



Staff Report for Committee of the Whole Meeting

Date of Meeting: April 2, 2019
Report Number: SRPRS.19.072

Department: Planning and Regulatory Services
Division: Regulatory Services

Subject: SRPRS.19.072 Building By-law

Purpose:

To consider a Building By-law to update appointments of the Chief Building Official, Deputy Chief Building Officials and Inspectors and to reflect changes in provincial legislation.

Recommendation(s):

That Council enact the Building By-law contained in Appendix A.

Contact Person:

John DeVries, Director, Regulatory Services, Tel.: 905-771-2548 and/or

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Report Approval:

Submitted by: Kelvin Kwan, Commissioner of Planning and Regulatory Services

Approved by: Neil Garbe, Chief Administrative Officer

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), Town Solicitor (as required), Commissioner, and Chief Administrative Officer. Details of the reports approval are attached.

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Background:

Legislative Authority for a Building By-law:

The *Building Code Act, 1992* assigns responsibility for enforcement of building construction legislation to the Council of the Town of Richmond Hill. The Act requires the Council to appoint a Chief Building Official and such Inspectors as are necessary for the enforcement of the Act in the Town of Richmond Hill. The Act also provides Council with the authority to pass a building by-law to regulate various matters, including classes of building permits, fees, notices, forms, transfer of permits, as-built plans, and construction fencing.

Need for an Updated Building By-law:

Richmond Hill's current Building By-law No. 71-10 was enacted in 2010 and was last amended by By-law No. 118-13 in 2013.

Many Ontario municipalities consolidate all building construction requirements in one comprehensive building by-law and include other *Building Code Act* provisions, such as:

- the appointment of the Chief Building Official and Inspectors
- a code of conduct for building officials
- fees for spatial separation agreements and pre-application review of plans

The benefits of maintaining one comprehensive building by-law include:

- ease of use for permit applicants, designers, contractors, and building officials
- encourages compliance with building regulations

There have been a several staffing changes in the Regulatory Services Division since the last appointment by-law was enacted in 2013. For example, all of the Deputy Chief Building Officials listed in the last appointment by-law are no longer employed by the Town of Richmond Hill. A Deputy Chief Building Official is required to perform the duties of the Chief Building Official in his absence. In case of an emergency, such as the structural collapse of a building, the Chief Building Official plays an important role in determining the appropriate response and the issuance of Orders.

Significant Proposed Changes to the Building By-law:

1. SCOPE OF THE BUILDING BY-LAW

The current Building By-law deals with matters that are beyond the narrow scope of Section 7 of the *Building Code Act*. Examples of matters beyond Section 7 include:

- the appointment of the Chief Building Official
- the appointment of Deputy Chief Building Officials

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- the appointment of Inspectors
- a code of conduct for building officials
- administrative fees for spatial separation agreements
- administrative fees for pre-application review of plans\administrative fees for providing information concerning compliance with the Building Code and applicable law

In order to address the lack of cited authority for some of the requirements of the current by-law, the proposed building by-law will add a list of cited authorities from other provincial statutes and other section of the *Building Code Act* to clarify the legal authority of the by-law.

2. CONSOLIDATION OF BUILDING RELATED REQUIREMENTS

The current Building By-law is used by building permit applicants, designers, and contractors, as well as staff, as a guide for complying with the administrative building regulatory requirements of the Town of Richmond Hill. Consolidating the administrative requirements in one document provides greater clarity for users and staff administration. The proposed building by-law will continue to consolidate all requirements, wherever possible.

An example of the proposed consolidation is the clarification that the Chief Building Official has the power to issue a demolition permit pursuant to Demolition By-law 15-90 in a format that corresponds to a demolition permit issued pursuant to the *Building Code Act*.

3. APPOINTMENT OF BUILDING OFFICIALS FOR ENFORCEMENT OF THE BUILDING CODE ACT

The Chief Building Official, Deputy Chief Building Officials, and Inspectors are appointed by Council, pursuant to Subsection 3(2) of the *Building Code Act*.

The proposed amendments will update Schedule B of the Building By-law to list the names of the Chief Building Official, new Deputy Chief Building Officials, and new Inspectors appointed by Council. The names of staff no longer employed by Richmond Hill will be deleted from Schedule B. Furthermore, the proposed building by-law will provide the Chief Building Official the authority to amend Schedule B to add the names of new Inspectors appointed by Council and to remove the names of Inspectors no longer employed by the Town of Richmond Hill.

4. CLARIFICATION OF WHEN A PERMIT IS NOT REQUIRED

It is recognized that the *Building Code Act* cannot provide clear guidance to building officials and code users in all circumstances regarding the meaning and the intent of the statute. Building officials rely on case law for additional guidance on the interpretation and enforcement of the Act. For example, case law suggests that vehicular bridges on

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municipal roads are not subject to the *Building Code Act*. Furthermore, the province's accessibility statutes and regulations suggest that the Building Code does not necessarily apply to barrier-free design on a municipal roadway, beyond a private property line.

