

RESORT MUNICIPALITY OF WHISTLER
ZONING AMENDMENT BYLAW (SMALL-SCALE MULTI-UNIT HOUSING) NO. 2440, 2024
A BYLAW TO AMEND THE RESORT MUNICIPALITY OF WHISTLER ZONING AND
PARKING BYLAW NO. 303, 2015

WHEREAS s. 481.3 of the *Local Government Act* (Act) requires the Municipality to exercise its zoning powers under s. 479 of the Act to permit small-scale multi-family housing in certain zones, and

WHEREAS s. 464(4) of the Act prohibits the holding of a public hearing on a zoning amendment bylaw proposed for the sole purpose of complying with s. 481.3;

NOW THEREFORE the Council of the Resort Municipality of Whistler, in open meeting assembled, **ENACTS AS FOLLOWS:**

CITATION

1. This Bylaw may be cited for all purposes as “Zoning Amendment Bylaw (Small-Scale Multi-Unit Housing) No. 2440, 2024”.

ZONING BYLAW AMENDMENTS

2. Part 5 of “Zoning and Parking Bylaw No. 303, 2015” is amended by adding as Section 35 the regulations attached to and forming part of this Bylaw as Schedule A.
3. “Zoning and Parking Bylaw No. 303, 2015” is further amended by adding as Schedule T the form of housing agreement attached to and forming part of this Bylaw as Schedule B.
4. This Bylaw comes into force June 29, 2024.
5. If any section or phrase of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this Bylaw.

GIVEN FIRST, SECOND AND THIRD READINGS this 14th day of May, 2024.

THIRD READING, RESCINDED this ___ day of ___, 2024.

GIVEN THIRD READING, AS REVISED AND ADOPTED by the Council this ___ day of _____, 2024.

Jack Crompton,
Mayor

Pauline Lysaght,
Corporate Officer

I HEREBY CERTIFY that this is a true copy
of Zoning Amendment Bylaw (Small-Scale
Multi-Unit Housing) No. 2440, 2024.

SCHEDULE A

PART 5 – GENERAL REGULATIONS

35. SMALL-SCALE MULTI-UNIT HOUSING

- (1) In this section,

“residential rental tenure” means the occupancy of a dwelling unit as a principal residence in which the occupant continuously resides, pursuant to the terms of a residential tenancy agreement governed by the *Residential Tenancy Act*.

“employee housing agreement” means a housing agreement with the Municipality in the form of Schedule “T”.

- (2) This Section applies, despite any other provision in this Bylaw, to any parcel of land in any zone on which this bylaw limits residential development to:
- (a) only the construction and use on the parcel of a detached dwelling;
 - (b) only the construction and use on the parcel of a detached dwelling and an auxiliary residential dwelling unit;
 - (c) only the construction and use on the parcel of a detached dwelling and two auxiliary residential dwelling units; or
 - (d) only the construction and use on the parcel of a duplex dwelling, or a duplex dwelling with an auxiliary residential dwelling unit.
- (3) If this Bylaw permits on any parcel only the construction and use of a detached dwelling, the permitted uses include the construction and use of an auxiliary residential dwelling unit within the detached dwelling or in an auxiliary building.
- (4) If a regulation in this Bylaw establishes a sewer service requirement in respect of an auxiliary residential dwelling unit, such a unit is permitted regardless of the unavailability of community sewer service.
- (5) If a regulation in this Bylaw permits additional gross floor area for a dwelling unit or an auxiliary residential dwelling unit, or permits the subdivision of an auxiliary residential dwelling unit, subject to the owner entering into an employee housing agreement with the Municipality, the terms of the housing agreement shall be the terms in Schedule “T”.
- (6) If a parcel to which this Section applies:
- (a) is not within a transit-oriented area as defined in the *Local Government Act*;
 - (b) is serviced by municipal water and sewer systems;
 - (c) is wholly or partly within the Whistler Urban Development Containment Area identified in Schedule A to Official Community Plan Bylaw No. 2199, 2018, the boundary of which is illustrated in Figure 5-H;
 - (d) has an area of 4,050 m² or less; and
 - (e) is not in a zone in respect of which the minimum parcel area for subdivision specified in this Bylaw is 4,050 m² or more, the following residential development is permitted on the parcel:
 - (i) a total of three dwelling units if the parcel has an area of 280 m² or less, and
 - (ii) a total of four dwelling units if the parcel area is greater than 280 m².

