



RESORT MUNICIPALITY OF WHISTLER

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STAFF REPORT TO COUNCIL

PRESENTED: December 17, 2024 **REPORT:** 24-115
FROM: Building Department **FILE:** 3900-20-1617
SUBJECT: ENGAGEMENT PHASE FOR THE BUILDING AND PLUMBING BYLAW
MODERNIZATION PROJECT

RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

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

RECOMMENDATION(S)

That Council endorse the staff recommendation to follow the engagement plan set out in the initial Committee of the Whole Report No. W24-008 on November 5, 2024, and expanded upon as Option 1 in Administrative Report No. 24-115.

PURPOSE OF REPORT

The purpose of this report is to provide details on the two engagement options for the Building and Plumbing Bylaw and Fees and Charges Bylaw Modernization Project as requested by Council at the Committee of the Whole (COTW).

Information Report Administrative Report (Decision or Direction)

Recommendations from the Committee of the Whole

The COTW passed the following recommendations to Council on November 5, 2024:

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

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

That the 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 (New Fees and Charges Bylaw) to manage all fees and charges levied by the Building Department; and further

That the COTW recommend to Council that the engagement phase include the creation of a working group including members of the local building community to provide input for the creation of the new building and plumbing bylaw and the new fees and charges bylaw, and that staff return to a future Regular Council Meeting with the terms of reference (TOR) for the working group.

DISCUSSION

Background

At the November 5, 2024 COTW Meeting, the Building Department provided an update on the project to modernize the Building Bylaw. Staff provided an overview of objectives of the bylaw update and the proposed approach, including community engagement at a high level. The goal of the COTW Meeting was to seek support from the COTW to proceed with the modernization of the Building Bylaw. Council further asked staff to explore the engagement options around the development of the new Building Bylaw. In the COTW Report, staff recommended an open engagement process as supported by our Communications and Engagement team (described under Option 1 in the Analysis section). Council asked staff to further consider a different approach through the establishment of a Building Bylaw Working Group (Option 2).

This report provides more detail about what the community engagement surrounding this project including:

- The recommended option community engagement that was outlined in the November 5, 2024, [COTW Report No. W24-008](#) (COTW Report); and
- An alternative option—convening a working group, as requested by the COTW and endorsed by Council on November 19, 2024.

Goals – Building Bylaw

As a reminder, the goals of the Building Bylaw update are to:

- Reduce risk for the municipality and community;
- Improve clarity, consistency, and fairness in interpreting the building codes;
- Improve compliance with the bylaw and support enforcement;
- Improve efficiency for staff with permit processing;
- Clarify roles and responsibilities for applicants and the municipality;
- Support additional department improvements (such as e-permitting);
- Support the construction and development community; and
- Provide consistency in permit fees and fiscal sustainability for the department.

Updating the Building Bylaw and creating a separate Fees and Charges Bylaw will help to provide the foundation for other planned Building Department improvements, such as updating applications for 11 types of permits (currently contained in the outdated "[Building and Plumbing Bylaw No. 1617, 2002](#)"), implementing e-Permitting solutions, and improving the efficiency of workflows for applicants and staff using Tempest, the software currently utilized by the RMOW for this type of work.

The Building Department is responding directly to feedback from the community and Council about complicated and unclear processes and delays when applying for and waiting for building permits. Staffing levels, training, internal and external communication, collaboration with other departments and ongoing community engagement are also critical to the transformation of the Building Department.

Proposed approach

The Building Department has retained Flywheel Building Solutions, an expert in building bylaws and the Municipal Insurers Association of British Columbia (MIABC) Model Building Bylaw (Model Bylaw), to support and advise on the Building Bylaw updates.

Staff have proposed, and Council have endorsed, the Model Bylaw for large cities (Appendix A) as the base template for the Building Bylaw update to ensure consistency and adherence to current legislative

requirements. This Model Bylaw was drafted by Don Lidstone of Lidstone & Company, commissioned by the MIABC and is the bylaw format used by most municipalities in BC.

The Model Bylaw is a prescriptive bylaw template, which has been developed and reviewed legally to provide a base for local governments to adopt. The intent with the Model Bylaw is to provide clarity in the permit process, outline the roles and responsibilities for each partner in the construction process, and provide a structure that is easier and more consistent for staff and applicants to understand and use, thereby reducing the need to develop additional policies and procedures which add complexity to the permitting process.

Approximately, 80 per cent of the Model Bylaw is standardized and not specifically open for amendment; however, to help address each community's unique set of conditions and needs there are some sections of the core bylaw in which local governments can propose edits for legal review and acceptance. The District of Squamish, Squamish-Lillooet Regional District, and Village of Pemberton have all used the Model Bylaw, which has been adapted to their needs and communities.

