



**REPORT TO ELECTORAL AREA SERVICES COMMITTEE  
MEETING OF OCTOBER 18, 2017**

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**SUBJECT**      **Implications of the *Building Act*, Building Regulations, and BC Energy Step Code for the Capital Regional District**

**ISSUE**

The purpose of this staff report is to update the Electoral Area Services Committee on the implications of the new *Building Act*, S.B.C. 2015, c.2, the Building Regulations, and the new BC Energy Step Code for the Capital Regional District (CRD).

**BACKGROUND**

When the Province brought the *Community Charter* into effect on January 1, 2004, jurisdiction for building regulation was formally established as an area of concurrent jurisdiction between the Province and local governments. Local governments were provided some limited jurisdiction to regulate in the area of building standards without the specific approval of the Minister responsible for the Building Code under the Buildings and Other Structures Bylaws Regulation, B.C. Reg. 107/2007.

**Building Act and Building Regulations**

In 2015, the Province of British Columbia enacted the *Building Act*, S.B.C. 2015, c. 2 and since that time has enacted a series of amendments to regulations intended to provide some clarity around the issues regarding the jurisdiction of local governments in relation to building regulation.

The core features of the new *Building Act* included the following:

- the establishment of a mandatory credentialing system for building officials;
- curtailing provisions in local government building bylaws that established standards beyond the BC Building Code in order to establish more consistency throughout the Province; and,
- creating a potential for site-specific building regulations by the Province which may lead to approval on a case by case basis of well-considered innovative approaches to building standards developed by individual local governments or groups of local governments.

When fully brought into effect, consequential amendments to the *Building Act* will repeal section 9 (1) (d) of the *Community Charter* that currently allows local government broad authority to regulate building construction. However, after December 15, a local government building bylaw will have no effect if it “relates to” a matter that is subject to a requirement in a provincial regulation or that the Province specifically prescribes as a “restricted matter”. To this point, the Province’s approach has been to single out a few areas where local government authority will be “unrestricted” and all other matters relating to building standards are not to be dealt with in the building bylaw. This is a significant change in local government jurisdiction which will take effect on December 15, 2017. After that date, any regulations in a local building bylaw that relate to a matter regulated under the Provincial Building Code will have no effect except as permitted as an unrestricted matter.

The CRD Building Regulation Bylaw No. 3741 deals with the administration of the building permitting system in place in the CRD to provide for inspections related to the Provincial Building Code. Legal counsel to the CRD has reviewed the CRD’s Building Regulation Bylaw 3741 and determined that the CRD Building Bylaw does not incorporate regulations that are vulnerable to becoming inoperative as of December 15, 2017.

There is a time limited ability for local governments to adopt regulations relating to:

- (a) fire sprinklers and fire sprinkler systems; and,
- (b) Any matter as it relates to the accessibility of a building to persons with disabilities.

If the Board wished to regulate building construction in these areas, it would have until December 15, 2017 to do so. (Staff will bring forward a report that will address the above item.)

The Minister has authority to prescribe matters that are “unrestricted” in relation to which local governments will be able to adopt bylaws. In addition, a local government may seek to have a bylaw approved by the Minister. The Province can approve the existing Building Bylaw with unrestrictive matters. To this point, the Province has adopted two regulations that carve out some limited area for local government jurisdiction in relation to building standards. The areas that have been prescribed as “unrestricted matters” by the Province in the Building Regulations include a number of matters that relate to development within certain development permit areas, water supply for firefighting, setbacks within flood plains and the heritage features of heritage buildings.

The Municipal Insurance Association (MIA) has recently prepared revisions to its core bylaw provisions following the enactment of the *Building Act*. The MIA Core Bylaws are being amended with wording that will comply with the *Building Act*.

#### BC Energy Step Code

The other area that has been turned over to local government regulation is in relation to energy conservation and greenhouse gas emissions. In April 2017, the Province of BC adopted the BC Energy Step Code as regulation which introduced performance-based standards that could be incorporated by local governments into their building permit requirements. Although the new step code is not prescriptive, should a local government voluntarily amend its bylaw to incorporate it, this would result in performance based standards to be met by buildings, including both residential and commercial construction. A guide outlining the implications of the BC Energy Step Code is attached as Appendix A.

It is not recommended to make any changes to the CRD Building Bylaw to incorporate any step code requirements until there is further engagement and understanding of the impacts this will have on the building industry.

#### **ALTERNATIVES**

##### *Alternative 1*

That the Electoral Area Services Committee recommends to the Capital Regional District Board:

That staff update the building bylaw to reflect language contained in the Municipal Insurance Association document in order to address risk managements perspectives.

##### *Alternative 2*

That the report be received for information only.

### Intergovernmental Implications

With the development by the MIA of a revised and updated bylaw containing core building provisions, it is likely that many local governments will be updating their building bylaws to reflect language contained in the MIA document. While the CRD is not a member of MIA, there is value in avoiding having the CRD under a very different regulatory regime compared to other local government jurisdictions across the Province, particularly where the MIA bylaw is prepared from a risk management perspective.

Any implementation of the BC Energy Step Code requirements should be done in a manner that is as consistent as possible with other local government jurisdictions in the capital region.

### Financial Implications

The new BC Building Code requirements will impact the Building Inspection budget as it will require that all Building Officials be certified. However, this should help reduce liability concerns.

### CONCLUSION

While it has been determined that it is not necessary for the CRD to update its Building Regulation Bylaw in direct response to the *Building Act*, it may be prudent at some point in the near future to review the Building Regulation Bylaw in light of the revisions to MIA's core document in order for the CRD to avoid having a very different regulatory regime compared to other local government jurisdictions in compliance with the MIA.

The new BC Energy Step Code has been adopted in regulation and is applicable to commercial and multiple residential buildings. It is not mandatory to incorporate the requirements into the CRD Building Bylaw and it is not recommended to update the CRD Building Bylaw until the impacts are further understood.

### RECOMMENDATION

That the Electoral Area Services Committee recommends to the Capital Regional District Board:

That staff update the building bylaw to reflect language contained in the Municipal Insurance Association document in order to address risk managements perspectives.

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RG:jv

Attachments: Appendix A – Provincial Policy: Local Government Implementation of the BC Energy Step Code.