- (7) Residential development permitted by this Section may be any combination of detached dwellings, duplex dwellings, auxiliary residential dwelling units and apartment or townhouse buildings, comprising in the aggregate not more than the total number of dwelling units permitted, and the dwelling units may be located in no more than two buildings.
- (8) Subject to subsection (9), (10) and (11), the maximum gross floor area permitted on a parcel to which this Section applies is the maximum provided under the zone regulations that apply to the parcel.
- (9) The maximum permitted gross floor area for a parcel in the RS1, RI1, RS2 and RS4 zones is a floor space ratio of 0.40 or 511 square metres, whichever figure is lower, irrespective of site dimensions, if at the time the gross floor area is calculated for the purpose of issuing a building permit the proposed development of the parcel includes the construction of either three or four dwelling units as permitted by this Section.
- (10) The maximum permitted gross floor area for a parcel in the RT2 zone is a floor space ratio of 0.40 or 511 square metres, whichever figure is lower, irrespective of site dimensions, if at the time the gross floor area is calculated for the purpose of issuing a building permit the proposed development of the parcel includes the construction of either three or four dwelling units as permitted by this Section.
- (11) The maximum permitted gross floor area for a parcel in the RT1 and RT6 zones is a floor space ratio of 0.45 or 511 square metres, whichever figure is lower, irrespective of site dimensions, if at the time the gross floor area is calculated for the purpose of issuing a building permit the proposed development of the parcel includes the construction of either three or four dwelling units as permitted by this Section.
- (12) The gross floor area referenced in subsections (8), (9), (10) and (11) may be distributed in any proportion among the dwelling units and any auxiliary buildings that are permitted on the parcel by this Bylaw, provided that the gross floor area of any auxiliary residential dwelling unit that is located within a detached dwelling or within a dwelling unit in a duplex dwelling shall not exceed 40% of the gross floor area of the building or the gross floor area of the dwelling unit in the duplex dwelling.
- (13) The gross floor area exclusions in Section 26(1)(a) of this Part apply to all residential buildings permitted by this Section.
- (14) The minimum side setback specified for the RS1, RS2, RS4, RI1, RT1, RT2 and RT6 zones is 3 metres if at the time the setback is measured for the purpose of issuing a building permit the proposed development of the parcel includes the construction of either three or four dwelling units as permitted by this Section.
- (15) If at the time the parking space requirements in Part 6 are calculated for any parcel for the purpose of issuing a building permit the proposed development of the parcel includes the construction of either three or four dwelling units as permitted by this Section, the minimum number of parking spaces required is one space per dwelling unit and the maximum number of spaces that may be constructed on a parcel is six, and the parking spaces may be laid out in any manner provided that each parking space has access from a highway either directly or through not more than one other parking space

and the parking spaces comply with the standards in Part 6.

- (16) Where this Section permits on any parcel a second detached dwelling or a duplex dwelling that would not otherwise be permitted by this Bylaw, the form of tenure of one of the detached dwellings or one of the dwelling units in the duplex dwelling, as the case may be, must be residential rental tenure.
- (17) Where this Bylaw including this section permits three dwelling units on a parcel, the form of tenure of at least one of the dwelling units must be residential rental tenure.
- (18) Where this Bylaw including this Section permits four dwelling units on a parcel, the form of tenure of at least two of the dwelling units must be residential rental tenure.
- (19) The Municipality may require the owner of any parcel in respect of which this Section limits the form of tenure to residential rental tenure to provide a statutory declaration, not more than once in any calendar year, in which the owner declares that the number of dwelling units specified in the declaration have, during the entire previous 12-month period, been occupied pursuant to a residential tenancy agreement governed by the Residential Tenancy Act.
- (20) Where this Section permits on any parcel a detached dwelling or a duplex dwelling that would not otherwise be permitted by this Bylaw, the dwelling may be subdivided under the Strata Property Act or the Land Title Act provided that the owner enters into an employee housing agreement with the Municipality, in respect of at least one of the detached dwellings on the parcel or at least one of the dwelling units in the duplex dwelling, as the case may be, and the residential rental tenure restriction applicable to any such dwelling unit so subdivided shall no longer apply.
- (21) Multi-unit residential buildings permitted by this Section may be subdivided under the Strata Property Act or the Land Title Act provided that the owner enters into an employee housing agreement with the Municipality, in respect of at least one of the dwelling units on the parent parcel if this Section permits three dwelling units on the parcel, and at least two of the dwelling units if this Section permits four dwelling units on the parcel, and the residential rental tenure restriction applicable to any such dwelling unit so subdivided shall no longer apply.
- (22) This Section shall not be interpreted or applied to increase the number of dwelling units on any parcel of land that may be used as tourist accommodation, over the number that would otherwise be permitted by this Bylaw.
- (23) Development that is permitted by this Section is exempt from the requirement to obtain a development permit for establishment of objectives for the form and character of intensive residential development and for establishment of objectives for the form and character of multi-family residential development.
- (24) Notwithstanding part 5, Section 28, development that is permitted by this Section is required to obtain a development permit if any part of the parcel of land that is the subject of the proposed development is within a development permit area for the protection of riparian ecosystems, protection of sensitive ecosystems or wildfire protection.

