacent municipalities, etc.) and publication and mailing of public notices prior to the public hearing, in order to give opportunities for those affected by the OCP amendment to make submissions to Council. If an OCP amendment is not needed, staff propose to include in future rezoning application reports a recommendation that a public hearing not be held. If Council approves this recommendation, staff will undertake the necessary notifications prior to First Reading of the rezoning bylaw. If Council does not approve the recommendation, a public hearing will be held and notices will be published and mailed prior to the

public hearing date. Council will maintain the discretion to decide on a case-by-case basis.

**4.0 SUMMARY**

At the time of drafting this report, it was anticipated that on November 30, 2023 the Province adopted by royal assent, changes to the *Local Government Act* and other related legislation under Bills 44, 46 and 47. Bill 44 – Housing Statutes (Residential Development) Amendment Act, 2023, prohibits holding a public hearing on applications that are predominantly residential; requires alignment between housing needs reports, Official Community Plans and Zoning Bylaws; and, prescribes minimum numbers of units on single residential lots. Bill 46 –Housing Statutes (Development Financing) Amendment Act, 2023 establishes the creation of a new Amenity Cost Charge (ACC) and amendments to Development Cost Charges (DCC). Bill 47 – Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023 mandates specific densities through regulation to be accommodated within specific distances of transit-oriented areas.

The impacts of this legislation are likely to be significant to the City with respect to how we approve development, and finance growth. The introduction and adoption of this legislation occurred very quickly and without meaningful consultation, thus a fulsome analysis of the impacts of this legislation has yet to be undertaken, nor have the benefits to housing supply and affordability been determined. A cursory analysis of the legislation suggests the following as potential impacts:

- Unfocussed growth throughout the City;
- Ability to maintain tenant assistance through the City’s Tenant Assistance program;
- Challenges in financing growth (amenity bonusing) at the same rate as today;
- Ability to service (infrastructure) new growth in a coherent, planned way;
- Ability to provide services (schools, health care, police, fire, parks, libraries, etc...) to new residents;
- Non-Transparency and removal of democratic local decision-making regarding impactful land use decisions; and,
- Ambiguity of higher tax rates based on greater development potential, and what that means for affordability (and their ability to remain in their homes or businesses).

The City awaits further information by way of anticipated policy manuals and regulations by the Province to help shed light on these issues, and the specifics of how the approved legislation is to be implemented. That being said, the City has already taken action to address some of the elements required in the legislation with respect to initiating updates to the Official Community Plan (OCP), Zoning Bylaw, and development approval process, and financing growth initiatives prior to the legislation announcement. As a further action item, in accordance with approved legislation, it is recommended that staff be directed to include in future Rezoning application and Zoning Bylaw text amendment reports a recommendation to not hold a public hearing if

the application or amendment is consistent with the Burnaby Official Community Plan. Addressing the changes to the *Local Government Act* outlined in this report is a sizeable undertaking within the time provided, and will have monetary implications on how we finance services and amenities through development. However, with a very focussed Departmental work program related to OCP (and related projects, such as Zoning Bylaw, DP transition etc...) completion in late 2025, staff have confidence that Provincial requirements can be met.

## **5.0 COMMUNICATION AND COMMUNITY ENGAGEMENT**

Consultation with the community was not undertaken by the Province on the amendments described in this report. Staff do not think it is appropriate to engage the community on the Province's behalf on the merits or impacts of these amendments. However, the City will be required to consult on the various OCP and bylaw amendments required by the above legislative amendments.

## **6.0 FINANCIAL CONSIDERATIONS**

Financial impacts to the City resulting from the legislative changes are anticipated. City staff have begun to identify financial opportunities and challenges resulting from the legislative changes of Bills 44, 46 and 47. Staff are reviewing the current reserve funds and reserves as well as identifying requirements to comprehensively update the City's DCC framework and review how best to establish and utilize the new ACC authority.

Respectfully submitted,

Edward W. Kozak, General Manager Planning and Development

## **ATTACHMENTS**

No attachments.

## **REPORT CONTRIBUTORS**

This report was prepared by Johannes Schumann, Director Neighbourhood Planning and Urban Design, and reviewed by May Leung, City Solicitor, Jennifer Wong, Assistant City Solicitor, and Lee-Ann Garnett, Deputy General Manager Planning and Development.