



RESORT MUNICIPALITY OF WHISTLER

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STAFF REPORT TO COUNCIL

PRESENTED: February 25, 2025 **REPORT:** 24-009
FROM: Planning **FILE:** 3900-20-2461/2463/2466/2467
SUBJECT: SMALL-SCALE MULTI-UNIT HOUSING UPDATE ZONING BYLAW
AMENDMENTS AND ENFORCEMENT AND TICKETING BYLAW AMENDMENTS
FOR STATUTORY DECLARATIONS

RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

That the recommendation of the General Manager of Climate Action, Planning and Development Services be endorsed.

RECOMMENDATIONS

That Council consider giving first, second and third readings to “Zoning Amendment Bylaw (Small-Scale Multi-Unit Housing Updates) No. 2461, 2024”; and

That Council consider giving first, second and third readings to “Zoning Amendment Bylaw (Small-Scale Multi-Unit Housing Accompanying Updates) No. 2463, 2024”; and

That Council consider giving first, second and third readings to “Municipal Ticket Information System Implementation Amendment Bylaw (Statutory Declarations) No. 2466, 2025”; and further

That Council consider giving first, second and third readings to “Bylaw Notice Enforcement Amendment Bylaw (Statutory Declarations) No. 2467, 2025”.

PURPOSE OF REPORT

This report presents two zoning amendment bylaws for Council consideration that seek to better implement small-scale multi-unit housing (SSMUH) changes within the “Zoning and Parking Bylaw 303, 2015” (Zoning Bylaw) that were adopted by Council on June 11, 2024 under “Zoning Amendment Bylaw (Small-Scale Multi-Unit Housing) No. 2440, 2024” (Bylaw 2440), attached as Appendix A. The proposed amendments provide clarification and address items not fully considered within Bylaw 2440. The amendments have been developed through cross-departmental collaboration completed to implement the new SSMUH zoning regulations and in response to further insights gained through Planning and Building Department inquiries and active applications over the past six months.

The report also presents amendment bylaws to the “Bylaw Notice Enforcement Bylaw No. 2174, 2018” (BNE Bylaw) and “Municipal Ticket Information System Implementation Bylaw No. 1719, 2005” (MTI Bylaw) which will allow bylaw officers to issue tickets and pursue as offences non-compliance with statutory declarations required under the Zoning Bylaw.

Information Report

Administrative Report (Decision or Direction)

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DISCUSSION

Key Points

This report presents four bylaws for Council consideration as follows:

- Zoning Amendment Bylaw (Small-Scale Multi-Unit Housing Updates) No. 2461, 2024 (Bylaw 2461) further implements SSMUH requirements and includes minor changes, intended for clarification, as well as the following key amendments:
 - add a minimum dwelling unit (DU) size of 32.5 m²
 - increase floor area exclusions for parking areas auxiliary to SSMUH housing
 - remove erroneous text related to applicability of residential rental tenure (RRT) restrictions for subdivision of SSMUH developments
 - provide options for RI1 zone property owners to develop under the same SSMUH regulations as RS1 zoned properties, or to use existing RI1 zoning regulations
- Provincial legislation prohibits a local government from holding a Public Hearing for Bylaw 2461.
- “Zoning Amendment Bylaw (Small-Scale Multi-Unit Housing Accompanying Updates) No. 2463, 2024” (Bylaw 2463) proposes to amend the Zoning Bylaw which are related to, but go beyond, the scope of legislative requirements for SSMUH. Key amendments proposed are to:
 - Updates employee housing covenant references, so that all such references, that apply to additional gross floor area (GFA) for an auxiliary residential DU (ARDU) or subdivision of an ARDU, apply the same form of covenant as adopted for SSMUH developments (employee eligibility restriction and no price or rent restriction).
 - Allows an ARDU in each half of a duplex, in the RM70 zone
 - Adds an enforcement clause if owners fail to provide a statutory regulation required by the Zoning Bylaw, including for RRT requirements under SSMUH zoning regulations
- The General Manager of Climate Action, Planning and Development Services (GM CAPDS) has determined that Bylaw 2463 is consistent with the Official Community Plan (OCP) and that no public hearing should be held, as authorized by provincial legislation and municipal procedures.
- “Municipal Ticket Information System Implementation Amendment Bylaw (Statutory Declarations) No. 2466, 2025” (Bylaw 2466) amends the MTI Bylaw to establish a maximum fine of \$3,000 for failure to comply with a Zoning Bylaw statutory declaration requirement.
- “Bylaw Notice Enforcement Amendment Bylaw (Statutory Declarations) No. 2467, 2025” (Bylaw 2467) amends the municipality’s BNE Bylaw to establish a maximum penalty of \$500 for failure to comply with a statutory declaration requirement under the Zoning Bylaw.
- Bylaw 2466 and Bylaw 2467 do not require public hearings.