Figure 5-H: Whistler Urban Development Containment Area



SCHEDULE B

SCHEDULE “T” TO BYLAW NO. 303, 2015

PART 2 - TERMS OF INSTRUMENT

HOUSING AGREEMENT and 219 COVENANT

This Agreement, dated for reference _____, 20__ is

BETWEEN:

Resort Municipality of Whistler
4325 Blackcomb Way
Whistler, BC V8E 0X5

(the “Municipality”)

AND:

(the “Owner”)

WHEREAS:

- A. Section 483 of the *Local Government Act* permits the Municipality to, by bylaw, enter into a housing agreement that may include terms and conditions regarding the occupancy of housing units identified in the agreement, including the availability of housing units to classes of persons;
- B. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of the Municipality in respect of the use of land or a building on land;
- C. The Owner is the registered owner of the Land described in Item 2 of the General Instrument – Part 1 forming part of this Agreement;
- D. The Owner and the Municipality wish to enter into this Agreement to provide for employee housing on the terms and conditions set out in this Agreement, and this Agreement is both a covenant under section 219 of the *Land Title Act* and a housing agreement under s. 483 of the *Local Government Act*.

THIS AGREEMENT is evidence that in consideration of the mutual promises contained in it and in consideration of the payment of \$2.00 by the Municipality to the Owner, the receipt and sufficiency of which are hereby acknowledged by the Owner, the parties agree pursuant to section 483 of the *Local Government Act* and section 219 of the *Land Title Act* as follows:

PART I – DEFINITIONS

1. In this Agreement the following words have the following meanings:

- (a) "Agreement" means this Agreement together with the General Instrument, being the Form C under the Land Title (Transfer Forms) Regulations, as amended, and all schedules and addenda to the Form C charging the Land;
- (a) "CCPI" means the Consumer Price Index for Canada published from time to time in respect of all items, excluding eight of the most volatile components and the effect of changes in indirect taxes (CPIX), as determined by the Bank of Canada, or its successor in function, or, if that index is no longer published or available, a comparable index selected by the Municipality;
- (b) "Daily Amount" means \$700.00 per day as of December 31, 2023, adjusted in accordance with section 5;
- (c) "Dwelling Unit" means the residential dwelling unit on the Land, whose location is identified on Schedule "A";
- (d) "Employee" means an individual who is either employed or self-employed for an average of at least 30 hours per week on an annual basis by a Qualified Whistler Business and is legally permitted to work in Canada;
- (e) "Employee Unit" means a Dwelling Unit used and occupied continuously as a principal residence by at least one Employee or Retiree together with any spouse and other relatives of the Employee or Retiree;
- (f) "Land" means the land described in Item 2 of the General Instrument to which the Agreement is attached and which forms part of this agreement, and any part into which said land is subdivided;
- (g) "LTO" means the New Westminster Land Title Office or its successor;
- (h) "Owner" means the Transferor described in the General Instrument and any subsequent owner of the Land or of any part into which the Land is subdivided, and includes any person who is a registered owner in fee simple of an Employee Unit from time to time;
- (i) "Qualified Whistler Business" means an individual, partnership or corporate body, with one or more employees, which operates a business that:
 - A. is operated at premises located either within the boundaries of the Resort Municipality of Whistler or at the Whistler Olympic Park;
 - B. holds a valid business license from the Municipality that is not a non-resident business license, or is exempt from business licensing requirements;
 - C. is a permitted use of the business premises under the Municipality's zoning bylaw;

- D. primarily serves Resort Municipality of Whistler residents, homeowners, businesses or tourists; and
 - E. in the case of a home-based or mobile business, derives more than 75% of its business income from Resort Municipality of Whistler residents, homeowners, businesses or tourists.
- (j) "Retiree" means an individual who is at least 55 years of age; has ceased full-time employment (such that they work less than 30 hours per week) and was an Employee for at least 10 of the 12 years immediately preceding the date on which the individual ceased full-time employment; and is a Canadian citizen or has Canadian permanent resident status.

