

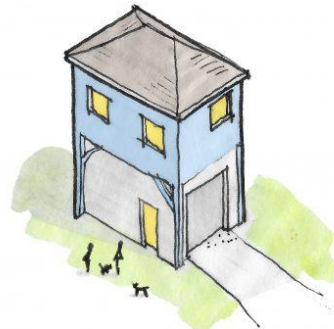


**ANALYSIS of ACCESSORY DWELLING UNITS  
RELATIVE TO ZONING BYLAW No. 1055-2021  
HOUSING ACCELERATOR FUND (HAF) INITIATIVE 5 and BILL 44**

**For the TOWN of LAKE COWICHAN**



STAND-ALONE DETACHED



ADU OVER A GARAGE



ATTACHED ADU



BASEMENT ADU

Prepared March 25, 2024

## 1. Introduction

The town's commitment under the federal Housing Accelerator Fund (HAF) for the accessory dwelling unit initiative is to **incentivize an additional two (2) accessory dwelling units** over a three (3) year period, 2024 through 2026. Under the 'business as usual' scenario, the number of ADUs over the period is three (3). Combined, the total expected number of ADUS within the three-year period of the initiative is five (5), representing 'business as usual' plus the incentivized units.

Concurrently, following the passage of provincial Bill 44, the province requires the Town to update its bylaws to reflect additional accessory dwelling units in restricted residential zones. These take the form of internal secondary suites or detached accessory dwelling units on the same parcel. For purposes of these terms of reference, accessory dwelling units (ADUs) shall refer to all forms of secondary suites, internal and external to the primary residence.

This analysis provides recommendations to accomplish the required outcomes of both the HAF and the provincial Bill 44 requirements.

## 2. Terms of Reference for the Analysis

1. Review existing Zoning Bylaw No. 1055-2021 with respect to the following:
  - a. Types of accessory dwelling units permitted by '*restricted*'<sup>1</sup> residential zone districts, specifically R-1 Suburban, R-2 Urban, R-3 Urban Core, R-4 Medium Density, R-5 Single Detached and Duplex, and R-6 Small House.
    - i. This includes all types:
      1. accessory dwelling units as a garden suite
      2. accessory dwelling units as a coach house
      3. secondary suites internal to principal residence
    - ii. Setbacks
    - iii. Minimum and maximum square footage
    - iv. Maximum number of bedrooms
    - v. Location of units
  - b. Provide an analysis and recommendations for modifications to all restricted zones as outlined above. This analysis will also review under which circumstances the following will apply:
    - a. A secondary suite only
    - b. A separate ADU only

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<sup>1</sup> Restricted zone is defined in Section 481.3 of Bill 44 to the Local Government Act and refers to a zone that restricts residential uses to a single family detached, single family detached with a second unit (internal or on the same parcel), a duplex, a duplex with a second unit (internal or on the same parcel).

- c. Either a separate ADU or secondary suite
  - d. Both a separate ADU and a secondary suite
  - e. Secondary suites within a duplex
  - f. Requirement to construct an accessory dwelling unit for new construction within certain zones (this is beyond provincial requirements)
3. Prepare a draft bylaw amendment.
  4. Review of draft amendment and recommendation by the Advisory Planning Commission at their March 2024 meeting.

The following elements go beyond the agreed upon HAF milestones and serve to further incentivize secondary suites.

1. Business licensing and covenants
  - a. Consider the implications of introducing licensing and covenant requirement's
2. Review financial incentives available via the HAF and separately, additional incentives offered by the Province, beginning April 17, 2024<sup>2</sup>.
  - a. Consider, for example, partially funding building permit applications fees for the secondary suite portion through the HAF.
3. Post information regarding provincial grant incentives on the Town website and at the Town Office.

### **3. Analysis Matrix**

An easy to read reference for all the following discussions and recommendations is found in the Appendix A: Analysis Matrix, at the end of this document. The reader would not be remiss in glancing over this matrix before diving into the details that follow.

### **4. Where ADUs are Permitted by Zone District and Type**

The following sections review the extent to which ADU regulations are consistent with Bill 44 requirements.

#### ***a) Town bylaw***

Currently the town's Zoning Bylaw restricts ADUs to the R3 and R5 zone districts (see Appendix A: Analysis Matrix for details). In the R3 district, an ADU may be a

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<sup>2</sup> BC Housing is offering a Secondary Suite Incentive Program beginning April 17, 2024. Homeowners who qualify will receive up to 50% of the cost of renovations, up to a maximum of \$40,000. Details available from <https://www.bchousing.org/housing-assistance/secondary-suite>.

separate 'garden' suite or an internal secondary suite. In the R5 district, the only option is an internal secondary suite.