Background

SSMUH Summary

The following bulleted list provides a high-level summary of the SSMUH legislation and its implementation within the RMOW:

- The B.C. Legislature passed several pieces of legislation that change the local government land use planning framework, including requirements for SSMUH.
- Bylaw 2440 was adopted by Council on [June 11, 2024](#) to comply with legislative requirements.

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- SSMUH requirements apply to “restricted zones”, which are generally zones restricted to detached and duplex dwellings.
- There are approximately 3,300 parcels/lots within the restricted zones in the RMOW and the following number of parcels must allow for the prescribed minimum number of DUs:
 - 276 parcels have a minimum requirement of an ARDU;
 - 93 parcels have a minimum requirement of three DUs; and
 - 2,942 parcels have a minimum requirement of four DUs.
- Mapping of affected parcels is publicly available on the [GIS Whistler Map](#) and associated instructions are available on the [RMOW Website](#).
- The following principles were used to guide the analysis and development of Bylaw 2440 and implementation monitoring:
 1. Support the articulated provincial housing objectives and implement the legislative requirements within the required timeframes.
 2. Consider the provincial policy manuals for SSMUH and transit-oriented development (TOD) areas; implement alignment giving reasonable consideration to Whistler’s policy and development context, particularly the RMOW’s employee housing needs.
 3. Generally, do not alter existing base zoning entitlements.
 4. Create a bylaw that is easy to understand and support with associated communications for staff, property owners and the development community.
 5. Continue to monitor and revise regulations/approaches as warranted.
- Bylaw testing and continued monitoring after adoption were integrated into the SSMUH project approach. It was recognized that there would be further testing with local architects, builders and real estate professionals after Bylaw 2440’s adoption, as well as further insights gained from working with property owners and their designers in applying the new regulations to actual potential development scenarios. The results are to be analyzed by staff in Q2 of 2025 and will be used as the basis for consideration of further potential changes to zoning regulations.

Analysis

Proposed Zoning Amendments

Through the on-going work to implement and administer the new SSMUH zoning regulations several proposed amendments to the Zoning Bylaw were identified. The amendments are proposed for clarity, readability and to address oversights and new information that has been identified through staff training sessions, public inquiries and active applications.

Due to specific legislative processes (see Community Engagement section) that are applicable only to bylaw amendments that are for the sole purpose of implementing SSMUH, the proposed amendments are presented in two bylaws: Bylaw 2461 and Bylaw 2463. The following subsections summarize the proposed amendments in each bylaw. Bylaw 2440 is attached as Appendix A.

Bylaw 2461

Bylaw 2461 is for the sole purpose of implementing SSMUH. This subsection provides a summary of the proposed amendments to clarify current SSMUH regulations and describes key proposed amendments and supporting rationale.

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Proposed Clarifying Amendments

The following table presents proposed amendments intended to further specify and clarify the current SSMUH regulations in Part 5 s. 35 of the Zoning Bylaw.

| Current Subsection | Bylaw 2461 Subsection | Proposed Amendment | Description |
|--------------------|-----------------------|---|--|
| 5 | 6 | The clauses 5 (i) and (ii) are integrated into 5 (e). | This proposed formatting change clarifies that they correspond to subsection 5(e). |
| 17 & 18 | 17 & 18 | References to “where this Bylaw” are removed and are replaced with “where this section”. | The amendment specifies the number of units required for RRT for SSMUH developments with three and four DUs. This proposed change will clarify that these provisions are specific to s. 35, not to the entire Zoning Bylaw. |
| 16, 17 & 18 | 16, 17 & 18 | References to the number of units “constructed” is added. | This proposed change clarifies the number of units required for RRT is in relation to the type or number of residential DUs constructed, as authorized by approved building permit, not the total number that are allowed to be constructed under the Zoning Bylaw. |
| 19 | 20 | Statutory declaration requirements for RRT are updated to specify that the owner declares that the number of DUs “restricted by this Section to RRT” have been occupied “only” pursuant to a residential tenancy agreement governed by the <i>Residential Tenancy Act</i> . | The proposed change clarifies the reference to which DUs the statutory declaration requirement applies to and replaces the requirement for the owner to declare the DU has been occupied during the <u>entire</u> previous 12-month period. The purpose of this change is to acknowledge there are reasonable times when a unit may not be occupied continuously over 12 months, such as during periods between tenants. For reference, in both the current Zoning Bylaw and the proposed bylaw amendment, the RRT requirement prohibits the subject unit from being occupied by the property owner. |