PART II - USE AND OCCUPANCY OF EMPLOYEE UNITS

2. The Owner agrees that the Dwelling Unit shall be used or occupied only as an Employee Unit, subject to the terms of section 4.
3. Within ten days after receiving notice from the Municipality, the Owner will in respect of each Employee Unit, deliver, or cause to be delivered, to the Municipality a statutory declaration, substantially in the form attached as Schedule "B", sworn by the Owner, containing all of the information required to complete the statutory declaration. The Municipality may request such a statutory declaration in respect of an Employee Unit no more than four times in any calendar year. The Owner hereby irrevocably authorizes the Municipality to make such inquiries as it considers necessary and reasonable in order to confirm that the Owner is complying with this Agreement, and irrevocably authorizes and directs the recipient, including, but not limited to the provincial issuing authority for driver's licenses, of the request for information from the Municipality to provide such information to the Municipality.
4. If the Owner cannot comply with the occupancy requirements for any Employee Unit for reasons of hardship, the Owner may request that the Municipality alter the Owner's obligations with respect to that Employee Unit on terms acceptable to the Municipality, but no such request may be made later than 30 days after the Municipality has delivered to the owner a written notice of breach of this Agreement. The request must set out the circumstances of the hardship involved and the reasons why the Owner cannot comply with the occupancy requirements, and must describe the hardship to the Owner that compliance would cause. The Owner agrees that the Municipality is under no obligation to grant any relief, and may proceed with its remedies under this Agreement, and at law and in equity, despite the Owner's request or the hardship involved, and the Owner agrees that the relief, if any, is to be determined by the Municipality in its sole discretion.

PART III - DEFAULT AND REMEDIES

5. The Owner acknowledges that the Municipality requires employee housing to attract employees to work for local businesses and that these businesses generate tax and other revenue for the Municipality and economic growth for the community. The Owner therefore agrees that, in addition to any other remedies available to the Municipality under this Agreement or at law or equity, if an Employee Unit is used or occupied in breach of this Agreement, or if the Owner does not deliver to the Municipality a statutory declaration requested under section 3 within three

days after receiving the request, the Owner will pay to the Municipality, as a rent charge under section 6, the Daily Amount for each day of the breach of this Agreement. The Daily Amount is increased on January 1 of each year by an amount calculated by multiplying the Daily Amount as of the previous January 1 by the percentage increase in the CCPI between that previous January 1 and the immediately preceding December 31. The Daily Amount is due and payable immediately upon receipt by the Owner of an invoice from the Municipality for the same.

6. The Owner hereby grants to the Municipality a rent charge under s. 219 of the *Land Title Act* (British Columbia), and at common law, securing payment by the Owner to the Municipality of any amount payable by the Owner pursuant to this Agreement. The Owner agrees that the Municipality, at its option, may enforce payment of such outstanding amount in a court of competent jurisdiction as a contract debt, by an action for and order for sale, by proceedings for the appointment of a receiver, or in any other method available to the Municipality in law or in equity.

PART IV - INTERPRETATION

7. In this Agreement:
 - (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
 - (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
 - (c) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
 - (d) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
 - (e) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
 - (f) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
 - (g) time is of the essence;
 - (h) all provisions are to be interpreted as always speaking;
 - (i) reference to a "party" is a reference to a party to this Agreement and to that party's respective successors, assigns, trustees, administrators and receivers. Wherever the context so requires, reference to a "party" also includes employees, agents, officers and invitees of the party;

- (j) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided; and
- (k) where the word "including" is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word "including".

