



Planning and Land Use Committee

For the meeting of September 4, 2014

To: Planning and Land Use Committee **Date:** August 12, 2014
From: Deborah Day, Director
Sustainable Planning and Community Development
Subject: Consultation on Proposed New Building Bylaw

Executive Summary

The purpose of this report is to seek Council's endorsement of plans to consult with stakeholders on proposed Building Bylaw amendments and obtain direction to bring a proposed new Building Bylaw back to Council for review and approval.

The Building Bylaw is being updated, in particular the sections affecting complex buildings. The updates will reflect changes which have occurred in building practices and regulation, the City's administrative processes and best practices since the last update was conducted 21 years ago. A new BC Building Code adopted by the Province in late 2012 and a model building bylaw recommended by the City's insurer are factors that have necessitated a bylaw update. The bylaw work also allows for administrative and regulatory updates that further enable customer service and process improvements.

The most significant change is the introduction of the Municipal Insurance Association (MIA) model Building Bylaw, which has been modified to reflect the conditions of the City. The new model will no longer require the involvement of the City's building inspectors to perform inspection services and instead rely entirely on Letters of Assurance as confirmation of BC Building Code and bylaw compliance at the various stages of the construction of complex buildings. This change is intended to:

- greatly reduce the liability risks to the City associated with complex buildings,
- rely on specific professionals for their expert opinion, and
- clarify the roles of building inspectors as administrators of the Building Permit process, not issuers of guarantees of construction or workmanship.

The proposed bylaw amendments will set the regulatory groundwork to enable further improvements, including improved customer service and turnaround times. Certain housekeeping amendments will also be made to reflect changes to building technology improvements and Provincial regulations, as well as changes to City processes.

Stakeholder feedback will be considered for inclusion into the draft bylaw which will be presented to Council early in 2015. This consultation will include both online tools (such as surveys) and interactive face-to-face initiatives to ensure the optimal outreach of stakeholders through a variety of accessible methods.

Recommendation

That Council direct staff to:

- a) consult with stakeholders on the proposed changes in keeping with the consultation strategy summarized in Appendix A, and
- b) report back on consultation when bringing forward the new Building Bylaw for consideration.

Respectfully submitted,



Avy Woo
Assistant Director
Permits and Inspections



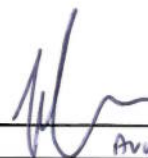
Deborah Day
Director
Sustainable Planning and Community Development



Katie Hamilton
Director
Citizen Engagement and Strategic Planning

Report accepted and recommended by the City Manager:

Date:


August 28, 2014

Purpose

The purpose of this report is to seek Council's endorsement of plans to consult with stakeholders on proposed Building Bylaw amendments and obtain direction to bring a proposed new Building Bylaw back to Council for review and approval.

Council will have the opportunity to discuss the details of the proposed changes when the consultation results and the proposed bylaw come forward for approval.

Background

Factors that have necessitated a bylaw update include a new BC Building Code (BCBC) adopted by the Province in 2012 and a model building bylaw recommended by the City's insurer, the Municipal Insurance Association of British Columbia (MIA). The bylaw work also allows for administrative and regulatory updates that further enable customer service and process improvements.

The current Building Bylaw was last updated in 1993. In the intervening 21 years, changes have occurred in building practices and regulations, the City's administrative processes and in best practices. The new bylaw is intended to update the City's own regulations associated with building construction and manage the risks to which the City is exposed by being involved in the building permit approval and building inspections processes.

The Building Bylaw was identified as a key opportunity for customer service improvement in the 2012 Customer Service Action Plan, with a goal of "designing business processes with the customer in mind". Council adopted the plan on June 14, 2012 and directed staff to commence work on the Building Bylaw by revising it to better address roles and responsibilities of all parties involved in the building permit and inspections processes as well as to clarify outcomes and accountabilities. In the intervening two years, staff started the research work by surveying other jurisdictions' best practices and gathering information for the "building blocks" of a new building bylaw. In the meantime, staff have implemented other projects identified to improve customer service, including changes to the permitting process and application forms. The introduction of a new Building Code in late 2012 and its subsequent implementation also took priority for staff resources.

