



## Local Government Housing Initiatives **Frequently Asked Questions for Bill 44 (Small-Scale, Multi- Unit Housing)**

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*The following frequently asked questions have been collated from correspondence received from local governments and questions asked during recent webinars. This document will be updated with new questions and answers as they become available. Check the Version Date to confirm if new questions have been added.*

*This document contains general information only and should not be construed as legal advice. Local governments should obtain legal advice on the application of their legislative authorities and to ensure that their procedures and policies comply with legislation.*

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## Bill 44: Small-Scale, Multi-Unit Housing (SSMUH)

### 1. What is the definition of ‘Urban Containment Boundary’?

The term ‘urban containment boundary’ is not defined in legislation or regulation. The *Housing Statutes (Development) Amendment Act, 2023* relies on the common understanding of the term as an area where growth is intended to be directed. A Growth Containment Boundary is assumed to have the same meaning.

The legislation does include a regulation-making authority to define the term “urban containment boundary” for the purposes of the Act in future, if needed.

### 2. What if a community is only partially inside an urban containment boundary established in a Regional Growth Strategy?

Only the parcels within the urban containment boundary would have to meet the small-scale, multi-unit zoning requirements for three, four or six units. Areas outside the urban containment boundaries that are restricted to single family use will only have to allow a secondary suite or accessory dwelling unit.

See pages 5-9 (Summary of the SSMUH Requirements) of the [Provincial Policy Manual & Site Standards](#) for more details.

### 3. Does an RGS-defined urban containment boundary override different boundaries set by municipal OCPs?

Yes, if a local government’s land falls within an urban containment boundary established by a regional growth strategy, that urban containment boundary is the determining factor regarding where SSMUH requirements apply.

### 4. Can a local government change their urban containment boundary to alter where the SSMUH requirements applies?

Urban containment boundaries may change over time, however the legislation prohibits local governments from unreasonably restricting or prohibiting small-scale multi-unit housing.

The development and amendment of a regional growth strategy is a collaborative and interactive process that involves a regional district, member municipalities, provincial agencies, and others. Similarly, amending an official community plan to change an urban containment boundary would require significant consultation.

### 5. Can local governments use conditional density rules (i.e., density bonusing) to achieve their minimum number of housing units?

Local governments will only be able to use density bonusing to achieve one of the six units in the higher density requirements near frequent bus service, and they may only use it to secure affordable or special needs housing.

See page 10 (Prohibited activities) of the [Provincial Policy Manual & Site Standards](#) for more details.

6. Will this legislation legalize existing secondary suites built without a permit?

No. This legislation will allow secondary suites or accessory dwelling units to be built in all communities across BC. It will not legalize secondary suites which may have been built without a building permit. If a secondary suite is built without a building permit, property owners will have to work with their local government to bring it into compliance with the BC Building Code and other local government requirements.

7. Do existing covenants under section 219 still apply?

The SSMUH legislation does not affect existing covenants made under section 219 of the *Land Title Act*. However, local governments should not pursue new covenants that would prevent the prescribed residential densities required under the SSMUH legislation. Covenants can however still be requested for health, safety, and the protection of the natural environment.

8. Do phased Development Agreements (under Section 516 of the Local Government Act) supersede SSMUH requirements?

A phased development agreement itself does not supersede the SSMUH requirements. Covenants, which are a common features of phased development agreements, could negate a zoning change made by a local government to implement SSMUH requirements. The application of the SSMUH legislation would also depend on whether the current zoning of the phased development meets the definition of a restricted zone under the legislation. Please seek advice from your lawyer where necessary.

See page 24 (Land Title Act) of the [Provincial Policy Manual & Site Standards](#) for more details.

9. Does the legislation apply to all sub areas of Comprehensive Development Zones even though some zones are single detached and others are multi-unit?

Each Comprehensive Development Zone is unique and the application of the SSMUH legislation would depend on whether the comprehensive development zone meets the definition of a restricted zone under the legislation. Local governments should seek legal advice if uncertain.

10. What happens if a property has a split zone?

The property can have a split zone, providing those parts of the property identified as being in a restricted zone are updated as required by SSMUH legislation.

11. Are local governments restricted to what minimum lot sizes can be set for subdivision?

No. Per the Provincial Policy Manual & Site Standards, “In developing policies or regulations governing subdivisions, local governments should consider the relationship between the minimum lot size requirements in the various zones, including minimum lot frontage lengths, with the potential number and viability of units that could be built if the minimum lot sizes were smaller. Smaller sized lots can mean a more efficient use of infrastructure and services.” Please see pages 51-52 (Subdivision, lot sizes, and strata titling) of the Provincial Policy Manual for more information.

12. Can local governments ensure that large lots aren't subdivided into very small parcels (further increasing density)?

Yes, local governments retain the ability to determine the minimum lot size for subdivision. In determining those sizes, the Province encourages local governments to consider the relationship between minimum lot size requirements in the various zones with the potential number and viability of units that could be built if the minimum lot sizes were smaller. Please see pages 51-52 (Subdivision, lot sizes, and strata titling) of the Provincial Policy Manual for more information.

