



THE CORPORATION OF THE  
DISTRICT OF SUMMERLAND  
**REQUEST FOR DECISION**

DATE: February 14, 2022 FILE: 3800-01  
TO: Graham Statt, Chief Administrative Officer  
FROM: Brad Dollevoet, Director of Development Services  
SUBJECT: Building Bylaw No. 2022-002 – BC Energy Step Code Implementation

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STAFF RECOMMENDATION:

That Council pass the following resolution(s):

1. ***THAT Building Bylaw No. 2022-002 be read a first, second, and third time.***
2. ***THAT Fees and Charges Amendment (Building Permit Fees) Bylaw No. 2022-007 be read a first, second, and third time.***
3. ***THAT Bylaw Notice Enforcement Amendment (Building Bylaw Offences) Bylaw No. 2022-010 be read a first, second, and third time.***
4. ***THAT Ticket Information Utilization Amendment (Building Bylaw and Good Neighbour Bylaw) Bylaw 2022-011 be read a first, second, and third time.***

STRATEGIC PRIORITY:

**Good Governance** – The review and update of the District’s Building Bylaw has been a strategic priority project to complete since 2019. The draft Bylaw follows the requirements of the 2017 *Building Act* and the MIABC’s draft core bylaw for small communities.

**Community Resilience** –The Province of BC is moving forward with their CleanBC Plan which includes requiring the adoption of the BC Energy Step Code prior to the end of 2022, and for all homes to be constructed at a 20% or greater energy efficiency level than the BC Building Code. The draft Building Bylaw and Fees and Charge Amendment Bylaw includes the adoption of the BC Energy Step Code for simple (Part 9) residential buildings and other elements for greenhouse gas reduction as previously identified as action items in the District’s Community Energy and Emissions Reduction Plan.

CULTURAL IMPACT STATEMENT:

**Community Character** – “Review municipal bylaws to ensure they do not impede cultural development or community beautification”

\*District of Summerland Cultural Plan (2016)

PURPOSE:

To consider providing three readings to a new Building Bylaw to replace the current Building Regulations Bylaw No. 2013-017 and also implement the BC Energy Step Code.

## **BACKGROUND:**

### **The Building Act**

In Spring 2015, the Province passed the *Building Act* to modernize BC's building regulatory system, making it more efficient and productive and better able to support innovation. As such, the *Building Act* introduced three main changes to British Columbia's building regulatory system that will affect:

- Local governments' authority to set technical building requirements within their jurisdictions;
- The qualification requirements of the building and plumbing officials that local governments employ; and
- Local governments' options for supporting innovation in building construction in their communities.

Under section 5 of the *Building Act*, local governments' authority to set technical building requirements has changed. Prior to the *Building Act*, local governments had authority to set technical building requirements. To bring greater consistency to the technical building requirements in force across BC, the *Building Act* gives the Province sole authority to establish these requirements. Under section 5 of the *Building Act*, if a matter is regulated in a provincial building regulation, any requirements for that matter established in bylaws by local governments are of no legal force.

Under the *Building Act*, local governments have three options to affect technical building requirements specific to their area:

- Set local building requirements for matters that have been identified as "unrestricted" in the Building Act General Regulation
- Ask the Province to create regulation authorizing a local government variation that differs from the BC Building Code
- Request a change to the BC Building Code. This type of requirement is most appropriate if the change would have widespread applicability across the province

### **MIABC Core Bylaw**

The Municipal Insurance Association of British Columbia (MIABC) has created a model building bylaw that responds to the *Building Act*, the Step Code and the 2018 BC Building Code for use by member local governments. Draft Building Bylaw 2022-002 (Attachment No. 1) presented for Council's consideration is based on the model bylaw for smaller municipalities.

### **Province's CleanBC Strategy**

One of the pillar goals of the Province's CleanBC plan is to reduce GHG emissions from buildings more than half by 2030. As part of meeting that goal, the province has provided the first target to have all new Part 9 (simple) residential buildings be 20% or greater energy efficient than the BC Building Code prior to the end of 2022. Step 3 of the BC Energy Step Code requires 20% better energy efficiency than BC Building Code, and so it is expected that local governments will be mandated by the province to require all new Part 9 residential buildings to be at Step 3 of the Energy Step Code by the end of this year.

