

NO: **R144**

COUNCIL DATE: **June 25, 2012**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **June 25, 2012**

FROM: **General Manager, Planning and Development**

FILE: **0125-01**

SUBJECT: **Proposed Modern Building Regulatory System – UBCM Resolution**

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information;
2. Instruct staff to forward the resolution that is attached as Appendix "A" to this report related to potential changes to the building regulatory system in British Columbia, to the Union of British Columbia Municipalities (UBCM) with a request that it be included for consideration at the 2012 UBCM Convention; and
3. Instruct the City Clerk to forward a copy of this report and related Council resolution to the Minister of Energy and Mines, who is responsible for the Office of Housing and Construction Standards in the Building and Safety Standards Branch.

INTENT

The purpose of this report is to recommend a draft UBCM Resolution that requests that the Provincial government address concerns related to proposed changes to the building regulatory system in BC.

BACKGROUND

At its Regular meeting on March 12, 2012, Council requested that staff forward a report to Council complete with recommendations addressing two White Papers that have been prepared by the Building and Safety Standards Branch of the Ministry of Energy and Mines. The White Papers discuss potential changes to the Provincial Building Regulatory System.

The Province regulates standards in buildings for health, safety, accessibility, energy and water efficiency by way of the BC Building Code (the "Code"). The Code applies throughout the Province, with the exception of the City of Vancouver, which has its own Building By-law under the Vancouver Charter.

The building regulatory system has been the subject of several major Provincial reviews over the last 25 years. In 2004, a modernization strategy was discussed extensively but not implemented as

priorities shifted to "greening" the Code and, later on, to developing new Code provisions for mid-rise residential wood frame construction.

Over the last year, the Province has been working on the development of a new Building Regulatory System for BC. The process has included a series of meetings/conference calls with local government and industry representatives. In February, 2012, the Building and Safety Standards Branch (the "Branch") issued two White Papers; one entitled "*A Modern Building Regulatory System*", attached as Appendix "B", and a second entitled "*Certification for Local Government Building Officials*", attached as Appendix "C". The White Papers present proposals for potential regulatory changes to the building regulatory system for review and comments by local governments, building officials, registered professionals, the building industry and other participants in the building regulatory system.

The White Paper entitled "*A Modern Building Regulatory System*" presents proposals to strengthen the role of the Province as the sole authority to adopt and provide interpretations of the Code across the Province (with the exception of the City of Vancouver). The White Paper entitled "*Certification for Local Government Building Officials*" proposes a system of mandatory certification of building officials, including continuing professional development.

To fund the cost of proposed changes, the Province is proposing a levy based on the value of new construction and renovation. It is proposed that local governments would collect the levy at the time that building permits are issued and then remit such funds to the Province.

DISCUSSION

The subject White Papers present proposals for potential regulatory changes to the building regulatory system in the following areas:

- Uniform Building Code;
- Alternative Solutions and Product Evaluation;
- Random Third Party Audits;
- Levy on Construction; and
- Mandatory Certification of Building Officials.

The following sections of this report address each of the above-noted areas in the context of the City of Surrey.

Uniform Building Code

If adopted, this proposal would give the Province sole authority to set building standards and issue Code interpretations (with the exception of the City of Vancouver). Prior to 2003, local governments had the ability to pass by-law provisions that could augment (i.e., add to the provisions in) the Code. In 2003 this provision was removed and since then local governments have been required to obtain Provincial approval to establish by-laws that regulate building construction matters that are not regulated by the Code. Under the current White Paper proposal, existing local government by-laws that regulate building standards beyond those stipulated in the Code would be phased out. The White Paper indicates that the Province would work with local governments to address local needs where local regulations are phased out.

Staff Comments

Staff is concerned that the phasing out all local building regulatory by-laws will affect the ability of the City to address community needs unique to the City of Surrey context. One example is the City's "Public Safety E-Comm Radio Building Amplification System By-law No. 15740". This By-law requires enhanced communication systems in certain buildings and structures constructed of steel, reinforced concrete or reflective glass for the purpose of ensuring the safety of firefighters and other public employees. Similarly, the Surrey Waterworks Cross Connection Control By-law No. 16335 which is administered by the Engineering Department, protects the City's water distribution system from contamination due to backflow in and from private property. The Code stipulates that known backflow hazards must comply with the cross connection control requirements stipulated by the Canadian Standards Association (the "CSA"); however, not all backflow hazard types are identified by the CSA. As such, the Engineering Department through the City's Cross Connection Control By-law and related policy stipulates the level of cross connection control required for all backflow hazard types known in Surrey. If the subject By-law is phased out many backflow hazard types may go unaddressed, which would leave the City's water system vulnerable to contamination and the associated public safety risks.