To address some of the specific challenges faced in the Whistler community the following sections (approximately 20 per cent of the bylaw) will be considered for edits (highlighted in Appendix A). These are the only areas where Whistler may seek feedback from the community:

1. Fee structure as we consider a "per square foot value" as opposed to a "value of construction", including all associated permit fees, damage deposits and enforcement.
2. Unrestricted matters, which are matters regulated in the BC Building Code (or other provincial building regulations) for which local government will have authority to set their own technical building requirements in bylaws. There are three reasons for unrestricted matters outlined in the Building Act general regulation:
 - a. Local circumstance: The matter is best regulated by the local government because it relates to a specific location or circumstance.
 - b. Non-building code objectives: The local government has the authority to achieve non-building code objectives, and the technical building requirement is incidental to that objective.
 - c. Temporary unrestricted: The matter could be the subject of new or revised building code requirements, or a local authority variation request.

Whistler can determine which (if any) of the following unrestricted matters are applicable and should be included in the building bylaw.

Unrestricted matters:

- 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 device
- Electric vehicle charging stations/plug-ins
- Screening of equipment on roofs or other structures

Temporary unrestricted matters

- 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 Code
- Adaptable design requirements
- Part 9: Professional Plan Certification – Certified Professionals (CP) Program: A CP program helps with issuing building permits for new or existing buildings by allowing CPs to take on the full review and inspection role on behalf of the Authority Having Jurisdiction (AHJ), which in this case is the municipality.

The CP program is recognized as an alternative program to conventional plan review, field review and occupancy permit processes of a building permit in the AHJ. A CP program is administered jointly by the Architects Institute of BC (AIBC) and Engineering and Geoscientists of BC (EGBC). To become a CP, registered architects and professional engineers must successfully complete the certified professional course and pass its examination as administered by AIBC and EGBC. Municipalities that have a CP program may issue a building permit, which is certified by a recognized registered professional architect or engineer. CPs don't replace registered professionals involved in a construction project; instead, they provide an additional level of building bylaw review typically done by staff.

Analysis

The two engagement options identified earlier are discussed in more detail here, with associated pros and cons for each process. It is critical to note that we are hoping for the broadest possible engagement as the Building Department receives permit applications from a large cross-section of the community, from homeowners to contractors to builders, so we need to best learn from the needs and experiences of all applicants. It is also important to recognize that by taking an approach based on the model MIABC bylaw, there are only limited and specific items that can be engaged upon, and the core bylaw is a fixed bylaw that is consistent and replicable across communities in BC, increasing familiarity, confidence in the permitting system and better liability protection for the AHJ.

The following interested parties will be impacted by the building bylaw changes and their expertise and input is necessary to consider in order to ensure the bylaw is impactful, inclusive and works within each context it will need to be applied. For the engagement to be meaningful we would recommend that we ensure we have good reach and representation from all these interested parties.

Interested Parties

Internal

- Climate Action, Planning, and Development Services
- Engineering
- Bylaw Services
- Whistler Fire Rescue Service
- Council

External

- Community including:
 - Property owners (current and prospective)
 - Builders, developers, contractors, and groups like Canadian Home Builders' Association
 - Businesses
- CPs
- Realtors (secondary)

Goals of Engagement

1. Internal and external audiences feel meaningfully engaged in the following:
 - Whistler-specific matters that can be included in the updated building bylaw, for example which unrestricted matters should be included/not included.

- Evaluation of whether a CP program needs to be considered and included in the bylaw.
 - New structure for the building fees and charges bylaw
2. The updated building bylaw and building fees and charges bylaw reflect Whistler’s unique building context and needs.
 3. RMOW staff, Council, and community understand changes to the building bylaw.

Option 1: Broad community engagement

The following is a more detailed version of what was included in the COTW Report.

