

DATE OF MEETING September 16, 2019
AUTHORED BY DARCY FOX, MANAGER, BUILDING INSPECTIONS
SUBJECT BUILDING BYLAW AMENDMENTS

OVERVIEW

Purpose of Report

To introduce amendments to “Building Bylaw 2016 No. 7224” and the “Bylaw Notice Enforcement Bylaw 2012 No. 7159” for Council’s consideration.]

Recommendation

That:

1. “Building Amendment Bylaw 2019 No. 7224.02” (To introduce BC Energy Step Code regulations, amend demolition permit expiration, amend works and services exemptions, and amend Schedule A - Fine Schedule) pass first reading;
2. “Building Amendment Bylaw 2019 No. 7224.02” pass second reading;
3. “Building Amendment Bylaw 2019 No. 7224.02” pass third reading;
4. “Bylaw Notice Enforcement Amendment Bylaw 2019 No. 7159.07” (To update Building Bylaw penalty fees in Schedule A - Designated Bylaw Contraventions and Penalties) pass first reading;
5. “Bylaw Notice Enforcement Amendment Bylaw 2019 No. 7159.07” pass second reading; and
6. “Bylaw Notice Enforcement Amendment Bylaw 2019 No. 7159.07” pass third reading.

INTRODUCTION

This report brings forward several Building Bylaw-related items for Council’s consideration and ultimate decision. They are as follows:

- Implementation of timelines for the BC Energy Step Code (the “Step Code”);
- The length of time demolition permits may remain active before expiring;
- Exemptions to required frontage works and services (the “Works and Services”) for renovations, repairs, and minor additions; and
- An increase in the fines for infractions associated with “Building Bylaw 2016 No. 7224” (the “Building Bylaw”) and a housekeeping amendment to update “Bylaw Notice Enforcement Bylaw 2012 No. 7159” (the “Fines Bylaw”) to reference the current Building Bylaw as well as the proposed increase to the fines.

BACKGROUND

BC Energy Step Code

The Step Code is a voluntary Provincial standard enacted in April 2017 that provides an incremental and consistent approach to achieving more energy-efficient buildings that go

beyond the requirements of the base BC Building Code. It does so by establishing a series of measurable, performance-based, energy-efficiency requirements for construction that builders can choose to build to, and communities may voluntarily choose to adopt in bylaws and policies.

On 2018-JUL-09, Council received and endorsed the City's "BC Energy Step Code Implementation Strategy". The strategy recommended the next Building Bylaw amendment incorporate the Step Code into the bylaw. Through its Clean Plan BC, which was announced to the public on 2018-DEC-05, the Province has set target dates of 2022 and 2027 for incremental Step Code implementation, with full implementation to net-zero-energy-ready buildings targeted for 2032 (CleanBC Step Code Implementation Schedule, see Attachment A).

The City, in partnership with the Regional District of Nanaimo (RDN), has hosted many stakeholder and public workshops related to Step Code implementation and building energy efficiency in general in order to gather insight into industry capacity, as well as to provide educational opportunities to the local development community (BC Energy Step Code Implementation, see Attachment B).

Demolition Permits

Demolition permits currently have an expiration timeline of 2 years. Most demolition permits are concluded within a couple months of issuance; however, some permits are issued and not acted on in a timely manner, which can result in a property becoming a nuisance or a public safety hazard. It is proposed to amend demolition permit expiration timeline to 6 months.

Works and Services Exemption

Frontage Works and Services (the "Works and Services"), such as curb and gutter, sidewalks, and road and utility improvements, are required for building permits unless exemptions are provided for in the Building Bylaw. The bylaw currently includes exemptions to requiring Works and Services for commercial and residential building permits where:

- i. the value of construction does not exceed \$150,000
- ii. construction will consist of interior renovations only,
- iii. additional floor area will not exceed 25% of existing floor area; or
- iv. construction will result in the creation and/or location of no more than a total of four residential units.