The proposed building by-law will set a consistent, unambiguous policy on whether permits are required for "borderline" construction or structures on municipal roadways that are not clearly addressed by the Building Code.

5. REVISE STYLE OF THE BUILDING BY-LAW TO THE MATCH THE ONTARIO BUILDING CODE

Most users of the building by-law are involved in the design, construction, and building products industry and in enforcement. Users are familiar with the nomenclature and style of the Ontario Building Code. The style of the proposed building by-law has been revised, wherever possible, to match the Ontario Building Code so that users can easily understand and comply with the requirements of both documents. An example of this change is the use of italics to indicate terms defined in the *Building Code Act*, the Building Code, or the building by-law.

6. STATEMENT OF DESIGN FOR TENANT ALTERATIONS

The Regulatory Services Division has identified significant delays in the issuance of permits for tenant alterations in existing retail, commercial, and industrial buildings. The primary reason for the delays is that insufficient design information is provided on the plans by the permit applicant. Each time additional information is required from the designer, the issuance of the permit is delayed an average of 2 weeks.

The Regulatory Services Division has proposed that permits applications for these types of renovations should include a "Statement of Design for Tenant Alterations" and has held a consultation with affected permit applicants. This amendment is part of the continuing effort to improve customer service by reducing delays in the issuance of permits.

7. BUILDING PERMIT FEES

The proposed building by-law will not change the fee structure.

The *Building Code Act* and the *Building Code Statute Law Amendment Act* provide municipalities with general powers to impose building permit fees and to limit the total amount of the fees so that they do not exceed the anticipated reasonable cost of a municipality to administer and enforce the *Building Code Act*.

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In 2012, the Town retained Watson & Associates to carry out a review of its Building Code Act fees to:

- address changes in development characteristics,
- evaluate cost-recovery levels to accurately reflect processing efforts / service costs, and
- update fees to mitigate the cost recovery gap in order to achieve and maintain a sustainable Building Permit Stabilization Reserve Fund balance.

Based on the Building Permit Fees Review Study, at a special council meeting, held pursuant to the *Building Code Act*, on Wednesday, March 6, 2013, Council passed By-law No. 22-13, which included the following:

- an increase in building permit fee rates to reflect full cost recovery, effective April 2, 2013;
- an adjustment in building permit fee rates, for annual indexing at 2.5% effective the beginning of April each year thereafter;
- a requirement that the annual surplus derived from building permit fee revenues in excess of related costs be allocated to the Building Permit Stabilization Reserve Fund and that any annual deficit derived from building permit fee revenues short of related costs be funded from the Building Permit Stabilization Reserve Fund, as part of the year-end operating surplus allocation; and
- a requirement that building permit fees be assessed every three years to ensure fee rates are kept up to date with the changes in the Town's development characteristics and that a comprehensive review be completed when the Building Permit Stabilization Reserve Fund reaches a goal of 2.5 times annual direct costs related to Building Code Act mandated services.

Since Council met its obligations under the *Building Code Act* to hold a public meeting, prior to changing the building permit fees, no additional public meetings are required prior to enactment of the proposed building by-law. The fee structure in the proposed building by-law will not change from the fee structure approved in By-law No. 22-13.

The proposed building by-law will permit the Chief Building Official to amend Schedule A, which lists the fee amounts, so that the fees reflect the 2.5% indexing provision in By-law No. 22-13.

The Regulatory Services Division will undertake a review of permit fees in 2019 and make recommendations to ensure the sustained viability of the Building Permit Stabilization Reserve Fund, to comply with Council's direction.

Financial/Staffing/Other Implications:

This report has no financial or staffing implications for the Regulatory Services Division.

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Relationship to the Strategic Plan:

The administrative and enforcement roles of the Regulatory Services Division support the Strategic Plan Goals of Stronger Connections in Richmond Hill by maintaining a safe community.

Conclusion:

The Town of Richmond Hill continues to administer and enforce the Ontario Building Code and the *Building Code Act, 1992* in accordance with provincial legislation. The Regulatory Services Division is aware of possible changes to the building regulatory system and will respond to these changes.

Attachments:

The following attached documents may include scanned images of appendixes, maps and photographs. If you require an alternative format please call contact person listed in this document.

- Appendix A - Building By-law 55-19

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Report Approval Details

Document Title:	SRPRS.19.072.docx
Attachments:	- SRPRS.19.072 Appendix A - Building By-law.docx
Final Approval Date:	Mar 22, 2019

This report and all of its attachments were approved and signed as outlined below:

Kelvin Kwan - Mar 22, 2019 - 3:34 PM

Neil Garbe - Mar 22, 2019 - 3:41 PM