Timeline: Key Milestones November 2024 to May 2025

Timing	Milestones and activities
November 5, 2024	<ul style="list-style-type: none"> ● Present to Council: project and engagement overview
December 2024	<ul style="list-style-type: none"> ● Create draft Building Bylaw for legal and internal department review
December 2024	<ul style="list-style-type: none"> ● Create project landing page on Engage Whistler (modelled from Penticton’s building bylaw update): summarize proposed changes, include Q&As and engagement opportunities. ● Share project overview through e-newsletter, website call to action, social media and sign at customer service counters
January 2025	<ul style="list-style-type: none"> ● Develop engagement materials and promote survey and workshops: <ul style="list-style-type: none"> ○ Survey for community on proposed unrestricted matters in the bylaw, CP program and fees and charges approach ○ Two online workshops for community, including building community: <ul style="list-style-type: none"> ○ Workshop 1: MIABC core bylaw and changes, CP program, and unrestricted changes. ○ Workshop 2: Proposed permit fees and structure ○ CHBA quarterly meeting – updates on proposed bylaws; questions and input
February 2025	<ul style="list-style-type: none"> ● Launch two-week survey. ● Host two online workshops ● Collect email addresses for project updates/building newsletter. ● Compile feedback for consideration/incorporation in draft bylaw. ● Update Engage Whistler on what we heard
March 2025	<ul style="list-style-type: none"> ● Present draft bylaws to Council for discussion at a COTW
April 2025	<ul style="list-style-type: none"> ● Present bylaws for the first three readings with amendments. ● Present bylaw enforcement amendment bylaws
April 2025	<ul style="list-style-type: none"> ● Adopt bylaws
Spring 2025	<ul style="list-style-type: none"> ● Inform community members about changes, including feedback incorporated in the bylaws, rationale for updates, how this fits with the overall transformation of Building Department processes. ● Send building newsletter

This option proposes broad engagement with the community, including the local building, business, and development communities, and general community that may also submit applications. The process is intended to be transparent about the areas where the RMOW can consider and incorporate feedback to adapt the Model Bylaw to Whistler’s needs.

For engagement and public participation, the RMOW employs the International Association of Public Participation (IAP2) framework. IAP2 defines community engagement as: “Any process that involves the community in problem-solving or decision-making and uses community input to make better decisions.” IAP2 developed a spectrum of public participation that helps define the community’s role in any community engagement process. The IAP2 Spectrum shows that differing levels of participation are appropriate, depending on the outcomes, timeframes, resources and levels of concern or interest in the decision to be made. Most importantly, the spectrum sets out the promise being made to the public at each participation level

This plan focusses on consulting with internal and external audiences during the development of the draft bylaw and informing audiences during the updates and once the new bylaws are adopted. By consulting with the public in our process we keep public informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the new bylaw and ultimately, Council’s recommendation.

The benefits of this approach are that it:

- Expedites the bylaw development process, as open engagement is efficient to deliver, so the Building Department can move ahead with other improvements.
- Focusses on receiving feedback from the broad community, as well as the local building and development community, recognizing the wide range of building permit applicants including homeowners and small contractors who interact with the RMOW.
- Manages expectations for the limited parts of the new bylaw that can be adapted to Whistler’s needs; and
- Requires less staff time and resources for engagement, than forming, chairing, advertising, and reporting out from a new working group and an open engagement process (as even with a Working Group process, it is believed that open engagement should still occur).

Option 2: Creating a Working Group

The second option, which was proposed by Council through a resolution at the COTW Meeting, involves forming a new Working Group, including members from the local building community. The draft TOR, inclusive of membership, is found in Appendix B.

Timeline: Working Group Key Milestones November 2024 to October 2025

Timing	Milestones and activities
November 5, 2024	<ul style="list-style-type: none"> • Present to Council: project and engagement overview
December 2024	<ul style="list-style-type: none"> • Create draft Building Bylaw for legal and internal department review
December 2024	<ul style="list-style-type: none"> • Create project landing page on Engage Whistler (modelled from Penticton’s building bylaw update): summarize proposed changes, include Q&As and engagement opportunities • Share project overview through e-newsletter, website call to action, social media, and sign at customer service counters

January 2025	<ul style="list-style-type: none"> • Confirm staff leads for Working Group. • Confirm TOR and determine composition of working group. • Request participation from internal Working Group members. • Invite representatives from external organizations
February to March 2025	<ul style="list-style-type: none"> • Recruit members at large through an application process including promotion through RMOW channels and paid advertising in the Pique. • Interview applicants • References
April 2025	<ul style="list-style-type: none"> • Evaluation of members-at-large • Select and contact members at large. • Appoint working group. • Schedule meetings • Develop materials for review at meetings
April through June 2025	<ul style="list-style-type: none"> • Chair and report out on three meetings with working group
June 2025	<ul style="list-style-type: none"> • Incorporate feedback from Working Group. • Consider survey of community for additional feedback • Update draft bylaws
July 2025	<ul style="list-style-type: none"> • Present draft bylaws to COTW for discussion
August 2025	<ul style="list-style-type: none"> • Present bylaws for the first three readings with amendments. • Present bylaw enforcement amendment bylaws
August 2025	<ul style="list-style-type: none"> • Adopt bylaws
Fall 2025	<ul style="list-style-type: none"> • Inform community members about changes, including feedback incorporated in the bylaws, rationale for updates, how this fits with the overall transformation of Building Department processes. • Send building newsletter