Based on the current exemptions, building upgrades can trigger Works and Services due to the construction value of exterior renovations and repairs exceeding \$150,000, even when the floor area of the building is not increased. Tying Works and Services triggers to construction values also requires bylaw amendments from time to time as construction costs increase.

Building Bylaw Fines

Fines for Building Bylaw infractions have not been reviewed since 1991. The Fines Bylaw does not currently reference the Building Bylaw and requires revisions to reference the current Building Bylaw, irrespective of whether the fines are increased.

DISCUSSION

BC Energy Step Code

The Step Code is currently a voluntary standard that builders across B.C. can use. In addition, local governments can choose to require or encourage builders to meet one or more steps of the Step Code as an alternative to the BC Building Code's (BCBC) minimum prescriptive requirements. The timelines set out in the proposed "Building Amendment Bylaw 2019 No. 7224.02" (the "Bylaw Amendment") are in line with the timelines set for implementation by the Province in the Clean BC Plan for 2022, but advance implementation of the Step Code in line with the City's BC Energy Step Code Implementation Strategy in the intervening period.

City of Nanaimo Step Code Implementation Schedule in the Building Bylaw

	PART 9 Buildings	PART 3 Buildings
Step One: (Enhanced Compliance) Perform Energuide or Energy Modeling to current BCBC requirements	6 months after bylaw adoption	6 months after bylaw adoption
Step Two: 20% greater than current BCBC requirements	2021-JAN-01	2022-JAN-01
Step Three: 40% greater than current BCBC requirements	2022-JAN-01	TBD

The Province has set a long-term goal of all new buildings being net-zero-energy-ready by 2032. Implementation of Step Code by bylaw is an important first step, as it starts the process and allows for incremental improvements in energy efficiency that are achievable with minimal impacts on industry, while building capacity for implementation of higher steps in the future, heading toward 2032.

A separate report recommending Step Code-related amendments to Schedule D of the "City of Nanaimo Zoning Bylaw 2011 No. 4500" is also included on Council's agenda. The proposed Schedule D amendments would provide density bonusing opportunities for meeting higher Step Code requirements beyond what is proposed in the Building Bylaw amendments.

Demolition Permits

Demolition permits are typically completed within a month or two of issuance. A shorter timeline for the expiration of demolition permits will require property owners to demolish buildings in a timely manner, which will reduce the potential for properties to become a nuisance or community safety hazard. The change in the Building Bylaw will limit the validity of demolition permits to 6 months.

Works and Services Exemption

This proposed amendment affects commercial buildings and residential developments with five or more dwelling units. It is recommended to remove the monetary value of \$150,000 and replace it with a maximum increase in floor area of 25%, or 600m², whichever is lesser. This will clarify that improvements that do not significantly increase the floor area of a building will not trigger Works and Services. The proposed amendments will allow for property owners to upgrade building façades and construct small additions without the expense of constructing frontage Works and Services.

Building Bylaw Fines

Fines are imposed to act as a deterrent to Building Bylaw contraventions. As the fines for Building Bylaw contraventions have not been increased in over 28 years, a review was timely. A review of nine adjacent communities' fines was completed; the City of Nanaimo's fines were the lowest. The proposed changes would place the City in the median range.

OPTIONS

1. That:

1. "Building Amendment Bylaw 2019 No. 7224.02" (To introduce BC Energy Step Code regulations, amend demolition permit expiration, amend works and services exemptions, and amend Schedule A - Fine Schedule) pass first reading;
2. "Building Amendment Bylaw 2019 No. 7224.02" pass second reading;
3. "Building Amendment Bylaw 2019 No. 7224.02" pass third reading;
4. "Bylaw Notice Enforcement Amendment Bylaw 2019 No. 7159.07" (To update Building Bylaw penalty fees in Schedule A - Designated Bylaw Contraventions and Penalties) pass first reading;
5. "Bylaw Notice Enforcement Amendment Bylaw 2019 No. 7159.07" pass second reading; and
6. "Bylaw Notice Enforcement Amendment Bylaw 2019 No. 7159.07" pass third reading.