Secondary suites are not permitted in duplex type buildings in any zone district.

The Town does not permit in any zone a coach house style accessory dwelling, which is a second story atop a garage.

In any zone district permitting home businesses, if a home business is in operation, no ADU is allowed.

**b) Bill 44**

Bill 44 requires all 'restricted' zones to permit ADUs. Zone Districts R1, R2, R3, R4, R5, and R6 are 'restricted' zones under this legislation given that they only permit single detached and duplex dwellings, with or without accessory dwellings.

The legislation allows the municipality to select whether or not one more accessory dwellings are permitted and to choose if they are internal secondary suites, garden suites, or coach house type dwellings.

**c) Discussion of existing bylaw provisions and Bill 44 requirements**

***Where permitted***

As described earlier, the Town bylaw permits only one ADU for lots with a principal single detached dwelling in three of the six restrictive zone districts (R3, R5, and R6). Bill 44 requires that the remaining three districts (R1, R2, and R4) permit ADUs. Simple enough. There remains a choice, however, on allowing more types of ADUs and the number of ADUs per lot.

***Choices on one or more ADUs***

The new legislation offers local governments a choice as to whether or not to permit an interior secondary suite, an external accessory dwelling, or both.

With respect to permitting more than a single ADU, no compelling case for doing so is apparent for the following reasons:

1. The expansion of a single ADU allowance for all restricted zones will be sufficient to increase the potential for ADU construction.
2. Allowing more than one ADU will constrain the ability to provide off street parking with the unintended effect of crowding on street parking.

**Special case of duplexes**

The Zoning bylaw does not permit an ADU in a duplex in any zone district. As duplex-zoned lots have larger minimum areas, it is reasonable to allow for an ADU and the associated parking. Additional site location (e.g. corner lots), parking design requirements (e.g. tandem parking garage design, see figure) may be considered to ensure properly functioning and sufficiently aesthetic results.

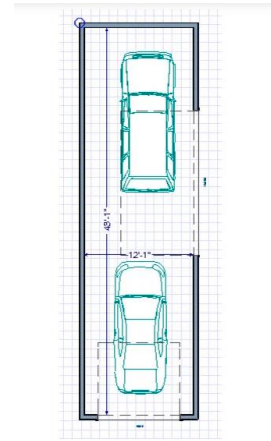


Figure 1 Tandem parking

**Coach house suite**

A coach house suite is currently not permitted in any zone district. The rationale previously considered is that of potential intrusion on the privacy of neighbouring properties. The counter argument is that under current zoning setback rules, a principal dwelling could occupy the same space without any consideration for privacy of adjacent property. The Town has no



Figure 2 Coach house atop garage

Official Community Plan policy or Development Permit guidelines that consider neighbouring property owner privacy.

Consideration may be given to lot size in allowing coach houses, and garden suites. Larger lots and lots on corners can easier manage access and parking. City of Nanaimo permits these separated accessory dwellings on lots greater than 800 m<sup>2</sup> and on any corner lot.

**Special consideration for the R6 zone**

Adding a secondary suite to a small house on a small lot creates challenges for accommodating both a building and sufficient parking while not compromising the lot aesthetics and pushing vehicles onto off site street parking. The Town could test the regulatory regime and simply not permit ADUs in this zone, or tighten up the standards as follows:

1. reduce maximum lot coverage of 60% to 50% to avoid a lot completely covered with building and parking areas,
2. require a mandatory garage for one vehicle, and
3. limit the ADU type to a basement suite only.

**Home business**

The regulatory choice between a home business and an ADU may be related to the relative space taken by such a use: respectively no more than 40% of the GFA of the dwelling or up to 85 m<sup>2</sup> for an ADU and up to 80 m<sup>2</sup> for a home business, whichever is less. It is reasonable that an ADU in a separate structure, either a garden suite or a carriage house, could be accommodated in addition to an internal home-based business. Further, forcing a choice between a home business and an ADU may be contrary to Bill 44.

**Required ADUs in R1 District**

Consider an ADU as a required component of all future single detached dwellings in the R1 zone district.

