

Residential Rental Tenure Zoning – Bulletin

The *Local Government Statutes (Residential Rental Tenure Zoning), Amendment Act, 2018, S.B.C. 2018, c. 26* makes amendments to the *Local Government Act* and *Vancouver Charter*.

The legislation provides local governments with a new authority to zone for residential rental tenure (i.e. rental housing), and enact zoning bylaws that:

- require that new housing in residential areas be developed as rental units; and
- ensure that existing areas of rental housing are preserved as such.

The new rental zoning authority can only be used where multi-family residential use is a permitted use. Within these areas, local governments can now:

- set different rules in relation to restricting the form of tenure of housing units for different zones and locations within a zone; and
- require that a certain number, portion or percentage of housing units in a building be rental.

The intent of these changes is to give local governments greater ability to preserve and increase the overall supply of rental housing in their communities, and increase housing choice and affordability.

The new authority came into effect on May 31, 2018, on Royal Assent, and is now available for local governments to use.

BACKGROUND

Until now, under B.C.'s land-use planning framework, local governments have not been permitted to zone for rental housing. Some local governments have requested this authority, and the 2018 report of UBCM's Special Committee on Housing (*A Home for Everyone: A Housing Strategy for British Columbians*) recommended the Province provide a rental zoning authority to local governments.

This is an innovative approach, as research undertaken to date has not identified a similar authority elsewhere in North America. Some jurisdictions permit *inclusionary zoning* which differs from rental zoning. The main difference is that rental zoning allows for the protection of existing areas of rental housing and the enabling of new rental development, whereas inclusionary zoning is typically aimed at ensuring affordability within new development.

LEGISLATION

Application

This new rental zoning authority applies to all local governments in B.C., including municipalities and regional districts.



This tool can be used at different geographic scales - e.g. blocks, lots, or individual buildings. Within a building, it can be used to require that all housing units, or a certain number, portion or percentage of housing units be rental. This means that communities of all sizes can be surgical in applying the authority to support local goals of neighbourhood completeness and diversity.

As noted above, rental zoning can only be used in locations where multi-family residential is a permitted use. These locations could be in zones that are strictly multi-family residential, or within comprehensive development or multi-use zones where multi-family residential is one of several permitted uses. Importantly, a local government can only limit tenure to residential *rental* tenure (i.e. it cannot not limit tenure to ownership and prevent rental).

One way in which rental zoning is expected to be used is to support rental housing close to current and future transit lines and other amenities.

Non-Conforming Forms of Tenure

The authority will work in conjunction with the existing provisions for non-conforming uses and non-conforming structures. It reflects the guiding principle that there be the least possible intrusion on property rights of owners occupying their homes when a rental zoning bylaw is adopted.

When a rental zoning bylaw is adopted, the intention is for the following to continue as non-conforming:

- the tenures of existing properties (e.g. strata units);
- the tenures of buildings that are “in-stream” (i.e. have received a development or building permit); and
- the tenure of any pre-sold strata units.

A change in property owners or tenants would not affect the non-conforming tenure status of a property.

The non-conforming tenure status of a property would no longer continue, and the property would be subject to a new rental zoning bylaw...

- when changes to a building include the addition of new housing units. Those units would be subject to the rental tenure provisions of a zoning bylaw; or
- after a strata corporation is wound up, upon disposition of the units and the land that previously belonged to the strata corporation.

Strata Bylaws and Housing Cooperative Rules

Existing strata properties in locations where a rental zoning bylaw is adopted will be considered to have non-conforming tenure. Where a rental zoning bylaw is adopted, that bylaw would not affect strata corporation bylaws or housing cooperative rules.



Public Hearings

Following a public hearing on a bylaw, a council/board cannot alter a part of a zoning bylaw that would require rental housing without further notice or public hearing. This aligns with the public hearing requirements for zoning bylaw changes to use and density, and ensures that local governments provide adequate information to the public.

Development Permits, Development Variance Permits and Boards of Variance

The legislation establishes that development permits and development variance permits must not vary the application of a zoning bylaw in relation to residential rental tenure.

Similarly, the legislation requires that any variance that is permitted by a board of variance does not alter the application of provisions in a zoning bylaw respecting rental zoning. Specific to the *Vancouver Charter*, the board of variance shall not allow an appeal about a zoning by-law in relation to residential rental tenure of housing.

Heritage Properties

The legislation requires that a local government hold a public hearing if a heritage revitalization agreement, or amendment to the agreement, proposes to alter provisions in a zoning bylaw relating to rental housing. It also establishes that a heritage alteration permit may not vary provisions in a zoning bylaw related to rental housing.

Enforcement

The intention is that local governments will have access to the same suite of bylaw enforcement options for this new zoning authority as they already have for existing zoning authorities (e.g. ticketing, bylaw notices).

REGULATIONS

The legislation provides the Province with the authority to make regulations prescribing when non-conforming forms of tenure are authorized to continue, and in relation to when a non-conforming form of tenure is no longer authorized.

IMPLEMENTING RENTAL ZONING

Before a local government uses this provision, ideally they will first consider their local housing needs, including the appropriate number, type and location of rental units. Over time, this information will become more readily available given the new legislative requirement for housing needs reports (*Local Government Statutes (Housing Needs Reports) Amendment Act, 2018, S.B.C. 2018, c. 20*).



A local government's Official Community Plan (OCP) may already include policies on rental housing that provide sufficient direction about where and how to update the zoning bylaw for rental housing. If not, the OCP would need to be amended accordingly.

Following from this, the local government would amend their zoning bylaw to limit tenure to rental in identified multi-family residential areas. The rezoning process would follow legislated requirements and would typically include a public hearing (if the proposed zoning amendments are consistent with the OCP, a public hearing may be waived).

A local government that chooses to use rental zoning must define "residential rental tenure" in its zoning bylaw. The definition can reflect the different needs and context of the community.

RELATIONSHIP TO OTHER LAND-USE TOOLS

The new rental zoning authority will complement existing provisions in the legislation, including those aimed at securing affordable rental units. For instance, existing density bonus provisions allow affordable housing units to be secured in exchange for a pre-determined density bonus, if a developer/land owner chooses the density bonus option. As well, conditions related to affordability, including rents or sales prices (or the form of tenure), can be secured over time through a housing agreement with the land owner.

MONITORING

Local governments are responsible for local land use planning and development. It will be up to them, when considering rental zoning, to make responsible decisions that take into account best practices related to matters such as community completeness, compactness and diversity.

The Province plans to monitor the adoption and use of rental zoning to determine how local governments are using it and how it is helping to secure the additional rental housing they need to meet local housing needs. Monitoring will also allow the Province to ensure that the tool is performing as intended.

MORE INFORMATION

Guidance material will be forthcoming later in 2018, which will include key considerations for local governments that are considering using this new authority. In the meantime, please direct any questions about the new legislation to:

Ministry of Municipal Affairs and Housing
Planning and Land Use Management Branch
Telephone: 250-387-3394
Email: PLUM@gov.bc.ca

Full text of the Act: <http://www.bclaws.ca/civix/document/id/bills/billscurrent/3rd41st:gov23-3>

More information about housing: <https://www2.gov.bc.ca/gov/content/housing-tenancy>