New subdivision proposals would still need to be reviewed by an approving officer, who could ask for infrastructure upgrades as a condition of any approval (Land Title Act, sections 86 and 87, and LGA, section 506). New subdivision proposals can be denied by an approving officer based on concerns of lack of infrastructure and servicing capacity, or can require actions to be taken before an approval is granted.

13. Can local governments set form and character requirements through Development Permit Areas in areas where SSMUH requirements apply?

Yes, though they must not unreasonably restrict the ability to use land at the use or density prescribed by SSMUH legislation.

See page 46 (Development Permit Areas) of the [Provincial Policy Manual and Site Standards](#) for more information.

14. Will single-family and duplex areas be required to accommodate increased density if they aren't prepared for it?

The legislation focuses on increasing density in areas already serviced by municipal infrastructure, that are within urban containment boundaries, and that are well served by transit. For example, the community of Metchosin in the Capital Regional District (CRD) is subject to the CRD's Regional Growth Strategy (RGS) but does not fall within the urban containment boundary as set out in the RGS and does not have sewers. Accordingly, the SSMUH zoning requirements for three, four or six units do not apply there.

Results from other jurisdictions indicate a gradual uptake of multi-unit housing, allowing time for areas with predominantly single-detached and duplex homes to adapt to anticipated density.

Bill 44 also establishes the ability for local governments to apply for an extension to the SSMUH compliance deadline of June 30, 2024, for the following reasons:

- The local government is in the process of upgrading infrastructure that services an area where the SSMUH requirements would apply;
- The infrastructure that services an area is such that compliance by June 30, 2024, is likely to increase a risk to health, public safety or the environment in the area;
- There exist extraordinary circumstances that otherwise prevent compliance in relation to the applicable area.

15. Can local governments exempt areas due to geotechnical hazards, flood zones, etc.?

Yes. The *Local Government Act* and *Community Charter* have existing authorities, like development permits for municipalities to manage growth in and near hazardous and environmentally sensitive areas.

As well, regulations which came into force on December 7 (Local Government Zoning Bylaw Regulation) establish further exemptions for areas from SSMUH:

- Areas captured within a Transit Oriented Area, as noted by Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023, S.B.C. 2023, c. 48, are exempted from the three-, four- or six-unit requirements as the TOA regulation will allow higher densities of housing.
- Land which is subject to:
  - a) hazardous conditions,
  - b) the threat or risk from the hazardous conditions would increase if the density permitted under this legislation is achieved, and
  - c) the hazardous condition cannot be practically mitigated,

is exempt from the SSMUH legislative requirements. Local governments must have a report prepared by a qualified professional which certifies a) and b) above.

A local government is required to provide a written notice to the Province of an exemption.

See page 11 (Exemptions) of the [Provincial Policy Manual and Site Standards](#) for more information.

16. Does MOTI still have to approve zoning bylaws for parcels within 800 metres of an intersection of a controlled access highway?

Yes. MOTI is working on a streamlined process specifically for SSMUH-related bylaws, more information will be shared on that in the coming weeks.

Please reach out to the appropriate MOTI regional and district contact for more information: [Regional & District Contacts for the Ministry of Transportation and Infrastructure - Province of British Columbia \(gov.bc.ca\)](#)

17. Where SSMUH compliance requires a companion OCP amendment is a public hearing required for the OCP amendment?

Yes. Public hearing requirements for OCP amendments remain unchanged. However, zoning bylaw updates required to align with the SSMUH legislation are explicitly excluded from the requirement to be consistent with official community plans until December 31, 2025, so OCPs need not be updated immediately to comply with SSMUH requirements.

See page 16 (Implementing SSMUH requirements) of the [Provincial Policy Manual and Site Standards](#) for more details.

18. If our zoning bylaw amendments go beyond the legislated requirements, are we still exempt from having a public hearing?

Local governments must not hold a public hearing for zoning bylaw updates that are for the sole purpose of complying with SSMUH legislation. The possible administrative process and procedure should be discussed with legal counsel if a local government's intent is to combine SSMUH updates with other zoning bylaw amendments.

See page 16 (Implementing SSMUH requirements) of the [Provincial Policy Manual and Site Standards](#) for more details.

19. What mechanisms are available to exempt properties with higher density designation in an OCP but with zoning which meets the restricted zone definition?

Local governments may rezone properties within restricted zones to permit higher density than what is required to meet the SSMUH requirements to match the OCP.

20. How can local governments protect urban forests while adding density?

Many communities across BC have tree protection bylaws to protect urban tree canopy, and many of these bylaws include policies to replace trees when removed for new development. These bylaws can remain in place as long as they do not unreasonably restrict the development of small-scale multi-unit housing and the property being developed to the density allowed by the applicable zoning bylaw (*Community Charter* section 50 and *Local Government Act* section 457.1)

As well, local governments implementing SSMUH zoning bylaw updates should be flexible in terms of permitting the full range of combinations and configurations for SSMUH buildings, up to at least the specified density or unit limit on a given lot. For example, rather than creating a zone that permits a duplex, triplex, or fourplex, a zone could permit up to four housing units, without limiting the form those buildings should take. This approach will allow those who are designing and developing the housing to select a form that better aligns with the needs of the community or future residents, such as taking into account important site considerations such as tree canopy and urban forest retention.