Key Proposed Amendments

Bylaw 2461 includes the following key proposed amendments to:

- add a minimum DU size;
- address floor area exclusions associated with parking use;
- require RRT units to be identified at building permit;

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- address a bylaw drafting error regarding RRT requirements; and
- provide options for RI1 Zone property owners.

Each of the proposed amendments is further described below with supporting rationale.

Adding a minimum DU size requirement

Proposed subsection 11 (c):

The gross floor area of any residential dwelling unit is in no case less than 32.5 square metres.

Generally, Part 5 s. 35 in the Zoning Bylaw allows for GFA to be distributed in any proportion among DUs on a parcel, with the requirement that an ARDU in a detached dwelling of a duplex shall not exceed 40 per cent of the GFA. As a result, minimum DU sizes provided under the property's zone are no longer applicable for parcels developed under SSMUH. To ensure that new DUs support creation of livable housing, the proposed subsection provides a minimum DU size of no less than 32.5 m². The proposed minimum is in alignment with the minimum ARDU size in the RS1 Zone (Single Family Residential One) and other residential zones.

Addressing floor area exclusions associated with parking use

Proposed subsection (13):

For the purposes of parking area exclusions under s. 26(1)(a)(v) of this Part, the maximum permitted floor areas that may be excluded are as follows:

- (a) up to 70 square metres per parcel if two dwelling units are proposed to be constructed pursuant to this Section;
- (b) up to 87.5 square metres per parcel if three dwelling units are proposed to be constructed pursuant to this Section; and
- (c) up to 105 square metres per parcel if four dwelling units are proposed to be constructed pursuant to this Section.

The Zoning Bylaw doesn't adequately address floor area exclusions associated with parking use for the full range of multi-residential development now permitted by the Zoning Bylaw.

Under the SSMUH regulations in s. 35 of the Zoning Bylaw, the GFA exclusions for detached and duplex dwelling buildings apply to all residential buildings permitted under SSMUH.

The existing parking use floor area exclusions in typical single family, duplex and multiple residential zones are limited to 70 m² for single family development, 50 m² per duplex DU, and 35 m² per multiple residential DU respectively.

Based on staffs' review of the range of existing parking use floor area exclusions, required parking space sizes, and minimum and maximum number of parking space requirements, staff are of the opinion that SSMUH multi-residential development is unintentionally penalized.

Under the SSMUH regulations in s. 35 of the Zoning Bylaw, parking for SSMUH development of either three or four DUs is calculated as a minimum of one space per DU to a maximum of six spaces. Considering the above, staff recommend increasing the permitted parking use floor area exclusions to 87.5 m² for three DUs and 105 m² for four DUs.

As parking requirements have a significant impact on the viability of SSMUH development, adding the proposed subsection supports Council's priority to encourage fewer vehicles by reducing off-

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street parking requirements, while also providing adequate parking use floor area exclusions to support SSMUH development.

Requiring residential rental tenure units to be identified at Building Permit

Proposed subsection (19):

Dwelling units whose occupancy is required to be restricted to residential rental tenure under any of subsections (16), (17) or (18) must be indicated as such on the owner's building permit application.

To provide certainty with respect to meeting the RRT requirements and enforcement including through the statutory declaration, it is recommended that the building permit drawings are required to identify the units to which the requirements apply. Future changes to the unit designations would require a revision to the building permit.

Addressing a bylaw drafting error regarding residential rental tenure requirements

Text required to be removed from subsections (21) and (22):

...the residential rental tenure restriction applicable to any such dwelling unit so subdivided shall no longer apply.

Subsections 21 and 22 indicate that the RRT designation ceases to apply once a property is subject to an employee housing agreement. Upon further analysis, it was identified that the bylaw does not have legislative authority to operate in this fashion. As a result, to remove the RRT designation on the unit a zoning bylaw amendment would be required.

Therefore, a proposed change is required to ensure the Zoning Bylaw complies with provincial legislation. Moving forward, each time an employee housing agreement is established with an owner who wishes to subdivide units that are subject to an RRT designation, the Zoning Bylaw is required to be amended in respect of RRT designation.

