



STAFF REPORT TO THE COMMITTEE OF THE WHOLE

PRESENTED: November 5, 2024 **REPORT:** W24-008
FROM: Building Department **FILE:** 3900-20-1617
SUBJECT: BUILDING AND PLUMBING BYLAW MODERNIZATION PROJECT

RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

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

RECOMMENDATION(S)

That Committee of the Whole (COTW) recommend to Council that they endorse the project to rewrite the “Building and Plumbing Regulation Bylaw No. 1617, 2002” (Building Bylaw); and

That COTW recommend to Council that staff complete a review of the building permit fee structure and, if appropriate, develop a new fee structure; and further

That COTW recommend to Council that the current fee schedule attached to the Building Bylaw be removed and that staff be directed to create a separate building department fees and charges bylaw to manage all fees and charges levied by the Building Department.

PURPOSE OF REPORT

The purpose of this report is to provide the background leading to the proposed rewriting of the “[Building and Plumbing Regulation Bylaw No. 1617, 2002](#)” (Building Bylaw), which supports the Building Department’s ability to operate effectively.

DISCUSSION

Background

Through authority from the *Local Government Act* and *Community Charter*, a local government can administer compliance with provincial building codes such as the BC Building Code (BCBC) and the BC Plumbing Code (collectively the Building Codes) and can also regulate construction within the Resort Municipality of Whistler (RMOW) through the municipality’s Building Bylaw. The Building Bylaw applies to the design, construction, and occupancy of new buildings or structures, and any alteration, reconstruction, demolition, removal, relocation or occupancy of existing buildings or structures.

Whistler’s Building Bylaw was adopted in 2003 with minor amendments occurring over the years, including the more recent updates in 2023 to accommodate the BC Energy Step Code and Zero Carbon Code (Zero Carbon Step Code) (amended by “Building and Plumbing Regulation Amendment Bylaw (Zero Carbon Step Code) No. 2387, 2023”).

The Building Bylaw is modelled upon the original Municipal Insurance Association of BC (MIABC) model core bylaw (Model Bylaw), which was introduced after the 1998 Barrett Commission of Inquiry into *The Renewal of Trust in Residential Construction - Commission of Inquiry into the Quality of Condominium Construction in British Columbia Report* with 82 recommendations to address the "leaky condo" problem. The recommendations were aimed at all three levels of government, as well as the development industry and the financial sector. There were several recommendations made for improvements to the construction and regulatory industry as a whole, which ultimately led to the development of the BC *Homeowner Protection Act* to better regulate residential construction and the MIABC model core bylaw to improve the permitting process and better support local governments in the event of building failures.

In 2004, the province conducted an extensive review with partners in the construction industry in order to make further changes to modernize the regulatory and construction industry as a whole, resulting in enactment of the *Building Act*, with a later amendment from recommendations brought forward in 2015.

More recently, after continued issues within the construction industry, the province has made further changes to the regulation of the construction industry through a modernization program aimed at the entire building industry, which has led to changes to the residential licensing program and adoption of the 2017 *BC Building Act*. The 2017 *Building Act* places requirements on professional standards for Building Officials as well as limits local governments from adding requirements that may be beyond the requirements of codes or standards, without concurrent review with the province.

An assessment of the Building Bylaw indicates that it does not address several changes in legislation, Building Codes and building practices. This can create limitations on the Building Department's permit processing, flexibility to administer alternate building methods and compliance enforcement, which could increase exposure to liability. The proposed project to rewrite the Building Bylaw will address these exposures.

Methodology

Flywheel Building Solutions (Flywheel) has been retained as a consultant to support the Building Bylaw rewrite project (Building Bylaw Project). The updated 2018 MIABC model core bylaw (Model Bylaw) for large cities is the proposed template to rewrite the Building Bylaw to ensure consistency and adherence to current legislative requirements. Overall, the new building bylaw format will provide clarity to the permit process and outline what the specific roles and responsibilities are for each partner in the construction process. The Model Bylaw provides a structure that is easier to understand and administer by staff and applicants, reducing the need for additional policy and procedure development.