21. Is the 2-metre front yard setback in the site standards required if it poses issues for accommodating adequate soil volumes for trees?

Local governments are required to *consider* the Provincial Policy Manual & Site Standards. The packages of site standards are a resource to support local governments, serving as recommendations for technical specifications for zoning bylaws that local governments may adopt for different lots and areas to which the SSMUH requirements will apply.

See page 65 (Purpose of these resources) in the [Provincial Policy Manual and Site Standards](#) for more details.



22. What if a property is partially in the Agricultural Land Reserve?

The portion of the property in the ALR continues to be subject to the *Agricultural Land Commission Act*.

See page 20 (Agricultural Land Commission Act) in the [Provincial Policy Manual and Site Standards](#) for more details.

23. If a strata has their own on-site servicing for water and wastewater, which is not connected to the local government system, are they exempt from SSMUH legislation?

Land that is not connected to a water and sewer system provided as a service by a municipality or regional district is exempt from SSMUH requirements to permit, in zones which meet the definition of a restricted zone, a minimum of three to six units.

See pages 11-12 (Exemptions) of the [Provincial Policy Manual and Site Standards](#) for more details.

24. What if a property is in a service area for water and sewer but not connected to both services? What happens if a property later connects to both services?

Land must be connected to both water and sewer systems that are operated by a local government for the three to six unit density to be applied. Even if a property is within a service area, it must also be connected to both a water and a sewer system operated by a local government. If a property does later connect to both services, the zoning of the property may need to be updated to allow for three to six units.

25. How do heritage protections (sections 610, 611 and 614 of the LGA) intersect with SSMUH legislation?

The following lands are exempted from SSMUH requirements to permit a minimum of three to six units on a lot:

- Land that is protected under s. 12.1 (2) of the Heritage Conservation Act;
- Land that is, on the date the SSMUH legislation came into force, designated as protected under section 611 [heritage designation protection];
- Lands subject to a heritage revitalization agreement, as defined in section 586 of the LGA, entered into before the date this section comes into force.

Going forward, local governments will still be able to designate heritage properties, but they will have to allow the minimum density under the small scale, multi-unit housing (SSMUH) requirements on those lots, and they cannot unreasonably restrict SSMUH development. Many homes which are currently designated as heritage do accommodate multiple dwellings within one, large residential building, and heritage infill is a common practice in many communities across B.C. already.

See page 11 (Exemptions) and implementation sections of the [Provincial Policy Manual and Site Standards](#) for more information.

26. Will BC Transit provide further information for determining prescribed bus stops?

As described in the [Provincial Policy Manual and Site Standards](#) (Bus Stops, page 80), BC Transit has data regarding transit frequencies for all routes in their jurisdiction, while comparable data is available for routes serviced by Coast Mountain Bus Company and West Vancouver Transit in the lower mainland. The Province recommends liaising directly with the appropriate transit operator to identify the bus stops that will determine density requirements under the SSMUH legislation.

27. If transit service changes in the future (i.e. bus stop is moved or service level adjusted) are municipalities required to update their zoning bylaw for which six units are permitted?

Yes, municipalities are expected to ensure their zoning bylaws are up to date and account for changes in transit routes and frequency.

Transit service is not static and changes over time and throughout the year. For seasonal changes to bus service, local governments should determine prescribed bus stops based on the lowest service level available throughout the year. Local governments are to use the transit service which is published at the time they are updating their zoning bylaws to meet the compliance deadline of June 30, 2024. As transit levels change in the future, local governments should ensure their zoning bylaws continue to align with provincial legislation.

28. How can local governments implement small-scale multi-unit housing while protecting biodiversity and ecosystem health?

New housing legislation will ensure many of the opportunities for new growth occur within Urban Containment Boundaries and close to frequent transit, and mostly as infill and not greenfield development. Focusing increased housing supply within existing urban areas is critical to making the most efficient use of land and preserving the intact natural ecosystems (forests, wetlands, rivers, etc.) that surround our communities. Urban containment boundaries help us build more complete communities, reduce climate impacts, and prevent urban sprawl.

The *Local Government Act* and *Community Charter* have existing authorities, like development permits, for municipalities to manage growth in and near hazardous and environmentally sensitive areas. Existing legislation also protects environmentally sensitive areas from development including: the *Drinking Water Protection Act*, the *Environmental Management Act*, the *Riparian Areas Protection Act*, and the *Agricultural Land Commission Act*. Minimum density requirements do not override development permit areas for environmentally sensitive areas and other Provincial regulations related to riparian areas and setbacks from watercourses.

The [BC Environmental Mitigation Policy and Procedures](#) can be used by local governments to guide consistent decisions on mitigation of environmental impacts from development projects (such as housing). The EMP applies the mitigation hierarchy (avoid, minimize, restore on-site, offset) which is recognized as a global standard for environmental assessments.

As local governments implement the suite of housing initiatives, they should be planning for parks, greenspace, and other amenities in their communities, which they will be able to review regularly through newly mandated regular official community plan updates.