## **District Council Review**

On May 14, 2018, Council directed staff to engage with regional local governments in the development of an Energy Step Code timeline and strategy. A Notice of Consultation was subsequently sent to the Provincial Building and Safety Standards Branch as required by provincial policy for the consultation process to start on the implementation of the BC Energy Step Code.

At Council's meeting of June 24, 2019, the District's previous Director of Development Services presented a draft Building Bylaw No. 2019-025 for Council's review and consideration of first reading. At this meeting Council elected to table first reading of Bylaw No. 2019-025 and further directed staff to prepare a report with a Terms of Reference outlining the public consultation process to prepare the draft bylaw.

One by-product of the meeting of June 24, 2019 was the eventual formation of the Development Process Improvement Advisory Committee (DPIAC) which had its inaugural meeting on February 5, 2020. The Committee was established to provide guidance to the Development Services department for process innovations and improvements in the review of District bylaws, such as the Building Bylaw.

The Building Bylaw review project was ultimately re-initiated on August 9, 2021, when staff provided Council a proposed project charter and engagement plan for completion of a new Building Bylaw. Council provided direction at this meeting for staff to initiate the Building Bylaw/Step Code implementation project and engagement plan as recommended by staff.

## **Public Consultation**

In accordance with the prepared engagement plan, District staff proceeded with engagement activities from September to December 2021, which included the following:

- "STEPtember" - A number of webinars held in collaboration with the Regional District on the BC Energy Step Code for residents and contractors
- A "Builders" online survey targeting contractors, energy advisors, architects, and interested homeowners from September 15 – November 1, 2021
- A "Builders Breakfast" morning engagement event at the George Ryga Arts and Cultural Centre on November 19, 2021
- Meetings with the South Okanagan Chapter of the Canadian Home Builders Association
- A number of committee meetings with the DPIAC and Community Climate Action Advisory Committee on review of survey results, and elements to include in the draft bylaw

## **Engagement Survey Results**

Attachment No. 6 provides the survey results from the Builders Survey for the District's implementation of the BC Energy Step Code and Building Bylaw elements. A total of 17 completed survey respondents were received, 15 of which from people who live in Summerland. Below were some of the themes that were received from the public feedback:

- Most in support of District being an early adopter of BC Energy Step Code, and recommend either Step 1 or Step 3 to start
- Smaller farm buildings, above-ground pools, temporary buildings, and shipping containers (sea-cans) should be exempt from requiring a building permit
- Most are supportive of Building Code compliance leniency for older Downtown buildings
- Support for reduced inspection schedule for projects relying on registered professionals
- Supportive for a mid-construction compliance report of Step Code rebate program

### **Development Process Improvement Advisory Committee**

The results of the public engagement survey and recommendation for development of the draft building bylaw were presented to the DPIAC at their meeting of December 15, 2021. Comments from this meeting included:

- Fortis rebates will remain in place to encourage homeowners to get to higher step levels
- Concerns with not exempting manufactured homes (CSA standards), and further comment that building officials still needing to review manufactured homes for footings and placement/plumbing. Internal building not required to be looked at.
- Downtown buildings code compliance an ongoing issue.
- Question on staff proposing exempting 500 sq. ft. farm buildings instead of 1,000 sq. ft.
- Comment on use of National Farm Code in the review of farm buildings.
- RDCO has reduced inspections for professional reliance permits. Kelowna the same. Recommend that the District follows this.

Following this meeting, staff prepared draft Building Bylaw No. 2022-002 and this draft bylaw was presented to the DPIAC's next meeting of January 26, 2022. Comments from the January 26 meeting are provided below:

- Solar-ready conduits for solar hot water heating systems are no longer practical (as they once were). Recommend removing the reference to "solar hot water heating" and just reference provision of conduit runs for rooftop solar voltaic systems.
- Concern with the District's rising electricity rates and requiring the 220 V plug for Electric Vehicle parking.
- Comment that requiring EV charging outlet will have minimal impact on the build costs and is currently well received from homeowner clients.
- Shipping container cladding should also be exempt from requiring a building permit.
- Partial occupancy deposit is a good idea. Allows for homeowners to occupy sooner while gives District security that outstanding issues will be completed.