Staff also recommend splitting the fees and charges schedule out of the Building Bylaw and create two bylaws - the new Building and Plumbing Regulation Bylaw and a separate Permit Fees and Charges Bylaw. This is consistent with regional partners (Pemberton and Squamish) as well as a growing number of local governments across BC.

As part of the Building Bylaw Project, the current permitting fee structure will be reviewed to ensure the long-term stability of department operations as well as ensuring a more transparent and consistent process in the valuation of permits. Unlike other communities of a comparable size, Whistler is unique in the volume of large-scale homes seeking permits, and staff will be reviewing new methods of calculating fees based on the work involved rather than the declared value of a home. It will also consider the uniqueness and complexity of many of the projects and the additional time involved to complete projects. Staff will also be looking at adjustments to the current fine structure to encourage compliance to the Building Bylaw and the timely closure of files. The suggested changes intend to move towards a fee structure based on permit and building type for a value per square foot of area,

with transparency into a standard number of services (for example inspections) included. This will move away from the traditional format of declared value of construction, which often causes dispute and a variety of interpretations within the local construction community. This will be an innovative approach in BC, as all other jurisdictions currently use the declared value of construction. Communities outside of BC have used this approach including the City of Toronto, City of Calgary and City of Mississauga.

Timeline:

Below are the key milestones for the project.

November 5, 2024	Presentation to the COTW to outline the project and engagement process
November-December 2024	Creation of the new Building Bylaw (with potential amendments arising from the Building Codes, if required) and the new Fees and Charges bylaw (collectively, the Project Bylaws)
January 2025	Engagement with select representatives from the building and business community
	Community awareness campaign and input
February/March 2025	Presentation of the Project Bylaws at a COTW Meeting
April 2025	First three readings of the Project Bylaws
April/May 2025	Adoption of the Project Bylaws, subject to Ministerial approval (as needed)
	First three readings of the enforcement bylaws
	Adoption of enforcement bylaws
April 2025 onwards	Education of new requirements to owners and building/business community

Analysis

What are other municipalities doing for building bylaw structure?

Model Bylaw has been adopted by several communities across BC or existing bylaws have been amended to come into alignment with recent changes to the Building Codes (for example, the Zero Carbon Step Code). There are a handful of local governments in the province that have not seen significant updates for over 20 years, the RMOW being one of them.

Regionally:

- **Squamish Lillooet Regional District** “Building Bylaw No. 1611-2020”
 - MIABC small community version (2020)
- **Squamish** – “Building Bylaw No. 1822, 2004”
 - Updated older MIABC bylaw with amendments to include updated MIABC model core items (2018)
- **Village of Pemberton** “Building Bylaw No. 912, 2021”
 - Modified version of MIABC. Amendments related to increased Step Code requirements and enforcement.

There are several jurisdictions who have adopted the Model Bylaw with amendments to suit the needs of the local owners and building community, as well as address other unique local concerns. These variations are considered “Unrestricted Matters” within the *Building Act* and provide local governments the ability to address specific issues not fully developed in the Building Codes to compliment local concerns. The province defines Unrestricted Matters as matters regulated in BCBC (or other provincial building regulations) for which local governments will have authority to set their own technical building requirements in bylaws.

These would include permanent Unrestricted Matters such as:

- Fire access route design,
- Parking spaces for use by persons with disabilities,
- District energy systems and connections,
- Protection of designated heritage properties,
- Testing of backflow prevention devices,
- Electric vehicle charging stations/plug-ins; and
- Screening of equipment on roofs or other structures.

The province has also created a list of matters that are “Time-limited Unrestricted Matters”. This temporary list had been created to allow time for further consideration of these matters, which includes:

- Transmission of sound into a building from external sources (i.e., noise mitigation),
- In-building radio repeaters,
- Wildfire hazard requirements,
- Firefighting water supply requirements,
- Fire sprinkler suppression,
- Accessibility requirements above Building Codes, and
- Adaptable design requirements.