**d) Summary of recommended changes to satisfy Bill 44**

To satisfy Bill 44, the Town must also include ADUs as a permitted use in zones R1, R2, R5, and R6. Accordingly:

1. Permit ADUs in single detached dwellings in R1, R2, and R5, and under certain conditions in R6. Consider mandatory inclusion of an ADU in the R1 district.
2. Permit ADUs in duplex dwellings in R2, R3, and R4.
3. For ADUs in duplexes, limit to corner lots and/or internal tandem (in line rather than side by side) parking space
4. Provide for a choice between an internal secondary suite, a garden suite, and a coach house in the R1, R2, and R3 zones.
5. Amend R6 standards as follows:
  - a. reduce maximum lot coverage of 60% to 50% to avoid a lot completely covered with building and parking areas,
  - b. require a mandatory garage for one vehicle, and
  - c. limit the ADU type to a basement suite only.
6. Allow home business and an ADU if one or the other is located in a separate structure such as a coach house or a garden suite.

## 5. Setbacks and Heights

The provincial policy manual published in support of Bill 44 identifies reduced setbacks and increased heights as measures to encourage construction of ADUs. These standards are recommendations, not requirements.

### **a) Front setback**

The manual recommends front setbacks in small communities and rural areas of 5 to 6 m. Setbacks for the R1, R2, and R3 zones are 7.5 metres; 5.5 m for R4, and a combination 4.5 and 6 m for building and garage face for R5, and a mere 1.5 m for R6. The Zoning Bylaw has already addressed smaller than standard setbacks in several zones. Reductions in zones R1, R2, and R3 would unnecessarily reduce the length needed for standard driveway parking. No further reductions recommended to the front setback.

### **b) Rear setback**

The manual advocates a rear setback of only 1.5 metres. A 4.5 m rear setback is in place for R1, R2, and R3 and R5 districts. Reduced setbacks are in place for R4 at 3 m and R6 at 1.5 m. No further reductions are recommended; particularly given that coach house, ADUs are recommended.

### **c) Side setback**

A 1.2 m setback for side yards is advocated. This is the absolute minimum for fire safety distance (2 X 1.2 m establishes distance between buildings). This setback is in place for R6. A 2 m setback is required for R2 and R3. It is reasonable to reduce this to 1.5 m.

### **d) Height**

Increased maximum heights are advocated: 11 m for principal dwellings and 8 m for accessory buildings. These are 0.5 metres higher than the Town's maximum heights of 10.5 m and 7.5 m respectively. It is reasonable to increase the principal dwelling maximum height to 8.0 metres. The accessory dwelling height should remain the same as the current standard is considered reasonable, and was carefully considered by the Advisory Planning commission as part of an extensive zoning bylaw overview in 2021.

## 6. Minimum and Maximum Square Footage

### **a) Maximum**

Prior to December of 2019, BC Building code defined secondary suites and regulated in which types of buildings they could occur (only single detached) and

a maximum size of 90 m<sup>2</sup> or 40% GFA. Changes removed any restriction on size and allowed them in any building of attached units that are horizontally adjacent.

The Town's maximum size of secondary suites is 85 m<sup>2</sup> and a maximum of 40% GFA in the R3 and R5 Zone districts. The maximum size for the garden accessory dwelling units permitted in the R3 zone is 60 m<sup>2</sup>.

Without the size and building type restrictions previously imposed by the BC Building Code, local governments are free to increase the size of ADUs and to allow them in a wider range of building types.

Some communities in BC have revised their Zoning Bylaws to reflect this new reality. Langley Township, for example, has increased the maximum size of an ADU to 120 m<sup>2</sup>.

Increasing the maximum would allow a suite to contain three bedrooms and larger living spaces, essentially mimicking the size and function of a second dwelling, like a duplex. This is the argument used by advocates in the Township of Langley.

However, allowing a larger suite would also endanger the construction of smaller units of one or two bedroom units, which is the highest priority revealed in the 2021 Housing Needs Assessment.

Given that the free market is already tilted toward building three bedrooms and above, a restriction for one and two bedroom suites is more desirable and will satisfy the highest order need.

#### **b) Minimum**

The minimum size in the Town's bylaw for all types of ADUs is 30 m<sup>2</sup>.

The BC building code does not specify a minimum size of an ADU. In some respects, this figure is an arbitrary social consideration of a reasonable amount of living space. A 30 m<sup>2</sup> space is essentially a bachelor type living space with no separate bedroom. No change recommended.

## **7. Number of Bedrooms**

The Provincial policy manual is silent on the question of the number of bedrooms. Given, the town's interest in one and two bedroom units, as the highest priority need of the 2021 Housing Needs Assessment, the maximum number in the zoning bylaw should remain.