Providing clarity and choice for RI1 Zone property owners

Proposed subsection (26):

Parcels in the RI1 zone may, at the owner's option, be developed entirely in accordance with the regulations in that zone or entirely in accordance with the regulations in this Section.

This subsection is proposed to allow property owners the choice to either develop entirely in accordance with the regulations in the RI1 zone or entirely in accordance with the regulations under SSMUH in Part 5 s. 35 of the Zoning Bylaw.

Under both the RI1 Zone and the SSMUH regulations in s. 35 of the Zoning Bylaw, on parcels greater than 695 m², a detached dwelling and two ARDU's are permitted. For this development scenario, the SSMUH regulations allow for an increased floor space ratio, and reduced parking and setback requirements. However, under SSMUH one of the three units would be subject to a RRT requirement. By allowing choice, this will provide clarity on identifying the applicable regulations between the RI1 zone and SSMUH.

Bylaw 2463

The Bylaw 2463 proposed amendments are not for the sole purpose of implementing SSMUH, but are related and accompanying updates to achieve the following:

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- include an enforcement provision for statutory declaration requirements;
- incorporate the reference to the Schedule T employee covenant within base zones; and
- allow ARDU's as permitted use for one-half duplexes in RM70 Zone, with provisions similar to SSMUH zoning.

Including enforcement provision for statutory declaration requirements

Proposed Part 4 s.1 subsection (10):

No person shall fail to provide to the Municipality any statutory declaration that this Bylaw authorizes the Municipality to require, within the time specified by the Municipality when making the requirement, or fail to provide all of the information required by the declaration.

Under SSMUH Part 5, s. 35 of the Zoning Bylaw the municipality may request statutory declarations for RRT units. This subsection is proposed to be added to Part 4 – General Prohibitions of the Zoning Bylaw to reaffirm the requirement to provide a statutory declaration when required. This subsection also provides the basis for the proposed amendment bylaws to the municipality's BNE Bylaw and MTI Bylaw which will allow bylaw officers to issue tickets and pursue as offences non-compliance with statutory declarations required under the Zoning Bylaw.

Incorporation of reference to Schedule T employee covenant within base zones

Description of proposed change:

The subsection regarding Schedule T is proposed to be removed from s. 35 of the Zoning Bylaw and instead references to "Schedule T" are proposed to be integrated into the RS1, RS2, RS3, RS-E2, RS-E5, RTA-C1 and R11 Zones.

Schedule T provides a s. 219 covenant template which limits occupancy to qualified Whistler employee and retirees, without imposing price or rent restrictions. Schedule T is proposed to be referenced in s. 35 and for the RS1, RS2, RS3, RS-E2, RS-E5, RTA-C1 and R11 zones, within which the employee covenant requirement is associated with additional density permitted for ARDUs and the subdivision of an ARDU.

Allow ARDUs as a permitted use for one-half duplexes in the RM70 Zone

Proposed addition to RM70 Zone permitted uses - Part 13 S. 71 subsection 2 (d):

auxiliary residential dwelling unit provided that it is contained within a one-half duplex dwelling.

The RM70 zone affects properties located in the Bayshores and Millars Pond neighbourhood (Figure 1). Permitted uses in the RM70 Zone include detached dwellings, duplex dwellings and townhouses, but the location of these permitted uses is restricted to specific strata lots.

Specifically, the RM70 Zone specifies strata lots where one-half duplexes are the permitted use. Properties where only one-half duplexes and townhouses are permitted exceed the density requirements to qualify as a restricted zones as per the SSMUH legislation and therefore the SSMUH regulations in Part 5 s. 35 of the Zoning Bylaw do not apply. Properties subject to SSMUH are permitted to construct a duplex dwelling with two ARDUs. Whereas currently in the RM70 Zone, an ARDU is not permitted in a one-half duplex.

Allowing each one-half duplex to have an ARDU, creates additional opportunities for infill housing, beyond the legislative requirements.

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For consistency with adopted SSMUH regulations, the proposed amendment also requires that the ARDU be subject to a RRT restriction, establishes a statutory declaration for this restriction, and specifies a minimum parking requirement of one space per DU.