Resolution:

***THAT the draft Building Bylaw be supported by the DPIAC with the removal of reference to "solar hot water heating" and to exempt the cosmetic exterior cladding of shipping containers from requiring a permit.***

### **Community Climate Action Advisory Committee (CCAAC)**

District staff is attending the CCAAC meeting of Wednesday, February 9, 2022 to present the draft Building Bylaw and also proposed new fees and rebates to encourage adoption of the BC Energy Step Code. Any comments from this Committee and/or proposed changes to either the proposed Building Bylaw or Fees and Charges Amendment Bylaw will be updated to the draft bylaws prior to end of day, Friday, February 11, 2022 and re-posted to Council's meeting agenda Monday at 12pm.

### **DISCUSSION:**

#### **Building Bylaw No. 2022-002**

*Regional Consistency*

One of the key goals of staff in the drafting of the proposed new Building Bylaw was to maintain as much consistency as possible with other regional jurisdictions, including RDOS and the City of Penticton. One reason for this was that it was recognized that having consistent processes, standards, and inspections regionally will make it easier for the builder community to understand the expectations of the build process, as they are familiar with the same processes in other communities. As well, another goal of the District's software implementation project was to develop a regional "shared" permitting online portal, and having greater consistency among our local jurisdiction bylaws will provide ease in implementing this proposed software.

District staff is also continuing to collaborate with other local governments in our region in the encouragement and education of the BC Energy Step Code and other upcoming GHG-related building code changes. The City of Penticton and RDOS plan to continue to provide educational opportunities for Step Code adoption for builders, and the District will participate in these opportunities moving forward to help provide additional information to our builders.

#### *BC Energy Step Code*

Draft Building Bylaw No. 2022-002 has a 6 month planned transition period of the District's adoption of BC Energy Step Code starting with Step 1 for Part 9 residential buildings at the expected adoption of the bylaw (March 1, 2022) and then moving to Step 3 on September 1, 2022. Step 1 of the Step Code is similar energy efficiency to current Building Code standards, but requires the use of an Energy Advisor and modelling of the energy efficiency of the building during the construction process. The 6 month period is planned to be an educational period for our local builders to get familiar with the District's new requirements prior to Step 3 being required. Currently, the City of Penticton is already mandating Step 3 as part of their Building Bylaw.

The District's Community Energy and Emissions Reduction Plan (CEERP) provides as a high-priority action item the District "becoming an early adopter of the BC Energy Step Code". This action was estimated to provide a GHG impact reduction of 74 tCO<sub>2</sub>e and over \$73,000 in community economic benefits.

#### *Other GHG-related requirements*

Section 24 of the draft Building Bylaw has other GHG reduction related requirements that have been added that are of benefit in the District meeting its community emissions reductions goals without being too costly or onerous on the building community. These requirements include:

- 'Energuide' energy labelling – Most energy advisors already provide labels as part of their services and final reporting. This requirement would place an "Energuide" energy label on the electrical panel of the home to inform future home purchasers of the energy efficiency of the constructed home and to aid as additional marketing tool for realtors.
- Solar-ready construction – To require the installation of two (2) electrical conduit runs from the roof-top or attic space to the electrical panel of a home to provide for future installation of solar PV systems.
- Electric Vehicle (EV) ready construction – For all Part 9 residential buildings, to require a minimum of one parking space per dwelling unit to have access to an energized outlet (220 V) capable of providing Level 2 Electrical Vehicle (EV) charging. This requirement can be waived with the replacement of conduit only if the electrical service of the home will exceed a 200 A service.

The CEERP provided "the expansion of EV parking requirements for new construction, non-street" as another high priority action item. This EV ready construction section is

intended to meet this goal and this was estimated to provide a GHG reduction impact of 208 tCO<sub>2</sub>e.

