

## Proposed Changes to the British Columbia Building Code 2024

Title: Strata Property Act and Application of the British Columbia Building Code

Subject/description: Application of the British Columbia Building Code to an existing building or buildings when applying for a strata plan under Section 242(5)(c) of the Strata Property Act

Applicable Code references: Article 1.1.1.1. of Division A and Table 1.3.1.2. of Division B

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### Problem

The British Columbia Building Code (Building Code) is not intended to be applied retroactively to existing buildings. Section 242(5)(c) of the Strata Property Act was not intended to be applied to an existing (previously occupied) building when the application for a strata plan includes a newly proposed building or buildings that are separate from the existing building or buildings, and the existing building or buildings are not being converted.

It can be unclear when applying Section 242(5)(c) of the Strata Property Act with respect to how building regulations within the meaning of the Building Act are meant to apply. An excerpt of Section 242(5)(c) of the Strata Property Act is reproduced here:

“(5) The approving authority must not approve the strata plan unless the building substantially complies with the following:

(c) the building regulations within the meaning of the Building Act...”

An unintended interpretation is that the previously occupied (existing) building or buildings must be brought up to the minimum levels of performance as established by the current edition of the Building Code. It is not intended that the existing building be made to comply with the current Building Code unless the existing building is being altered.

The term ‘converted’ in the Strata Property Act was intended to describe an existing building and an application for a strata plan to create more real estate entities within an existing building. This proposed change does not apply to strata plan applications to create more real estate entities within an existing building. This proposal applies to strata plan applications where the real estate entities of an existing building or buildings are proposed to remain as they are and the only new real estate entities applied for are in a proposed new and separate building or buildings.

An existing building that is not being converted to add more real estate entities or strata lots within it does not need to be brought up to the level of performance of the current Building Code just because new (separate) buildings are proposed. This proposed change intends to clarify that the Building Code is only applicable to the existing building or buildings when there are proposed alterations, additions, or change in occupancy (see Sentence 1.1.1.1.(1) of Division A) to the existing building or buildings as part of the strata plan application.

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## Justification

The Building Code applies in full to the design and construction of the new separate building or buildings as it would to any other new building so safety and performance of the new building(s) is already managed by the regulations, processes, and procedures already in place.

The clarification proposed by this Code change is intended to limit misapplication of the Building Code beyond its established application in Sentence 1.1.1.1.(1) of Division A.

This proposed Code change does not inform how the Building Code applies to an existing (previously occupied) building **when it is to be converted** as part of the strata plan application. Section 242(5)(c) of the Strata Property Act was intended to apply to the scenario where an existing (previously occupied) building itself is being converted – and this proposal is not intended to amend or inform that intent. Local government bylaws should be consulted.

The clarity on application of the Building Code for the purposes of applying Section 242(5)(c) of the Strata Property Act is limited to the scenario where one or more new and separate buildings are being proposed as part of the subject strata conversion with one or more existing buildings where the existing building or buildings:

- are not proposed to be altered (meaning a change or extension to any matter or thing or to any occupancy regulated by the Building Code), rehabilitated, renovated or repaired, or undergo a change in occupancy as part of the application for the strata plan, and
- have no changes or conversions proposed (as part of the strata plan) to the existing building or buildings apart from entering into a strata plan with a new strata lot or lots that are exclusive to the proposed new building or buildings.

Alterations that are planned for the existing building or buildings, including those identified as necessary as a result of the strata plan application, shall comply with the Building Code.

Approving authorities have tools beyond application of the Building Code to evaluate relevant matters when making their decision.

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## Proposed Change

In this document:

Black text represents 2020 National Model Code content adopted in the British Columbia Building Code 2024

Green text represents proposed unique-to-British Columbia content

~~Red text~~ represents content proposed for deletion

Only excerpts of the British Columbia Building Code 2024 are reproduced (Note A-1.1.1.2.(1), Application to Existing Buildings, is not reproduced. The Building Code can be viewed free online here: <https://www2.gov.bc.ca/gov/content/industry/construction-industry/building-codes-standards/bc-codes/2024-bc-codes>.)

### Division A

#### 1.1.1.1. Application of this Code

7) For the purposes of compliance with Section 242(5)(c) of the Strata Property Act, where an application for a strata plan includes one or more proposed separate new *buildings* and includes one or more separate existing *buildings*, this Code does not apply to the existing *building* or *buildings* except to the activities described in Sentence (1), provided there is no conversion of the existing *building* or *buildings* other than entering into a strata plan with a new strata lot or lots that are exclusive to the proposed new *building* or *buildings*.

(See Notes A-1.1.1.1.(7). and A-1.1.1.2.(1).)

**A-1.1.1.1.(7) Application to Existing Buildings as Required by Section 242(5)(c) of the Strata Property Act.** Notwithstanding Note A-1.1.1.2.(1), the Strata Property Act requires substantial compliance to building regulations of previously occupied buildings as part of an application for a strata plan. Sentence 1.1.1.1.(7) clarifies that the application of this Code to existing buildings when applying Section 242(5)(c) of the Strata Property Act is limited to the activities defined in Sentence 1.1.1.1.(1). If, as part of the strata plan application, there is a change to a matter regulated by this Code to the existing building or buildings, then this Code applies to that alteration (see Clause 1.1.1.1.(1)(d)).

Sentence 1.1.1.1.(7) does not apply when an existing building is being converted to change the real estate entity or entities or strata lot or lots within the building nor to any other

[circumstance under the Strata Property Act other than the scenario described in Sentence 1.1.1.1.\(7\).](#)

## Division B

<b>Table 1.3.1.2.</b>			
<b>Documents Referenced in Book I (General) of the British Columbia Building Code<sup>(1)(2)</sup></b>			
Forming Part of Sentence 1.3.1.2.(1)			
<b>Issuing Agency</b>	<b>Document Number<sup>(3)</sup></b>	<b>Title of Document</b>	<b>Code Reference</b>
BC	S.B.C. 1998 c.43	Strata Property Act	<a href="#">1.1.1.1.(7)<sup>(4)</sup></a> <a href="#">A-1.1.1.1.(7)<sup>(4)</sup></a> <del>A-9.37.1.1.</del>

## Impact analysis and cost implications

This proposal clarifies that the Building Code does not apply if the previously occupied building or buildings are not being altered, thereby avoiding additional costs.

Any alterations, and the costs associated with those alterations, that are planned for the existing buildings, including those identified as necessary as a result of the strata plan application, are part of the financial decisions on whether or not to proceed with a strata plan application. The clarification on application of the Building Code in this proposal is to inform what costs, if any, of alterations to the existing building(s) are part of the strata plan application and what existing building upgrades are not required. In the case where an existing building's performance exceeds the minimum level established by the Building Code, it would be acceptable for that performance to be affected provided the level does not decrease below the level established by the Building Code. In the case where the existing building's level of performance is below the level established by the current Building Code, this is permitted to continue, however it shall not be decreased further as a result of the creation of a new building as part of the strata plan.

If the existing building or buildings have a fire safety plan, the plan should be reviewed to address any changes that may result from the construction of the new building or buildings including during the course of construction.

## Enforcement implications

Can be enforced through the existing enforcement regimes. Approving authorities have tools beyond application of the Building Code to evaluate relevant matters when making

their decision. The Building Code is used for enforcement related to its application as described in this proposal.

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### **Who is affected**

Building owners applying for a strata plan under Section 242(5)(c) of the Strata Property Act and regulators / approving authorities.

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### **Objective-based analysis of new or changed provisions**

No attributions proposed to be assigned.

Proposed Code Change DRAFT