- The advantages of this option:

Step Code – Implementing the lower steps of the Step Code allows industry to use conventional materials and approaches they are familiar with, while building partnerships and capacity in terms of the number of energy advisors available to do the work. Provides a clear and defined timeline so the industry is informed and ready for higher steps. Is in keeping with the timelines for implementation set out in the Clean BC Plan and the City's Step Code Implementation Strategy.

Demolition Permits – Currently, demolition permits are valid for 2 years. Most permits are concluded within a couple months of issuance; however, some permits are issued and not acted on in a timely manner, which can result in a property becoming a nuisance or a public safety hazard.

Works and Services Exemption – The change in the Works and Services exemption is no longer tied to a monetary value that requires amending to keep

relevant with increasing construction costs. This also allows property owners to complete upgrades and minor additions to existing buildings without triggering Works and Services. This will encourage the revitalization and reuse of existing buildings.

Building Bylaw Fines – Fines are meant to be corrective; however, if they are not substantial enough, they fail to have the desired effect and become the cost of doing business.

- The disadvantages of this option:

Step Code – Implementation of the Step Code will add another level of review for building officials, and require further education for industry. For the lower steps, this will be insignificant as the materials and methods of construction will be the same, and only additional modeling and testing will be required. As the steps increase, new methods and materials will need to be introduced to meet the higher levels of efficiency required. This will result in a higher level of review at both the plan review and inspection stages, and in the short term, as industry adjusts, may result in marginally longer processing times for building permits.

- Financial implications:

Step Code - There will be some insignificant training costs associated with implementation. An energy advisor has already been retained with existing funds to provide a Step Code implementation workshop for both City and RDN inspectors.

2. That Council deny first, second, and third reading of “Building Amendment Bylaw 2019 No. 7224.02” and “Bylaw Notice Enforcement Amendment Bylaw 2019 No. 7159.07” and direct Staff to prepare a bylaw amendment to “Bylaw Notice Enforcement Bylaw 2012 No. 7159” to update references to the current “Building Bylaw 2016 No. 7224”.

- The advantages of this option: This will tie the Fines Bylaw to the Building Bylaw so that tickets can issued for Building Bylaw contraventions.
- The disadvantages of this option: Will negate any of the advantages outlined in Option #1 related to Step Code implementation and will likely result in more variances being brought before Council for variances to Works and Services requirements, or repairs and upgrades not being completed. Fines for Building Bylaw violations will also not be increased beyond those approved in 1991.
- Financial implications: *Building Bylaw Fines* – A significant amount of resources are put toward compliance. If fines are effective in reducing non-compliance, those resources can be better directed towards work beneficial to the development community.

SUMMARY POINTS

- The Step Code is currently a voluntary standard. Starting with the lower steps and laying out a timeline for the introduction of higher steps gives industry opportunity to build capacity and a clear path forward toward more energy-efficient buildings.
- Demolition permits are currently valid for 2 years. Most permits are concluded within a couple of months of issuance. A 6-month expiration, as proposed, would require property owners to take action to demolish buildings in a timely manner, reducing the incidence of properties becoming a nuisance or public hazard.
- Works and Services are currently triggered when construction exceeds \$150,000, even in the case where there is no increase to the floor area of the building. Having a monetary value as a trigger requires bylaw revisions to keep up with costs as they increase over time.
- Amending the current fine schedule will bring the City of Nanaimo into the median range of fines currently implemented by neighbouring communities.

ATTACHMENTS:

ATTACHMENT A: CleanBC Step Code Implementation Schedule

ATTACHMENT B: BC Energy Step Code Stakeholder and Public Workshops 2017-19

“Building Amendment Bylaw 2019 No. 7224.02”

“Bylaw Enforcement Amendment Bylaw 2019 No. 7159.07” |

Submitted by:

Darcy Fox
Manager, Building Inspections |

Concurrence by:

Jeremy Holm
Director, Development Approvals

Dale Lindsay
General Manager, Development Services |