Building Bylaw

The current Building Bylaw sets the standards, processes and requirements for buildings on private properties in the city. It is used to regulate building permits, the role of the building inspector and owner, permitting requirements, inspections conducted post permit issuance, construction practices and occupancies. The Building Bylaw is used by the City to set out its own requirements and processes related to buildings and structures that are regulated under the BCBC.

The current Building Bylaw works in conjunction with other bylaws that create a building regulatory framework. These include the Plumbing Bylaw, Electrical Bylaw, and Fire Bylaw. The Building Bylaw enables the Chief Building Official to set operational policies that are consistent with service levels and direction set by Council. Policies to support new and revised permit processes have been identified and will be developed concurrently.

The legislative authority for the Building Bylaw comes from the *Local Government Act* and the *Community Charter*, which allow the City to regulate buildings and structures, including permitting, occupancy, professional certification and enforcement.

The MIA provides broad liability insurance coverage to local governments in British Columbia, and has been the City's insurer since 2008. Due in part to the "leaky condo" crisis, the MIA provides a

model building bylaw to assist municipalities in providing the building permitting function while reducing liability and increasing the responsibility and role of the owners and Registered Professionals (Licensed Architects or Engineers) in the process. The proposed Building Bylaw is modified from the MIA model building bylaw and will also include provisions which are applicable to the building regulatory framework for Victoria. As the MIA model is intended to cover the liability and risk aspect related to leaky buildings, modifications are proposed to ensure that the full scope of building regulations, for example relating to unsafe structures, are included in the bylaw.

Staff examined other building bylaws that have been revised recently, including those from Cities of Surrey, Richmond and Burnaby, to learn how other municipalities have incorporated the model building bylaw, and some of that work has been adopted in formulating the proposed City of Victoria Building Bylaw. Local municipalities, for example Saanich, Nanaimo and Langford, were also reviewed; even though they have not updated their Building Bylaws recently.

2012 BC Building Code Changes

The BCBC sets minimum requirements for a safely built environment. It applies to the construction of buildings, including new construction, additions and alterations to a building, buildings undergoing a change of occupancy, and upgrading a building's systems or components.

The BCBC is updated periodically, and the latest edition was enacted in December 2012. These recent changes included provisions related to smoke alarms, residential care buildings, seismic bracing for houses and new energy requirements for insulation and better windows.

Issues and Analysis

The proposed Building Bylaw amendments will:

- Reduce the inspection role of the City related to complex buildings,
- Assign responsibilities to Registered Professionals using Letters of Assurance (Letters of Assurance are prescribed letters in the BCBC),
- Update the authority of the building inspectors and the Chief Building Official accordingly,
- Clarify the types of construction that require a building permit,
- Enable administrative processes to better serve the customer,
- Update definitions and consolidate all amendments, and
- Bring new fees into closer alignment with services provided.

The proposed amendments are regulatory improvements that will improve customer service. For example, reducing the inspection service for complex buildings will result in a bigger fee discount and consolidating amendments will make the bylaw easier to reference for staff and customers.

The Building Bylaw enables the City to enact the content of the BCBC, which includes regulations that would enable green buildings and sustainability designs.

The proposed amendments are organized into six categories and are summarized below.

A. Housekeeping Amendments

The current Building Bylaw was adopted more than 20 years ago. In order to reflect changes to building technology improvements and Provincial regulations, as well as changes to City processes, certain housekeeping amendments are required.

The current Building Bylaw has eight amendments that are separate from the main bylaw. The proposed Building Bylaw will incorporate and consolidate those amendments and a new bylaw will be

brought forward. This will improve customer service by making the bylaw easy to access and interpret for both the public and staff.

Other housekeeping amendments include definitions (new and improved) and better organization of the regulations.