The internal bylaw development and engagement with the local community will determine which Permanent and Temporary Unrestricted Matters are applicable to Whistler and should be included in the rewrite of the bylaw. Concurrent review with the province will occur if required for specific Unrestricted Matters.

What are other municipalities doing for fee structures?

Several local governments have already moved to a structure where fees sit within their municipal fees and charges bylaw allowing local governments to update and review charges easily on a regular basis.

- **Squamish Lillooet Regional District** – located within Building Bylaw – updated 2023.
- **Squamish** - located separately in “Fees and Charges Bylaw No. 2012, 2007”.
- **Pemberton** – located separately in “Fees and Charges Bylaw No. 905, 2021 – Amend (2023) Schedule T”.

What are some of the risks of not rewriting and updating the building bylaw?

- An outdated bylaw creates barriers to effectively processing building permits and enforcement.
- Liability to the municipality in the event of a claim.
- Not increasing fees or restructuring could lead to long term short falls in the covering of operational costs and improvement projects, thereby increasing the pressure on taxpayers.

What are the benefits?

- Support and improve processes to effectively review permits.
- Provide clarity and consistency for interpretation and enforcement of the Building Codes.
- Provide clarity on the roles and responsibilities of both the applicants and the RMOW Building Officials and staff.
- Engagement with internal and external partners will continue to build relationships.
- Fiscal stability to operate the Building Department for the long term.
- More flexibility in dealing with unique building methods.
- Consistent permit fees avoiding big fluctuations to meet inflationary costs.

- Fair and transparent valuation for fees and services, rather than the current system based on traditional cost of construction which varies significantly, therefore more fairly allocating the fees paid for the services provided.
 - A safer, healthier and more sustainable community.
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POLICY CONSIDERATIONS

Relevant Council Authority/Previous Decisions

[Consolidated Building and Plumbing Regulation Bylaw No. 1617, 2002](#)

Also see BC legislation including the *Building Act*, *Local Government Act*, *Community Charter* and the Building Codes.

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 by increasing efficiencies of building permit review and approval and providing clearer pathways to determine cost of permits.

Climate Action

Mobilize municipal resources toward the implementation of the Big Moves Climate Action Plan by simplifying building processes and better contemplating allowance of unrestricted matters, to allow for strategies that support Climate Action.

Community Engagement

Strive to connect locals to each other and to the RMOW, by providing a robust engagement process around both the development of the new bylaw, as well as ongoing education in its utilisation once adopted.

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

BUDGET CONSIDERATIONS

Budget for the consultant and community engagement for this project are included in the Building Department operating budget.

LÍ'WAT NATION & SQUAMISH NATION CONSIDERATIONS

The RMOW is committed to working with the Líl'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.

As part of the planned community engagement, the RMOW will be reaching out to the building industry and developers in the community which will include the Lilwat People and the Squamish People who are active builders and developers in the RMOW.

COMMUNITY ENGAGEMENT

Level of community engagement commitment for this project:

Inform Consult Involve Collaborate Empower

Stage 1: **Involved** engagement is planned for the construction industry specifically to seek technical feedback on some areas of the new building and plumbing regulation bylaw. Based on the Model Bylaw, areas of topics to be discussed with the construction community for consideration and input may include:

- Unrestricted Matters
- Certified Professionals program
- Expired/cancelled permits
- Permit fee structure

Types of engagement may include workshops, surveys and social content in both print and web forms.

Stage 2: **Inform** engagement is planned for once the new building and plumbing regulation bylaw has been drafted, engagement will shift into an inform format around the bylaw changes that are contemplated, effects and implementation.

SUMMARY

The Building Bylaw Project will provide two modernized bylaws meeting the needs of the community and protecting occupants of buildings. It will enable staff to effectively deal with compliance matters and be flexible to meet the changing building industry and provide a clear outline on process and responsibilities of both the applicant and municipal staff. The fee structure will be more consistent and will "right size" the permit costs for the diversity of projects seeking approvals. The process will also help strengthen relationships between internal and external partners creating a more efficient and productive building permit environment moving forward.

SIGN-OFFS

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