This approach focusses on engagement with a selected cross section of the construction community to consult them in discussion around specific areas of the bylaw, rather than representation and input from the broader community and construction industry as found in Option 1. This option allows the technical experts in the industry to provide specific feedback as it relates to construction and would give targeted and focused feedback. This approach continues to consult with the general community, as staff would still be obligated to do general community engagement as identified in Option 1 in the development of the bylaw. As described above, there are only a few areas (around 20 per cent of the bylaw) where the municipality may make changes and consider input to adapt the core bylaw to a local context. This option involves significantly higher staff resources and is anticipated to take at least six months longer, as there is a required procedure around how Working Groups are formed and how they operate as well as coordination of community engagements, which presents a risk for other Building Department improvements that are needed.

Working Groups bring together RMOW staff with staff from external organizations and community members with relevant interests or expertise to collaborate on operational issues that involve or impact

multiple departments and organizations. Working groups usually focus on topics that benefit from expertise and insights to address challenges that cannot be solved by a single organization. Working groups do not include Council representatives. While expertise is required, staff feel that within the limited scope of the changes we can make, this expertise can be equally tapped through a robust engagement process in a more efficient timeline. A Working Group will still need to be a broad cross-representation of builder, contractor, renovator community in order to get the fulsome input required to best inform our process.

Option 1 includes opportunities for input from both the building community and broader community, ensuring that input is reflective of the wide range of applicants' needs, while keeping our aggressive timelines intact. Additionally, Option 1 involves less staff administrative time and resources, and allows the Building Department to proceed with other necessary updates such as application updates e-Permitting, Tempest workflow updates and cost recovery in a timely manner. Noting the limited items we can engage on in the core building bylaw, staff feel that engagement can actively get required input on those sections – fees and restricted and unrestricted matters – in a meaningful way. These improvements all seek to improve the experience of applicants and the ability for the Building Department to efficiently process building permit applications. For these reasons, staff are recommending proceeding with engagement Option 1.

OPTIONS

That Council endorse the staff recommendation to follow the engagement plan set out in the initial Committee of the Whole Report No. W24-008 on November 5, 2024, and expanded upon as Option 1 in Administrative Report No. 24-115.

Or;

That Council direct staff to create the Building Bylaw Working Group to provide input to the Resort Municipality of Whistler on the customizable sections of the of the Municipal Insurance Association of British Columbia Model Building Bylaw, attached as Appendix A to Administrative Report No. 24-115, in order to draft the new Building and Plumbing Bylaw and the new Fees and Charges Bylaw.

POLICY CONSIDERATIONS

Relevant Council Authority/Previous Decisions

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

November 5, 2024, Report No. W24-008: [Building and Plumbing Bylaw Modernization](#): Report outlining the engagement plan for Option 1.

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 Official Community Plan (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.

Engagement in the Building Bylaw supports section 8.5 of the OCP.

8.5 Goal *Provide and support meaningful opportunities for community engagement.*

8.5.1 *Encourage community engagement at all levels, from volunteerism to participation in municipal initiatives.*

A modernized building bylaw will also support the Land use and Development section 5 of the OCP as it related to housing.

BUDGET CONSIDERATIONS

Budget for Option 1 is accounted for in the 2024 and 2025 Building Department operating budget.

Additional costs that may be incurred in forming a working group are not currently accounted for in either Building or Communications 2025 budget. It is estimated that this may add up to \$15,000 if it was determined a professional mediator and/or building professional should be involved to chair/manage the working group.

LÍ'WAT NATION & SQUAMISH NATION CONSIDERATIONS

The RMOW is committed to working with the Lil'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.

First Nations development entities engaged in building projects in Whistler will be included in all engagement outreach.

COMMUNITY ENGAGEMENT

Level of community engagement commitment for this project: as detailed in report above.

Inform Consult Involve Collaborate Empower

The community engagement will follow one of the two options presented in the report.

REFERENCES

Appendix A – MIABC - Model Building Bylaw
Appendix B – Building Bylaw Working Group Draft Terms of Reference

SUMMARY

In conclusion, staff believe that the goals for engagement on the areas of the Building Bylaw that can be considered can be met through an involved engagement process. Providing an engagement opportunity to hear from all in the community is the preferred options recommended by staff, that also meets a reasonable timeline to allow the Building Bylaw project to support other initiatives.

SIGN-OFFS

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