B. Building Permit Applicability

The BCBC and enabling legislation allow the City to issue building permits for construction associated with buildings and structures. The proposed Building Bylaw amendments will clarify which types of construction are regulated under the Building Bylaw, as well as specific scopes of work which do not require a building permit, and include enabling language for those activities to be regulated and enforced in other ways. While the current bylaw states there are some exemptions for building permits, some gaps have been identified. Accurate and improved administration of the permitting function will result in building permits issued only as they relate to buildings and structures referenced in the BCBC. Clarification is also provided on requiring building permits for buildings located on private lands only; structures located on street rights-of-way and parks are covered under other applicable bylaws.

C. Roles and Responsibilities (including Letters of Assurance)

The proposed Building Bylaw references “complex buildings” and “standard buildings”. Complex buildings are buildings with major occupancies for assembly, care, and high hazard industrial use, or those exceeding 600m² in building area or more than 3 storeys that are other major occupancies. Other major occupancies include office, retail, residential, and low hazard industrial uses. Standard buildings are buildings that are not complex buildings, including most single family houses.

Following the model building bylaw developed by the MIA, the recommended changes include not providing inspection services for complex buildings under construction. This shift is consistent with the framework set out in the BCBC. The City will rely entirely on Registered Professionals’ Letters of Assurance (LOA) at the various stages of the construction of complex buildings. This change is intended to:

- rely on Registered Professionals in their fields of expertise,
- improve service levels for applications related to standard buildings by allocating staff resources freed up from dealing with complex buildings,
- greatly reduce the liability risks to the City associated with complex buildings, and
- clarify the auditing or monitoring roles of building inspectors in the building permit framework, and not as quality controllers for workmanship of construction.

The proposed bylaw does not make any changes to requiring LOA and field reviews from Registered Professionals; Registered Professionals are already required to provide them under the BCBC. While saving time for permit applicants and holders is not a focus of the proposed amendments, it may be a subsequent outcome for complex building permit as the changes allow for phased permits. In addition, owners for complex buildings will not need to wait for City staff to perform inspections before proceeding with work as their own Registered Professionals will perform these required filed reviews, hence making the construction process smoother for the owners.

Inspections related to standard buildings, alterations/renovations to complex buildings, electrical, and plumbing permits will continue as before.

D. Health and Safety

Enabling language in the proposed new Building Bylaw will authorize staff to review existing structures through an interpretation of the health and safety provisions using their professional expertise. Existing buildings may meet older building standards previously in force and may not meet the requirements of today’s BCBC when the building is being evaluated due to a proposed alteration

or change of use, or when work undertaken without a permit is retroactively being evaluated for acceptance. In these cases the legislation allows for the Chief Building Official to exercise discretion based on industry practices or standards relating to the safety and intent of the BCBC and to work within administrative procedures to assess and accept these existing as-built conditions.

In some cases minor changes are made that do not impact a building but may result in potentially significant secondary costs. For example, at the discretion of the Chief Building Official, additional seats for an existing restaurant where no renovation is proposed may not need to result in the provision of an extra toilet, demonstrating that the City is willing to be flexible without compromising any safety aspects in order to be more business and customer friendly. For example, a café in Fernwood was able to increase their seating by a nominal amount without adding an additional bathroom, which would have added significant costs as the additional bathroom would have meant also adding a new water supply.

E. Administration and Process

Administrative frameworks built into the new bylaw provisions will assist staff in further improving the operational side of building permits and inspections. Not all improvements to administrative processes require a bylaw change; however the proposed Building Bylaw will have enabling language to facilitate improvements for better customer service and more streamlined processes. Examples will include facilitating phased permits, transferring of permits and viewing of permit records.

There could be a slight improvement to staffing resources since staff are not involved in inspections of complex buildings hence freeing up some staff time. However the time gained is not expected to be significant as the annual number of new complex buildings is not high; on average, the City receives ten to twenty complex building applications per year.