The phasing out of local building standards may also inhibit the City's ability to efficiently provide water metering and district energy. To efficiently provide each of these services, specific building standards need to be mandated by by-law.

Establishing and keeping current a database of approved building code interpretations at the Provincial level would be of assistance to all local governments; however, where necessary new interpretations are necessary it is important that the system be responsive so as to prevent unnecessary delays in the issuance of building permits or in amending permits where construction is in progress. Staff are concerned that seeking Provincial code interpretations could be time consuming. While not entirely analogous, the Engineering Department has been working with the Province for approximately two years to obtain approval of a minor revision to the City's Soil Conservation and Protection By-law.

Alternative Solutions and Product Evaluations

Building Code compliance can be achieved by either following the prescriptive requirements of the Code or by alternative solutions that meet the intent of the Code. To be recognized as compliant to the Code, building products or components must be tested and listed by a recognized testing/certification Canadian agency in accordance with certain standards, such as those published by the CSA. Currently, when a builder or supplier proposes an alternative solution, each local jurisdiction must consider and determine whether to accept the alternative solution. This requires expertise and often results in multiple similar evaluations across several local jurisdictions at the same time. The White Paper proposes that the Province establish an independent alternative solution evaluation body of technical experts to evaluate the acceptability of alternative solutions and new products to eliminate the need for multiple similar reviews across the Province at the local government level. A registry of accepted products, assemblies and components would be established at the Provincial level.

Staff Comments

Staff is supportive of this proposal, provided the Provincial reviews are undertaken in a timely manner. This proposal would remove the need to review complex alternate solutions at the local

level and the need for repetitive reviews of similar solutions and products across projects and jurisdictions.

Random Third Party Audits

The White Paper proposes that the Province conduct random third-party audits on building projects across the Province (with the exception of the City of Vancouver) involving complex building design and construction. The purpose of these audits is to gauge the level of Code compliance and determine whether further changes are required to Code administration, training, inspection and standards to improve or ensure a proper level of Code compliance. The audit process would also include a review of the role of local government officials and registered professionals in the administration of the Code.

Staff Comments

Staff has concerns with the proposal for third-party audits. The Association of Professional Engineers and Geoscientists of BC (APEGBC) and the Architectural Institute of BC (AIBC) have also expressed concerns over the need for these audits. From the Surrey's perspective, staff is consistently reviewing processes to improve Code administration and compliance with a view to better serving the City's clients without undue "red tape". The third-party audits would add to the costs of Code administration and in larger jurisdictions like Surrey are not expected to materially affect outcomes.

Levy on Construction

To fund the increased role of the Province in the proposed Modern Building Regulatory System, the White Paper proposes a Provincial levy to be collected by local government building departments when a building permit is issued. The levy would either be a percentage of the cost of construction of the structure for which a building permit is issued or be a flat rate per permit.

Staff Comments

A new levy on construction is not acceptable. Not only would such a levy increase the cost of construction, it would require the City to implement the necessary audit and accounting processes required for the collection and remittance of the levy. The Province should continue to rely on its other sources of revenue to fund its role in the Building Regulatory Process. The Province has had an on-going involvement in building regulation and standards for many years and has always funded this role from its other sources of revenue.

Mandatory Certification of Building Officials

The White Paper on "*Certification for Local Government Building Officials*" proposes a system for mandatory certification for building officials (with the exception of the City of Vancouver) that would also include requirements for continuing professional development. The proposal would:

- Define a *building official* as any individual who administers or enforces the Code, and would include plan checkers, building inspectors and plumbing inspectors;
- Require all building officials employed by local governments to meet qualifications set by and obtain certification from the Building Officials Association of BC (BOABC);
- Limit local governments to employing only certified individuals as building officials;

- Limit the functions that building officials could perform to their level of certification;
- Allow newly hired building officials to obtain "intern status" while requiring interns to be supervised by other certified building officials until they have obtained the necessary certification; and
- Require all current building officials to obtain the required certification within four years of the adoption of the new system.

Three levels of certification (which are generally unchanged from the current levels of certification) are proposed:

- Level 1: required for addressing single and two-family dwellings;
- Level 2: small buildings covered under Part 9 of the Code, including small commercial buildings with a footprint not exceeding 600 square metres (6,458 square feet) and three storeys; and
- Level 3: larger and more complex buildings covered under Part 3 of the Code.