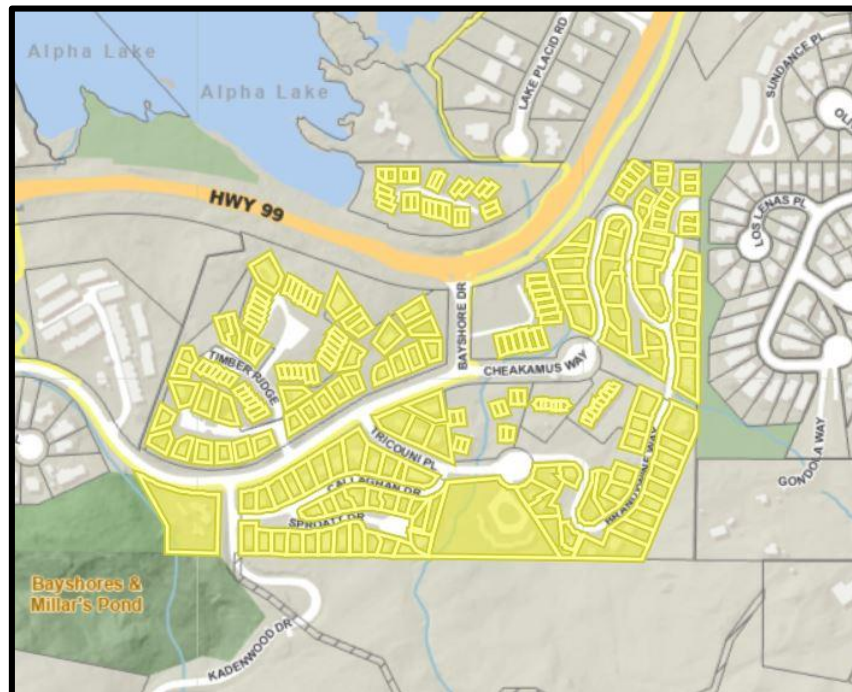


Figure 1: Image from RMOW GIS highlighting properties in the RM70 Zone

Proposed Enforcement Bylaw and Ticketing Bylaw Amendments

The proposed bylaw amendments provide additional enforcement tools for statutory declarations required under the Zoning Bylaw. To enforce the zoning amendments following adoption, concurrent amendments are required to the BNE Bylaw and MTI Bylaws. Bylaw 2466 and Bylaw 2467 are recommended to be set at the maximum allowable amounts of \$3,000 and \$500, respectively. Staff believe that setting the MTI fine at \$3,000 will help encourage compliance with the statutory declaration requirements and provide additional tools to bylaw officers to enforce compliance.

POLICY CONSIDERATIONS

Relevant Council Authority/Previous Decisions

[April 9, 2024 \(Administrative Report No. 24-040\)](#), Council endorsement was obtained of the project approach to implement new provincial requirements regarding SSMUH and TOD areas by the provincial deadline of June 30, 2024.

[May 14, 2024 \(Administrative Report No. 24-049\)](#), Council gave first, second and third reading to the Bylaw 2440. The associated administrative report provides an overview of the provincial legislative requirements and presents a thorough analysis of the proposed Bylaw 2440.

[June 11, 2024 \(Administrative Report No. 24-064\)](#), Council rescinded third reading and gave third reading and adopted the Bylaw 2440, as revised. The associated administrative report provides an overview of the Bylaw 2440 revisions.

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2023-2026 Strategic Plan

The 2023-2026 Strategic Plan outlines the high-level direction of the RMOW to help shape community progress during this term of Council. The Strategic Plan contains four priority areas with various associated initiatives that support them. This section identifies how this report links to the Strategic Plan.

Strategic Priorities

Housing

Expedite the delivery of and longer-term planning for employee housing

Climate Action

Mobilize municipal resources toward the implementation of the Big Moves Climate Action Plan

Community Engagement

Strive to connect locals to each other and to the RMOW

Smart Tourism

Preserve and protect Whistler's unique culture, natural assets and infrastructure

Not Applicable

Aligns with core municipal work that falls outside the strategic priorities but improves, maintains, updates and/or protects existing and essential community infrastructure or programs

Community Vision and Official Community Plan

The OCP is the RMOW's most important guiding document that sets the community vision and long-term community direction. This section identifies how this report applies to the OCP.

Typically, all bylaws enacted after the adoption of an OCP must be consistent with the OCP (s. 478(2) of the *Local Government Act* (LGA)); however, Zoning Bylaw amendments such as Bylaw 2461 are required to align with the SSMUH legislation and are explicitly excluded from this requirement until December 31, 2025 as per s. 788 of the LGA. The OCP must be reviewed and updated as necessary by December 31, 2025. Staff will be bringing forward an OCP project approach for Council's information.