Financial and Staff Capacity Assessment

This work will be undertaken with minimal impacts to City staff and no additional costs. Much of the financial impacts will be realized through consistency with the recommendations of the City's insurer, MIA, by reducing the risk associated with building regulation and inspections. While MIA premiums will not be reduced as a result of the City making these bylaw changes, there is the potential for savings through fewer MIA insurance claims as a result of less liability exposure under the proposed Building Bylaw.

Fees

The proposed fee changes are not intended to increase the rate currently charged for building permits. The changes aim to collect fees for services for which fees are not currently charged but which require staff resources to complete. Some examples of these services include reviews of alternative solutions, providing site evaluation outside of a building permit, or reviewing occupant loads. The fees will generally be based on a cost recovery model.

The organization of the fees is being reviewed in the context of the services provided and best practices from other jurisdictions. Other jurisdictions charge similar fees, including the Cities of Vancouver, Burnaby, Richmond and Surrey. Locally, the District of Saanich is reviewing their fee structures and may also be amending their fees.

By reviewing the costs, a more accurate assessment of actual costs can be used to calculate fees. In addition, where current fees do not anticipate certain services (e.g. staff re-attendance for inspections), separate fees can be established. Complex buildings currently receive a fee refund of \$500; the refund will be reviewed and increased to recognize that the inspection function related to

complex buildings is changing. The following table demonstrates the type of fees and the current amounts as well as the proposed fees and the reason for the proposed changes.

Fee Type	Current Fees	Proposed Fees	Rationale
Non-refundable deposit	25% of the permit fee	50% of the permit fee	At permit issuance, staff has provided 50% of the service
Permit fee	\$30 plus 1.25% of the total cost of the work		No change proposed
Function and service specific fees	No cost scheme in place	Fee per service or an hourly rate	Enable fee collection for all work not covered or commonly included under established fees
Maximum Discount for complex projects	\$500	\$1000	Provide recognition of change in inspection function

The Finance Department has reviewed the proposed set of fee changes, and concurs with this preliminary assessment.

Staffing impacts

Consultation: Staff in the Permits and Inspections Division who administer the Building Bylaw and staff in the Citizen Engagement and Strategic Planning Department, who prepared the consultation strategy in Appendix A, will be conducting the consultation. The engagement will be targeted to applicable stakeholder groups and done using limited staff time by sharing and collecting information electronically (e.g. through a survey) and using established communication opportunities.

Bylaw Drafting: Bylaw drafting is underway. Preparation of the bylaw has been identified by the Permits and Inspections Division and Legal Services as high priority work.

Proposed Bylaw Changes: Current permit administration and inspection processes will be modified to improve timeliness and efficiency with little impact on duties. Staff roles will continue in the same functions as are currently performed, with changes only to the operational processes in which they perform those functions. The proposed changes will not impact staff resourcing.

Public Engagement and Consultation

External: Consultation allows for information on the proposed changes to be shared, and for feedback to be gathered and inform the bylaw amendments. The intent of external consultation is to ensure impacted stakeholders are made aware of the recommendations and have an opportunity to provide feedback, provide accessible and clear project information, and facilitate a meaningful engagement process. Planned consultation activities to be conducted this fall are:

- Letters and emails to key stakeholders, advising them of the proposed changes,
- An online survey, and
- Presentations as requested to stakeholder organizations.

Planned consultation and communications include specific stakeholder groups that will be impacted by the changes, including the property development industry and consultants and property management agencies. The City of Surrey recently adopted a version of the MIA model bylaw and consulted with many of the same groups, therefore the proposed bylaw already incorporates many of the stakeholders' perspectives and feedback. A summary of the consultation strategy is included in Appendix A.

Following the consultation period, a report will be brought to Council with the results of the consultation and the proposed new bylaw which, once drafted, will reflect relevant input from stakeholders.

Internal: Staff from all departments involved in the building permit process were consulted through general staff discussions and issue-specific meetings. This input is being incorporated into the draft bylaw and into internal administrative processes that are not bylaw-related.