Each level would have a set of qualifications that a building official responsible for projects in that level would need to meet.

Staff Comments

Staff is supportive of a system of certification for building officials. A workforce of properly trained building officials is necessary to provide for an efficient and effective building regulatory system. In Surrey, a majority of the City's building officials have the certification, and/or training contemplated under the proposed changes. There are some concerns with the proposed mandatory certification of building officials. The proposal does not make any allowances for other certifications (i.e., trade qualifications, Professional Engineers, etc.) to be recognized nor does it address current individuals who are working in the profession who do not obtain the necessary certification within the specified period of time. Provision for exceptions should be incorporated into the system. This appears to require a significant amount of work so as to avoid throwing the industry into turmoil.

The mandatory certification proposal will have cost implications as well. The City would be responsible for some or all of the costs associated with the certification of existing employees and for continuing professional development of employees. Currently, the City pays for employee membership in the BOABC as well as some training and seminars. According to the Branch, the costs associated with the certification process are approximately \$500 to obtain each of the Level 1 and Level 2, and \$2,100 for Level 3. Once a building official is certified, the cost per year for BOABC membership and the required continuing professional development would range from \$448 to \$738 depending upon the cost of the continuing professional development option that is chosen in any particular year.

While trades such as electricians and plumbers are licensed, many other trades in building construction are not licensed and require no certification or qualifications to work in the construction industry. These trades include roofing, building envelope construction, dry walling and insulating. In the White Paper the Province notes that they will require qualifications for residential builders of four units or less but will "grandfather" existing builders. To ensure consistency across all involved in the construction sector, the Province should expand the certification proposal to include all residential builders and designers who are directly involved in the design and construction of buildings.

Proposed UBCM Resolution:

With a view to ensuring the proposed new regulatory system properly addresses the needs and interests of all stakeholders, it is clear that additional dialogue must take place between the Province and the various stakeholders, including local governments, to address concerns as documented in this report. As a means to motivate such additional dialogue, it is proposed that Council resolve to forward to the UBCM for consideration at the 2012 UBCM Convention, the draft resolution that is attached as Appendix "A" to this report.

SUSTAINABILITY CONSIDERATIONS

The proposed new Building Regulatory System addresses objectives of the *Sustainability Charter* that relate to development and building practices, including:

- EC7: Sustainable Building and Development Practices
- EC15: Building Code/Energy Codes and Standards

CONCLUSION

Based on the above discussion, it is recommended that Council:

- Instruct staff to forward the resolution that is attached as Appendix "A" to this report related to potential changes to the building regulatory system in British Columbia, to the Union of British Columbia Municipalities (UBCM) with a request that it be included for consideration at the 2012 UBCM Convention; and
- Instruct the City Clerk to forward a copy of this report and related Council resolution to the Minister of Energy and Mines, who is responsible for the Office of Housing and Construction Standards in the Building and Safety Standards Branch.

Original signed by
Jean Lamontagne
General Manager,
Planning and Development

GF:saw

Attachments:

Appendix "A" Proposed UBCM Resolution

Appendix "B" White Paper "A Modern Building Regulatory System"

Appendix "C" White Paper "Certification for Local Government Building Officials"

Resolution Proposed for Consideration at the 2012 UBCM Annual Convention

Short Title: Provincial White Papers on a Modern Building Regulatory System and Certification of Building Officials

Sponsored by: City of Surrey

WHEREAS in February 2012 the Building and Safety Standards Branch of the Ministry of Energy and Mines issued two White Papers entitled "*A Modern Building Regulatory System*" and "*Certification of Local Government Building Officials*" that present proposals for potential regulatory changes to the building regulatory system;

WHEREAS the proposals contained within the White Papers will impact local government's ability to implement building-related by-law requirements to address important local issues and specific community needs, which may result in unnecessary delays in building permit issuance and construction;

WHEREAS the proposals include the introduction of a new levy to fund the role of the Province in the modernizing of the building regulatory system to be collected by local government when a building permit is issued, which will add costs to the building industry and to local government;

AND WHEREAS the proposed system of mandatory certification for building officials as it is currently structured does not recognize other certification processes that are already in place, will affect the ability of local governments to continue to provide plan checking and building inspection services efficiently and will be costly to local governments;

THEREFORE BE IT RESOLVED that UBCM request that the Provincial Government, through the Building and Safety Standards Branch, implement a further fulsome engagement process with local governments and other participants in the building regulatory system to further develop the proposed Building Regulatory System with a view to addressing local government concerns prior to proceeding with any legislative changes to implement the new System.