### *Farm Buildings*

The District's current Building Bylaw has required the issuance of building permits for all farm buildings. However, District staff and also results from public engagement indicate that there may not be the need to review small-form farm buildings that are less than 500 sq. ft. Typically these buildings are used for farm equipment storage, or a hay shed, or other material storage and pose little risk of being a health and safety risk if they remain small. As well, once they become larger than 500 sq. ft. additional code requirements come into play that should require the purview of a building official.

Additionally, draft Building Bylaw 2022-002 requires the usage of the *National Farm Code* in the permit review and inspection of farm buildings, instead of reliance on the BC Building Code, which was a recommendation of the DPIAC.

### *Downtown Buildings*

It has been recognized by both the DPIAC and staff that better guidance was required in the Building Bylaw on the treatment of existing commercial buildings within the District's Downtown Core. The MIABC core bylaw provided as an example a sliding scale code compliance table based on the level of renovation construction value expressed as a factor of building assessed value. Section 21 has been similarly developed using this example, to reduce the potential level of BC Code compliance depending on the scale of renovation project value. In all cases, minimum upgrades for fire and life safety and accessibility are proposed to be adhered to.

### *Building Permit Exemptions*

Draft Building Bylaw No. 2022-002 proposes new building permit exemptions for the District, including for the following:

- Temporary buildings
- Above-ground pools and hot tubs
- Sea Can and shipping containers (if sited properly with Zoning bylaw and no alterations other than exterior cladding)
- Installation of mechanical heating and ventilation systems

### *Other Elements of Draft Building Bylaw*

The draft Building Bylaw also includes the following few items to provide greater clarity to building applicants, contractors, and District staff in interpreting the District's requirements:

Geodetic Elevation of Okanagan Lake: Section 14.77 requires that when a home is proposed to be located within the Okanagan Lake floodplain that all floors slabs or undersides of crawl spaces be placed a minimum of 0.6 m above the Geodetic elevation of Okanagan Lake, or waterproofed under the building code.

Professional Reliance: Section 14.42/43 provide that for a simple building that has a registered professional, the District will rely solely on the field reviews of the registered professional, and will only attend the site from time-to-time to monitor the site during the course of construction.

Partial Occupancy deposits: Section 14.67 provides the option for the building official to provide a "partial" occupancy to a building or portion of building prior to completion and final, with the payment of a security deposit fee to the District.

Maximum timeline standards: Section 14.31 states that upon receiving a complete building permit application, District staff have a maximum number of working days (number dependent on either complex or simple building) to either issue or refuse a building permit.

Demolition Permit expiry: A shorter time period to permit expiry than the standard building permit (90 days versus 180 days).

**Enforcement Notice and Ticket Information Utilization Bylaws**

The proposed new Building Bylaw has a more robust ‘prohibitions and enforcement’ section which will aid both the building officials and bylaw enforcement staff, and provide additional tools to deal with issues such as illegal occupancy, Stop Work Orders, and unauthorized/unsafe works. Proposed Bylaw Notice Enforcement Amendment Bylaw 2022-010 (Building Bylaw Offences) provided for in Attachment No. 4 includes required bylaw section amendments to enforce the corresponding sections of Building Bylaw No. 2022-02 and it is recommended that Council provide three readings to this amendment bylaw at the same time of consideration of the Building Bylaw.

In addition to the Notice Enforcement Bylaw, staff are also recommending Council consider amendments related to the Ticket Information Utilization Bylaw No. 95-030 to allow our bylaw enforcement staff to issue Municipal Ticket Information (MTIs) if required to (Attachment No. 5). In addition, staff missed including required section amendments to this enforcement-related bylaw for the previously adopted Good Neighbour Bylaw, so staff are recommending these related section amendments be included in this amendment bylaw at the same time.

**Fees and Charges Amendment Bylaw No. 2022-007**

Schedule ‘E’ – ‘Building Permit Fees’ of Fees and Charges Bylaw 98-001 will need to be updated in accordance with the new provisions of the draft Building Bylaw. The draft Building Bylaw has new fee provisions for change of ownership, alternative code review, and change of occupancy, and also a proposed fee refund of 20% if notice of permit issuance/denial was not provided in the allotted time period in the bylaw. This amendment also provides new proposed security deposit amounts in accordance with Sec. 14.16 which requires the submission of a deposit for certain application types.