Conclusion

The current Building Bylaw requires updating to reflect the current BCBC and to follow the model bylaw recommended by the City's insurer. Consulting with affected stakeholders will ensure the proposed bylaw amendments are understood and brought forward with the input of those affected.

Recommendation

That Council direct staff to:

- a) consult with stakeholders on the proposed changes in keeping with Appendix A, and
- b) report back on consultation when bringing forward the new Building Bylaw for consideration.

Attachments:

Appendix A – Consultation Strategy

Appendix A: Consultation Strategy

The following is a summary of the proposed Communications and Engagement Strategy that has been prepared to guide staff through the consultation portion of the Building Bylaw review project.

Purpose

The objective of the Communications and Engagement Strategy is to inform and seek input from impacted stakeholders on the proposed policy and process changes to the Building Bylaw.

The feedback collected from stakeholders through consultation will be reviewed by staff and considered for inclusion in the proposed Building Bylaw. The intent of the consultation is to:

- Ensure impacted stakeholders are made aware of the recommendations and have an opportunity to provide feedback
- Provide accessible and clear project information
- Facilitate a meaningful engagement process

Proposed Changes and Key Messages

The key messages about the proposed Bylaw changes that will be communicated with stakeholders include:

- The Building Bylaw is being updated, in particular the sections affecting complex buildings. The updates will reflect changes which have occurred in building practices and regulation, the City's administrative processes and best practices since the last update was conducted 21 years ago.
- The most significant change is the introduction of the MIA Building Bylaw Model, which has been modified to reflect the conditions of the City. The new model will no longer require the involvement of City Building Inspectors and instead rely entirely on Letters of Assurance as confirmation of BC Building Code and bylaw compliance at the various stages of the construction of complex buildings.
- This change is intended to:
 - greatly reduce the liability risks to the City associated with complex buildings,
 - rely on specific professionals for their expert opinion, and
 - clarify the roles of building inspectors as administrators of the Building Permit process, not issuers of guarantees of construction or workmanship.
- The proposed bylaw amendments will set the regulatory groundwork to enable further improvements, including to customer service and turnaround times.
- Certain housekeeping amendments will be made to reflect changes to building technology improvements, different standards and Provincial regulations, as well as changes to City processes. This will improve customer service by making the bylaw easier to access for both the public and staff.
- Stakeholder feedback will be considered for inclusion in the draft bylaw which will be presented to Council early in 2015.

Engagement Strategy

Both online tools (such as surveys) and interactive face-to-face initiatives (such as presentations) will be used to ensure the optimal outreach to stakeholders through a variety of accessible input mechanisms.

Proposed Process

Date	Activity	Details
September 2014	Report to Council	▪ Present rationale for changes and obtain approval for the engagement/communications strategy
September - November 2014	Public engagement with impacted	▪ Distribute letters and emails ▪ Post online survey ▪ Deliver requested presentations

	stakeholders	
Early 2015	Report to Council	<ul style="list-style-type: none"> ▪ Present draft bylaw for approval and engagement findings to Council
Spring 2015	Implementation	<ul style="list-style-type: none"> ▪ Implement new Building Bylaw ▪ Communicate changes to impacted stakeholders and public

Key Stakeholders

Stakeholder Type	Groups or Organizations
Property Development Industry and Consultants	<ul style="list-style-type: none"> ○ Urban Development Institute (UDI) ○ Architectural Institute of BC (AIBC) ○ Association of Professional Engineers and Geoscientists of BC (APEGBC) ○ Great Victoria Home Builders' Association (GVHBA) ○ Applied Science Technologists & Technicians of BC – Property Inspectors (ASTTBC) ○ Vancouver Island Construction Association (VICA) ○ Designers ○ Builders
Property Management	<ul style="list-style-type: none"> ○ Building Owners and Managers Association (BOMA) ○ Colliers International ○ Equitex Property Management ○ Ralmax Development Ltd ○ Downtown Victoria Business Association
Victoria Residents	General public
Media	Local media