

COUNCIL REPORT FORM



To	Mayor and Council & Colin Smith, Chief Administrative Officer Town of Riverview	Item
From	Kirk Brewer Planner	Meeting Date
Date	February 23, 2023	
Subject	By-law 300-11: Building By-law	
Length of presentation (if applicable)	N/A	

ISSUE

Following the Province of New Brunswick’s adoption of the *Building Code Administration Act* in 2020, all local building by-laws must conform to the *Act* as of January 1, 2023. As such, the current building by-law, adopted under the *Community Planning Act*, must be repealed and replaced.

DISCUSSION

In 2020, the Province adopted the *Building Code Administration Act* (BCAA) under the Department of Justice and Public Safety. In doing so, the *Community Planning Act* (CPA) was amended to remove reference to building by-laws and building permits as they were now under the BCAA and Provincial department. The legislation allowed for a transition period to allow the former building by-laws under the *Community Planning Act* to remain in place until the new by-laws were prepared.

As of January 1, 2023, building by-laws must conform to the BCAA. Generally, the Town’s by-law already responded to most requirements of the new Act and will remain unchanged. The application process will remain the same, and there will be no changes to the phased permitting process for new houses to ensure compliance with drainage plans. This repeal-and-replace process is primarily an administrative exercise to adopt the by-law under the new legislation. However, certain modifications will be incorporated into the new by-law.

A new section on “non-material” work will be included, which outlines certain projects that do not require a building permit. This relates primarily to cosmetic work such as replacing flooring, cabinets, and other non-structural repairs and alterations.

One substantial change is that the Province has included certain exemptions from the Building Code that were not previously applicable within municipalities. The Act now only applies to buildings, and as such, structures such as fences and freestanding signs will no longer require a building permit but will still be subject to development permit approval to ensure compliance with zoning standards related to height, sign size, setbacks, NB Power approval for fence placement within easements, and special requirements for swimming pool enclosures.

The Act also exempts certain buildings from permit requirements. This includes accessory buildings under 55m² (592sqft) not designed for overnight accommodation. Accessory buildings up to this size (20’x28’, 22’x26’, 24’x24’, etc.) will be reviewed to ensure they comply with zoning provisions (maximum height, size, lot coverage, and setbacks), but will not be required to submit building plans, and will not be inspected. Previously, all accessory buildings, including sheds and baby barns, were subject to building permit requirements. Plan360 has sought clarification from its lawyer as well as provincial departments, and it has been established that these exemptions apply Province-wide and municipalities must comply with these exemptions.

Project value for accessory buildings will still be tracked, so overall annual permit value will not be affected. However, this exemption will result in a slight reduction in the permit fees collected. For instance, baby barns with low cost values were still charged a minimum \$25 building permit fee, which will no longer apply to smaller projects.

Building permits are currently calculated at \$6/\$1,000 of value for standard residential projects, and \$7.50/\$1,000 for multi-residential, commercial, industrial, and institutional projects. The City of Moncton currently charges \$8/\$1,000 of permit value, and the City of Dieppe charges \$7.50/\$1,000. Riverview Council may choose to raise the permit fees for all projects to account for the lost revenue, but this increase would pertain to all building permits, not just accessory buildings. For instance, a \$200,000 house would result in a \$1,200 building permit at a \$6 rate, whereas the permit would be \$1,400 at a \$7 rate, and \$1,600 at an \$8 rate.

Since building by-law requirements no longer fall under the *Community Planning Act*, it does not need to be referred to the Planning Advisory Committee for a recommendation. It may be adopted as per section 15 of the *Local Governance Act*. However, the BCAA does specify that once adopted by Council, the by-law will only come into effect once the by-law has been registered with the registry office per Section 112(1)(b) of the *CPA*.

INTERDEPARTMENTAL REVIEW

The proposed by-law was reviewed by the following departments of the Town:

- Corporate Services;
- Engineering and Public Works;
- Parks and Recreation;
- Planning/Development

CONCLUSION

The proposed building by-law will conform with the requirements of the *Building Code Administration Act* and will not represent a substantial difference from the previous by-law. If Council wishes to amend the proposed by-law prior to proceeding with the adoption process, Planning staff can assist in drafting the appropriate modifications.

RECOMMENDATION

It is recommended that Riverview Town Council:

- 1) Proceed with the legal adoption of Building By-law 300-11, subject to section 15 of the *Local Governance Act* and section 112(1)(b) of the *Community Planning Act*.

ALTERNATIVES

- That Council postpone the process for additional information or to propose modifications;

CONSIDERATIONS

Financial	Slight reduction in permit fees collected for accessory buildings under 592ft ²
Environmental	N/A
Public Consultation	No public consultation is required
Attachments	<ul style="list-style-type: none">• Building By-law 300-11



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