## **8. Location of Separated Accessory Dwelling Unit**

The policy manual advocates for removing any restrictions on the location of the ADU entrance. The Town only requires a distinct entrance and does not stipulate its location, which some communities do. No change recommended.

## **9. Business Licensing and Covenants**

Some communities require a property owner to pay an annual licensing fee for the ADU. Lake Cowichan does not have such a requirement. The policy manual advocates that no licensing be required. We recommend no change.

Some communities require a S. 219 covenant be placed regarding rental suites. The policy manual advocates for eliminating a covenant requirement. The Town has no such requirement. No change recommended.

## **10. Financial Incentives**

The HAF Grant that the Town received allows for incentives to construct accessory dwellings. Consideration may be given to reduce or eliminate building permit fees.

Additionally, the Province will soon provide a \$40,000 forgivable loan for suites constructed that are rented within affordability guidelines.

We recommend that the Town offer a flat \$500 building permit reduction fee for all units built under this program.

## **11. Recommended Discretionary Changes**

1. Reduce the side setback from 2 m to 1.5 m for R2 and R3 zone districts.
2. Increase principal dwelling maximum height from 10.5 to 11.0 m.
3. Offer a flat \$500 building permit reduction fee for all units built under the provincial affordable secondary suite grant program.

## 12. Schedule A: Analysis Matrix of Regulatory Standards by Zone District

Lake Cowichan Accessory Dwelling Units (ADU) Analysis													
Zoning Bylaw No. 1055-2021 and Proposed Amendments													
		R-1 Suburban		R-2 Urban		R-3 Urban Core		R-4 Medium Density		R-5 Single Detached & Duplex		R-6 Small House	
Min lot size (sq. metres) single unit		600		600		600		500		350		275	
Min. lot size (sq. metres) duplex		n/a		780		780		600		600		n/a	
ADU Analysis													
Bill 44		Current	Proposed Change	Current	Proposed Change	Current	Proposed Change	Current	Proposed Change	Current	Proposed Change	Current	Proposed Change
Permitted use:													
Single detached	Yes	No	Yes	No	Yes	Yes, one or ADU garden	Yes	No	Yes	Yes	Yes	No	Yes with conditions
Internal secondary suite	OR		OR		OR		OR		OR		OR		
Duplex internal secondary suite	Yes	No	n/a	No	Yes	No	Yes	No	No	No	No	No	n/a
	OR				OR		OR						
ADU as garden suite	Yes	No	Yes	No	Yes	Yes, one or internal	Yes	No	No	No	No	No	No
	OR		OR		OR		OR						
ADU as coach house	Yes	No	Yes	No	Yes	No	Yes	No	No	No	No	No	No
	OR		OR		OR		OR						
Required use single detached	No	No	Yes	No	No	No	No	No	No	No	No	No	No

V A N H E M E R T & C O .

*Intelligence, Innovation, Inspiration*

		R-1 Suburban		R-2 Urban		R-3 Urban Core		R-4 Medium Density		R-5 Single Detached & Duplex		R-6 Small House	
Prov. Policy Manual		Current	Proposed Change	Current	Proposed Change	Current	Proposed Change	Current	Proposed Change	Current	Proposed Change	Current	Proposed Change
<b>Setbacks/ height:</b>													
Front (m) for principal and accessory	5 to 6	7.5		7.5		7.5		5.5		6 to garage face; 4.5 to building front		1.5	
Rear (m)	1.5	4.5		4.5		4.5		3		4.5	1.5	1.5	
Interior side (m)	1.2	2		2	1.5	2	1.5	1.5		1.5		1.2	
Exterior side (m)	n/a	3		3		3		4		1.5		1.5	
Height principal (m)	11	10.5	11	10.5	11	10.5	11	8.25		9	11	min. 6:12 slope up to 7.8 m	
Height accessory (m)	8	7.5		7.5		7.5		4.5 pitched, 3.7 flat		7.5		4.5 pitched, 3.7 flat	
<b>Entrance</b>	No restriction for positioning					Independent entrance				Independent entrance			
<b>Other Considerations</b>													
<b>Size, beds, location:</b>													
<b>Secondary suite:</b>													
Min. size						30 m2				30 m2			
Max. size						40% GFA or 85 m2		n/a		40% GFA or 85 m2		n/a	
<b>Max. bedrooms</b>						2				2			
<b>Garden suite</b>													
Min. size						30 m2							
Max. size						40% GFA or 60 m2							
<b>Location of unit</b>						Rear							