BUDGET CONSIDERATIONS

The RMOW has received a one-time grant of \$210,718 from the province to support implementation of the new legislated requirements. This grant provides for legal assistance associated with bylaw preparation and for work related to bylaw testing.

LÍ'WAT NATION & SQUAMISH NATION CONSIDERATIONS

The RMOW is committed to working with the LÍ'wat People, known in their language as *L'il'wat7úl* and the Squamish People, known in their language as the *Skwxwú7mesh Úxwumixw* to: create an enduring relationship; establish collaborative processes for planning on unceded territories, as currently managed by the provincial government; achieve mutual objectives and enable participation in Whistler's resort economy.

There are no specific considerations to include in this report.

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COMMUNITY ENGAGEMENT

Level of community engagement commitment for this project:

Inform Consult Involve Collaborate Empower

Bylaw 2461

Provincial housing legislation provides specific requirements that must be implemented and policies that must be considered to meet the legislative requirements. As per s. 464(4) of the LGA, a local government must not hold a public hearing on a zoning bylaw proposed for the sole purpose of complying with SSMUH requirements. Bylaw 2461 is for that sole purpose.

Public notice of the Bylaw 2461 was published in two consecutive publications of *The Pique* and in the public notice posting places, in accordance with s. 467 of the LGA. Additionally, [public notice](#) and copy of Bylaw 2461 was posted on the RMOW website.

Bylaw 2463

Bylaw 2463 is not for the sole purpose of complying with SSMUH requirements. As per s. 464(2) of the LGA, a local government is not required to hold a public hearing on a proposed zoning bylaw if (a) an official community plan is in effect for the area that is the subject of the zoning bylaw, and (b) the bylaw is consistent with the official community plan.

As per s. 43 of RMOW “Land Use Procedures and Fees Bylaw, No. 2205, 2022”, (Land Use Procedures Bylaw) “Council delegates to the General Manager the authority to decide not to hold a public hearing referred to in s. 464(2) of the LGA on a proposed zoning bylaw.” The GM CAPDS has determined that the bylaw is consistent with the OCP and that no public hearing should be held.

As per s. 467(1) of the LGA, if a local government decides not to hold, or is prohibited from holding, a public hearing referred to in ss. 464 (2), (3) or (4) on a proposed zoning bylaw, it must give notice in accordance with this section.

As per s. 466(7), subsection (4) (mailing or delivery of notices) does not apply if 10 or more parcels owned by 10 or more persons are the subject of the bylaw alteration. The bylaw applies to more than 10 parcels owned by 10 or more persons, and therefore no mailing or delivery is required.

Public notice of Bylaw 2463 was published in two consecutive publications of *The Pique* and in the public notice posting places, in accordance with s. 467 of the LGA. Additionally, [public notice](#) and the proposed bylaw was posted on the RMOW website.

Additional Information

To provide addition information to the resort community, the [RMOW Website](#) provides an overview of how the provincial housing legislation affects whistler. This also includes links to information regarding: the provincial housing legislation, how the housing legislation impacts property, frequently asked questions and additional resources.

Enforcement and Ticketing Bylaw Amendments

To enforce the offences created in the Zoning Amendment Bylaw following adoption, concurrent amendments are required to the BNE Bylaw and MTI Bylaw via Bylaw 2466 and Bylaw 2467. No notification or engagement is required for these amendments.

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REFERENCES

Appendix A – Zoning Bylaw Amendment (Small-Scale Multi-Unit Housing) No. 2440, 2024.

“Zoning Amendment Bylaw (Small-Scale Multi-Unit Housing Updates) No. 2461, 2024” (Included in Council Package)

“Zoning Amendment Bylaw (Small-Scale Multi-Unit Housing Accompanying Updates) No. 2463, 2024” (Included in Council Package)

“Municipal Ticket Information System Implementation Amendment Bylaw (Statutory Declarations) No. 2466, 2025” (Included in Council Package)

“Bylaw Notice Enforcement Amendment Bylaw (Statutory Declarations) No. 2467, 2025” (Included in Council Package)

SUMMARY

This report presents two zoning amendment bylaws to further implement SSMUH housing development opportunities within Whistler along with amendments to the BNE Bylaw and MTI Bylaw to establish penalties and fines for non-compliance with statutory declaration requirements under the Zoning Bylaw. All four bylaws are recommended for Council consideration of first three readings.

SIGN-OFFS

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