FortisBC has agreed to off-setting revenue to all South Okanagan local governments, in collaboration with the RDOS, for the completion of mid-construction compliance (i.e. blower door) reports in relation to the implementation of the BC Energy Step Code. For this reason, the District is proposing to provide applicants a \$400 fee refund (same amount provided by Fortis) once a completed mid-construction test is submitted to our office. The total amount of refunds provided and grant provided from Fortis will be reconciled on a quarterly basis.

The Community Energy and Emissions Reduction Plan also included as a high priority action item to “implement fee rebates to encourage improved energy performance” to encourage builders to reach higher levels of the BC Energy Step Code. This was estimated to have a GHG reduction impact of 4 tCO<sub>2</sub>e and staff have included the following table in Fees and Charges Amendment Bylaw No. 2022-007 to encourage builders to improve the energy efficiency of their projects:

BC Energy Step Code – Step Level	Rebate as a factor of Building Permit Fee
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Step 3 (for Part 9 buildings only expiring September 1, 2022)	5% Fee rebate
Step 3 (for Part 3 buildings only)	5% Fee rebate
Step 4 (Part 9 and Part 3 buildings)	10% Fee rebate
Step 5 (Part 9 and Part 3 buildings)	20% Fee rebate

**LEGISLATION and POLICY:**

- *Building Act*
- BC Building Code
- *Community Charter*
- CleanBC plan
- Community Energy and Emissions Reduction Plan

**FINANCIAL IMPLICATIONS:**

The proposed Fees and Charges amendments should have a minor impact to overall District revenues. The Fortis grant will recover any fee revenue lost from the mid-construction test rebate fee refund, and it is not projected that a substantial number of new homes will be constructed at a level of either Step 4 or 5 of the BC Energy Step Code (where larger fee incentives are realized). In the event that a larger amount of homes are constructed at Step 4 or 5, perhaps the small amount of revenue lost from fee incentives can be justified with more of the homes constructed in the District being of higher energy efficiency and meeting the targets of the District's Community Energy and Emissions Reduction Plan.

*Reviewed by Financial Services:*

**SUPPORTING DOCUMENTS:**

1. Building Bylaw No. 2022-002
2. Existing Building Regulations Bylaw No. 2013-017 (to be repealed)
3. Fees and Charges Amendment Bylaw 2022-007
4. Bylaw Notice Enforcement Amendment (Building Bylaw Offences) Bylaw 2022-010
5. Ticket Information Utilization Amendment (Building Bylaw and Good Neighbour) Bylaw 2022-011
6. Buildings Survey Engagement Results
7. Presentation Slides

**CONCLUSION:**

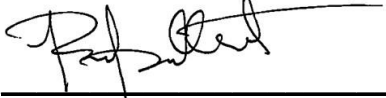
Staff have been engaging with the local building community on the adoption of the BC Energy Step Code and the elements of a proposed new Building Bylaw since August of 2021, and the proposed draft incorporates all of the feedback provided from the public surveys results, the DPIAC, and the Community Energy and Emissions Reduction Plan. The proposed bylaw also follows the new *Building Act* and draft core MIABC bylaw and will allow for greater consistency with our regional local government partners. The draft Bylaw allows for the introduction of the Energy Step Code to our local builders prior to it becoming mandatory from the Province in 2023, and will allow them time to adjust their construction practices prior to these requirements being mandatory. For all of the above reasons, District staff recommends that Council considers providing the first three reading of Building Bylaw No. 2022 along with the corresponding bylaw amendments related to the new Building Bylaw.



OPTIONS:

1. Move the motion as recommended by staff.
2. Refer to staff for other options.

Respectfully submitted,



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*Brad Dollevoet*  
*Director, Development Services*

Endorsed by,

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*Graham Statt*  
*Chief Administrative Officer*

Presentation: Yes  No

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