PART V – GENERAL PROVISIONS

- 8. **Housing Agreement.** The Owner acknowledges and agrees that this:
 - (a) Agreement constitutes a covenant under s.219 of the *Land Title Act* and a housing agreement entered into under s. 483 of the *Local Government Act*;
 - (b) the Municipality may file a notice of housing agreement under s.483 of the *Local Government Act* in the LTO against title to the Employee Unit.
- 9. **Municipality's Powers Unaffected.** This Agreement does not:
 - (a) affect or limit the discretion, rights, duties or powers of the Municipality under any enactment or at common law, including in relation to the use or subdivision of the Land;
 - (b) impose on the Municipality any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;
 - (c) affect or limit any enactment relating to the use or subdivision of the Land; or
 - (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Land.
- 10. **Agreement for Benefit of Municipality only.** The Owner and the Municipality agree that:
 - (a) this Agreement is entered into only for the benefit of the Municipality;
 - (b) this Agreement is not intended to protect the interests of the Owner, any tenant, or any future owner, lessee, occupier or user of the Property, the Land or the building or any portion thereof, including any Employee Unit; and
 - (c) the Municipality may at any time execute a release and discharge of this Agreement, without liability to anyone for doing so, and without obtaining the consent of the Owner.
- 11. **No Public Law Duty.** Where the Municipality is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the Municipality is under no public law duty of fairness or natural justice in that regard and agrees that the Municipality may do any of those things in the same manner as if it were a private party and not a public body.

12. **Notice.** Any notice required to be served or given to a party herein pursuant to this Agreement will be sufficiently served or given if delivered, to the postal address of Owner set out in the records at the LTO, and in the case of the Municipality addressed:

 To: Corporate Officer, Resort Municipality of Whistler
 4325 Blackcomb Way, Whistler, BC V8E 0X5

 or to the most recent postal address provided in a written notice given each of the parties to the other. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery.
13. **Enuring Effect.** This Agreement will extend to and be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.
14. **Severability.** If any provision of this Agreement is found to be invalid or unenforceable such provision or any part thereof will be severed from this Agreement and the resultant remainder of this Agreement will remain in full force and effect.
15. **Waiver.** All remedies of the Municipality will be cumulative and may be exercised by the Municipality in any order or concurrently in case of any breach and each remedy may be exercised any number of times with respect to each breach. Waiver of or delay in the Municipality exercising any or all remedies will not prevent the later exercise of any remedy for the same breach or any similar or different breach.
16. **Sole Agreement.** This Agreement, and any documents signed by the Owners contemplated by this Agreement, represent the whole agreement between the Municipality and the Owner respecting the use and occupation of the Employee Units, and there are no warranties, representations, conditions or collateral agreements made by the Municipality except as set forth in this Agreement.
17. **Further Assurance.** Upon request by the Municipality the Owner will forthwith do such acts and execute such documents as may be reasonably necessary in the opinion of the Municipality to give effect to this Agreement.
18. **Covenant Runs with the Land.** This Agreement burdens and runs with the Land and every parcel into which it is Subdivided. All of the covenants and agreements contained in this Agreement are made by the Owner for itself, its personal administrators, successors and assigns, and all persons who after the date of this Agreement, acquire an interest in the Land. Notwithstanding anything contained herein, neither the Owner named herein nor any future owner of the Land or any portion thereof shall be liable under any of the covenants and agreement contained herein where such liability arises by reason of an act or omission occurring after the Owner named herein or any future owner ceases to have a further interest in the Land.
19. **Equitable Remedies.** The Owner acknowledges and agrees that damages would be an inadequate remedy for the Municipality for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.

- 20. **No Joint Venture.** Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the Municipality or give the Owner any authority to bind the Municipality in any way.
- 21. **Applicable Law.** Unless the context otherwise requires, the laws of British Columbia will apply to this Agreement and all statutes referred to herein are enactments of the Province of British Columbia.

Resort Municipality of Whistler

Owner

Authorized Signatory

Authorized Signatory:

Authorized Signatory

Authorized Signatory:

SCHEDULE "A" – SUBDIVISION OR STRATA PLAN – LOCATION OF DWELLING UNIT(S)

SCHEDULE "B" STATUTORY DECLARATION

IN THE MATTER OF A HOUSING AGREEMENT WITH THE RESORT MUNICIPALITY OF WHISTLER

I, _____ of _____, British Columbia, do solemnly declare that:

1. I am the owner of _____ (the "Employee Unit"), and make this declaration to the best of my personal knowledge.
2. This declaration is made pursuant to the Housing Agreement in respect of the Employee Unit.
3. For the period from _____ to _____ the Employee Unit was occupied continuously as a principal residence only by the Employees or Retirees (as defined in the Housing Agreement) whose names and current addresses and (in the case of Employees) whose employer's names and current addresses appear below:

Names, addresses and phone numbers of Employees:

Names, addresses and phone numbers of Employers:

4. I make this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and pursuant to the *Canada Evidence Act*.

DECLARED BEFORE ME at _____)
_____, British Columbia)
this ____ day of _____,)
20____)
)
)
_____)
A Commissioner for taking Affidavits)
British Columbia)

Name:

Name: