



Office of Housing and
Construction Standards



Changes for Local Governments Under Section 5 of the *Building Act*

Appendix to Section B1 of the *Building Act* Guide

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Contents

- 1. About this Appendix..... 3
- 2. Section 5 and the Goal of Consistency..... 4
 - 2.1 What Section 5 Does Not Affect 4
- 3. Technical Building Requirements Local Governments Can Enact 6
 - 3.1 Unrestricted Matters 6
 - 3.2 List of Unrestricted Matters..... 6
 - 3.3 List of Temporarily Unrestricted Matters 10
 - 3.4 List of Temporarily Unrestricted Matters with Time Limitations..... 12
 - 3.5 Matters that are ‘Out of Scope’ of the *Building Act*..... 13
- 4. Technical Building Requirements Local Governments Cannot Enact 14
 - 4.1 Matters Regulated by Provincial Building Regulations 14
 - 4.2 Restricted Matters 15
- 5. Questions to Help Local Governments Review Bylaws 16
 - 5.1 Section 5 Restrictions in a Nutshell..... 17
- 6. Procedural Guidance for Amending or Repealing Bylaws..... 18
- 7. For More Information 19
- 8. Glossary of Terms..... 20



1. About this Appendix

In Spring 2015, the Province passed the *Building Act*, the first Act dedicated solely to building and construction.

This Appendix is part of a series of informational materials that form the *Building Act* Guide. It elaborates on the information provided in guide Section B1 - *What Local Governments Need to Know about the Building Act* - by providing more detailed information about changes to local governments' authority to set technical building requirements. Guide Section B1 is available online at www.gov.bc.ca/buildingact. This Appendix will be most helpful if read in conjunction with Section B1.

If the information you are seeking is not in this guide, [check online](#) for more information, including other guides in this series.

This Appendix was originally issued in June 2016 when the Building Act General Regulation came into force. This September 2020 **revised version** reflects new items added to the unrestricted matters list (explained below) when the Regulation was amended in February 2017 and December 2019. It also contains minor changes in wording to clarify some sections. The Appendix may be revised again in future (such as when temporarily unrestricted matters are removed from the list). Please ensure you are reading the most current version which will always be available [online](#).

The information provided here is for guidance only and is not a substitute for provincial legislation. It is not legal advice and should not be relied upon for that purpose.

Q: What are local authorities?

A: Under the *Building Act*, local authorities are official bodies that may choose (but are not obliged) to administer and enforce provincial building regulations such as the B.C. Building Code. Local authorities include municipalities, regional districts, Treaty First Nations, the Nisga'a Nation and the University of British Columbia's Board of Governors. Since most local authorities are local governments, this booklet uses the term 'local government.' The guide explains when a situation is different for other local authorities.

Note to readers: References below to the *Local Government Act* refer to the version that came into force January 2016.



2. Section 5 and the Goal of Consistency

A key objective of the *Building Act* is to bring greater consistency to technical building requirements in the province. To help achieve this, section 5 of the Act stipulates that only the Province can set technical building requirements for building activities and that local governments' authority is limited. The Act defines "building activities" as the construction of new buildings, or the alteration, repair or demolition of existing buildings. Technical building requirements, in turn, are the requirements for the construction, alteration, repair and demolition of buildings. A technical building requirement can define the methods, materials, products, assemblies, or dimensions to be used or the performance to be achieved when building.

Technical building requirements are found in provincial building regulations, primarily but not only in Division B of the B.C. Building Code. While the Province currently has one other building regulation—the Solar Hot Water Ready Regulation—which applies within named jurisdictions and anticipates the enactment of other building regulations over time, it is essentially the requirements in the Code that local governments must concern themselves with.

A matter is a topic, subject or theme addressed in the B.C. Building Code. Under section 5 of the *Building Act*, if a matter is addressed by the Code, then a technical building requirement in *any* local government bylaw for that matter has no legal force after a two-year transition period. The only exception is if the matter is unrestricted in regulation (explained further below).

The *Building Act* also restricts local governments from setting requirements for restricted matters. These are matters that are not regulated in a provincial building regulation that local governments are nonetheless restricted from regulating. Restricted matters will be listed in a regulation. At present, no matters are designated as restricted.

Section 5 of the *Building Act* came into force December 15, 2015 but due to the transition period imposed by section 43 of the Act, it did not apply until December 15, 2017. This two-year transition period gave time for local governments to review, amend and/or repeal bylaws or parts of bylaws that imposed local technical building requirements for matters that are not unrestricted. Now that the two-year transition period is over, any remaining building requirements that remain will have no legal force unless they concern unrestricted matters. Although the *Building Act* does not require local governments to review and amend their bylaws, the Province encourages local governments to do so to reduce confusion in the construction sector.

The section 5 limitations apply to building requirements in any type of local government bylaw, not just a building bylaw, whether it was enacted prior to, during or after the two-year transition period.

2.1 What Section 5 Does Not Affect

Bylaws Only: The section 5 changes only affect technical building requirements enacted in bylaws. They do not limit or restrict the use of other tools such as policies or incentive programs, so long as the requirements are not enacted by bylaw.



Administrative Requirements: The section 5 restrictions do not affect or change local governments' authority to establish, by bylaw, administrative requirements that regulate building construction or requirements for the enforcement of provincial building regulations. For example:

- A bylaw requirement for professional design of certain Part 9 buildings is unaffected by the *Building Act*, as this requirement is considered administrative in nature.
- A requirement for backflow preventer testing after construction is complete is also considered administrative in nature and is unaffected by the Act.

Authorities Under Other Acts: The changes under the *Building Act* to local government authority to set technical building requirements apply despite any of the following other Acts listed in section 5 (2):

- *Community Charter*;
- *Fire Services Act*;
- *Islands Trust Act*;
- *Local Government Act*; or
- *University Act*.

However, authorities under Acts not listed in section 5 (2) are not affected. For example, at this time, the *Environmental Management Act*, not listed, provides authority for local governments to establish requirements for grease interceptors in commercial food facilities. Local governments can continue to regulate such matters.

Temporary Buildings: Section 5 of the *Building Act* does not apply to temporary buildings because the B.C. Building Code does not apply to temporary buildings. Local governments may set technical building requirements for temporary buildings without triggering Section 5 of the *Building Act*. Trailers constructed to the CAN/CSA Z241 - Park Model Trailers - standard used for temporary and recreational purposes are examples of temporary buildings. Local governments can use the discretion provided to them in subclause 1.1.1.1.(2)(f) of Division A of the B.C. Building Code to identify which buildings and structures are considered temporary.



3. Technical Building Requirements Local Governments Can Enact

3.1 Unrestricted Matters

Unrestricted matters are matters regulated in the B.C. Building Code (or other provincial building regulations) for which local governments will have authority to set their own technical building requirements in bylaws. However, under section 10 of the *Community Charter*, as is the case with all municipal bylaws, local governments cannot set building requirements that are *inconsistent* with existing provincial building regulations unless specific permission has been given to exercise discretion¹. This means that an individual complying with building requirements set by local governments must still be in compliance with the requirements in provincial building regulations.

Unrestricted matters are enacted through the Building Act General Regulation and will be unrestricted for one of three reasons:

1. **Physical Location or Local Circumstance:** The matter relates to a specific physical location or local circumstance that local governments are best situated to regulate.
2. **Other Statutory Authorities to Achieve Primarily Non-Building Code Objectives:** These are matters for which a local government has statutory authority to achieve certain non-Building Code objectives and the enacted technical building requirement is incidental to achieving that objective.
3. **Temporary Unrestriction to Address a Regulatory Gap:** These are matters that could be the subject of either new or revised B.C. Building Code requirements or a local authority variation request. Temporary unrestricted of these matters ensures that there is no gap in regulation while the Province develops new Code requirements or determines the outcome of a variation request, even if this process was not completed by the end of the transition period in December 2017. Once provincial requirements have been developed for a matter, it will be removed from the unrestricted list and only the provincial requirements will be enforceable.

The unrestricted matters and temporarily unrestricted matters outlined in this Appendix are those that were identified in the Building Act General Regulation when it came into force June 2016, and when it was amended February 2017 and December 2019.

3.2 List of Unrestricted Matters

The following is the list of matters that are unrestricted over the long term. The Province will advise stakeholders if other matters are added in future. Please see the Building Act General Regulation for the most current information.

¹ Under section 3(2) of the Building Act, local governments can set building requirements that are inconsistent with the B.C. Building Code providing the discretion is specified in the Building Act General Regulation. The installation of water meters and certain portions of plumbing infrastructure on complex sites are examples of this.



1. Fire Access Route Design

Fire access route design refers to requirements that ensure that emergency response vehicles (such as fire trucks) can use a roadway or yard to reach a building. The B.C. Building Code provides requirements for fire access route design for both Part 3 (complex) buildings and Part 9 (small residential and commercial) buildings. The Part 3 requirements (found in article 3.2.5.6 of Division B of the Building Code) include the width of the roadway, turning radius, overhead clearance, gradient, surfacing, load bearing, and connection to public thoroughfares. The Part 9 requirements (found in article 9.10.20.3) provide guidance only.

By unrestricting fire access route design, local governments will be able to meet the specific needs of local fire departments by differing from or exceeding the prescriptive requirements in Part 3 of the Code or providing specifics in relation to Part 9 buildings.

2. Matters that Fall Under Local Governments' Land Use and Planning Authority

The following unrestricted matters fall within Part 14 of the *Local Government Act* (RS2015) which provides authority for local governments to develop a land use vision for their communities, identify specific objectives and use zoning and other bylaws to achieve that vision. In limited instances, building requirements may be explicitly or implicitly authorized and necessary to achieve those objectives. The *Building Act* is not intended to prevent such requirements.

2.1 Development permit areas - When a local government designates a development permit area (DPA) (under the authority in Division 7 - Development Permits of Part 14 of the *Local Government Act*) for one of the purposes identified in Table 1, it may impose building requirements in relation to these purposes as follows:

Technical building requirements authorized in development permit areas are limited by the language in the *Local Government Act*; local governments are encouraged to review the applicable sections to identify the scope of their existing authority. A development permit may include technical requirements for building form, exterior design and finish that are intended to achieve specific objectives for a development's character or a commercial area's revitalization, as stated in an Official Community Plan (OCP). The technical building requirements captured by the unrestriction only include those in a properly enacted development permit, such as form requirements that ensure appropriate integration with existing surrounding buildings and neighbourhood context, or exterior design and finish requirements to ensure a specific distinctive appearance or style of building.

Similarly, a development permit may include technical requirements for building form, exterior design, and machinery, equipment and systems external to buildings that are intended to achieve specific objectives for energy and water conservation and the reduction of greenhouse gas emissions, as stated in an OCP. The expanded authority in development permit areas is intended to apply to elements that are external to buildings. Technical building requirements that are internal to buildings, or those that go beyond form, exterior design, or finish to affect internal building systems, are not authorized within a development permit area.

To safely allow the construction of buildings in areas subject to hazardous conditions, local governments may need to ask for building requirements that exceed provincial building requirements. Establishing a development permit area to protect development from hazardous conditions is one way that local governments can do this. Before issuing a permit for development within this type of development permit area, a local government may require the applicant to provide a report under s. 491(4) of the *Local Government Act* to assist in determining what conditions or requirements to include in the development permit. These requirements can be geographically distinct and determined by site specific conditions.



Table 1: Development Permit Areas

Development Permit Area Purpose	Technical Building Requirements Related to Matters that are Unrestricted
<ul style="list-style-type: none"> ▪ Revitalization of an area in which commercial use is permitted (s.488 (1) (d)) ▪ Establishment of objectives for the form and character of intensive residential development (s. 488 (1) (e)) ▪ Establishment of objectives for the form and character of commercial, industrial, or multi-family residential development (s. 488 (1) (f)) ▪ In relation to an area in a resort region, establishment of objectives for form and character of development in the resort region (s. 488 (1) (g)) 	<p>Form, exterior design and finish of buildings and other structures, as they relate to the character of the development.</p>
<p>Establishment of objectives to promote:</p> <ul style="list-style-type: none"> ▪ Energy conservation (s. 488 (1) (h)); ▪ Water conservation (s. 488 (1) (i)); or ▪ The reduction of greenhouse gas emissions (s.488 (1) (j)) 	<p>Form and exterior design of buildings and other structures; and machinery, equipment and systems external to buildings and other structures, to provide for energy and water conservation and the reduction of greenhouse gas emissions.</p>
<ul style="list-style-type: none"> ▪ Protection of development from hazardous conditions s. 488 (1) (b) in relation to a wildfire hazard 	<p>In relation to wildfire hazard, include requirements respecting the character of the development, including landscaping, and the siting, form, exterior design and finish of buildings and other structures.</p>
<p>Protection of development from hazardous conditions s. 488 (1) (b) except in relation to wildfire hazard</p> <ul style="list-style-type: none"> ▪ (December 2019 revision) 	<p>Specify areas of land that may be subject to flooding, mud flows, torrents of debris, erosion, land slip, rock falls, subsidence, tsunami, avalanche or wildfire as areas that must remain free of development, except in accordance with any conditions contained in the permit.</p>



For these reasons, the specific authorities in the Local Government Act for development permit areas for hazardous conditions are unrestricted but only insofar as they relate to the nature of the hazard and providing the requirements are within the scope of statutory authority². Conditions in a development permit issued under s. 491(4) can include building requirements internal to the building. For example, use of non-absorbent construction materials may be required for buildings in a flood plain.

3. District Energy Systems and Connections

District energy systems produce centralized heating or cooling and typically serve a neighbourhood or community rather than a single building. While the system itself is external to the building, a building’s connection to the system may entail requirements in relation to the building’s internal mechanical systems. Any matters related to district energy systems are unrestricted for the purpose of connection and local governments may enact such requirements under their existing authorities.

4. Protection of Designated Heritage Properties

Local governments may need to enact technical building requirements to exercise their authority to designate and protect heritage properties. Such requirements would typically be stated within a heritage revitalization agreement with the property owner or in a heritage alteration permit. This matter is unrestricted because local governments are both authorized and well situated to establish technical building requirements in bylaws for the objective of protecting designated heritage properties.

5. Solid Waste Management – New December 2019

Waste reduction efforts have become increasingly important as the B.C. population continues to grow, and landfills approach capacity. The type and volume of waste material being picked up, frequency of pick-up, and area required to assemble and organize materials varies widely. The lack of storage space for recycling materials and poor access to this space by building occupants and collection crews have been identified as barriers to increased waste diversion.

Because access requirements for solid waste collection must be tailored to vehicle type and on a site-specific basis, it is not practical to develop provincial building requirements. To ensure that the Building Act³ does not interfere with local government’s solid waste management programs, the following matters are unrestricted for the purposes of solid waste collection:

- Load capacity of loading pads for solid waste collection vehicles;
- Height of loading bays and minimum size of loading bay openings;

Heritage building means any of the following:

- a. A building that is protected heritage property;
- b. A building that is subject to temporary heritage protection under section 606 of the *Local Government Act*;
- c. A building that is subject to an agreement under 610 (1) of the *Local Government Act*;
- d. A building that is identified in a register of heritage property established under section 598 (1) of the *Local Government Act*.

*Protected heritage property has the same meaning as in section 1 of Schedule 1 to the *Local Government Act*.*

² For development permit areas established in relation to a wildfire hazard, the specific authorities in the Local Government Act for buildings are limited to their form, exterior finish and design. See section 3.3.5. in this Guide for further information.

³ Local governments’ authority for zoning under section 479 of the Local Government Act (RS2015) that can be used to regulate the location and area required for solid waste management is outside the scope of the Building Act.



- Width of doorways through which collection equipment enters rooms used for solid waste collection providing the door width is not less than required by the Code;
- Minimum dimensions of rooms for the temporary collection of solid waste; and
- Ramps to move waste containers to a collection point within the building providing the ramps are internal to the building.

In rural and remote communities, sturdy reinforced doors that close tightly and doors latches that cannot be opened by claws may be necessary to prevent animals from accessing buildings used to store solid waste prior to collection. In support of local government initiatives to reduce conflicts between humans and animals, like the Bear Smart Community program, local building requirements intended to prevent animals from being attracted to or accessing solid waste in buildings where it is stored prior to collection are unrestricted.

6. Water Meters – New December 2019

Water metering is an important tool used by local authorities to promote water conservation and achieve user pay equity for utility billing. Many local authorities have bylaws requiring the installation of water meters between the public infrastructure and service connection to a building. Water meters installed within the public right of way are not subject to the B.C. Building Code. But meters installed on private property or inside buildings to prevent frost damage in colder climates are considered part of the plumbing infrastructure for the purposes of the Code.

The only requirement in the Code for water meters is that they be installed by a qualified plumber. This requirement prevented local governments using public works department to install water meters on private property. For these reasons, local building requirements for the installation of water meters on private property are unrestricted.

3.3 List of Temporarily Unrestricted Matters

The following is the list of matters that are temporarily unrestricted. Temporary unrestricted ensures there is no gap in regulation while the Province develops provincial requirements or assesses a request for variation. Once that work is complete, these matters will be removed from the unrestricted list and only those requirements enacted by the Province will have legal force.

1. Transmission of Sound into a Building from External Sources

While the B.C. Building Code does not have specific requirements to minimize sound from external sources such as airports, transportation corridors or industrial uses, it does have requirements to minimize sound transfer between spaces within a building. If residential development occurs near high-noise areas, noise abatement requirements may be necessary to ensure occupant health. As this is a matter that could be slated for future Code development, or the subject of a request for variation, the matter is temporarily unrestricted.

2. In-building Radio Repeaters

In-building radio repeaters are intended to enhance radio communications within buildings. Some local governments have a requirement for this in their bylaws to support the safety of emergency responders. Although the B.C. Building Code does not have a specific requirement for in-building radio repeaters, voice communication for emergency responders is a matter addressed in the Code. Local governments may wish to request a variation for in-building radio repeaters, but since that process is not expected to be complete before the end of the transition period, the matter is temporarily unrestricted.



3. Firefighting Water Supply (Fire-Flow Demand)

The B.C. Building Code requires that an adequate water supply for firefighting be readily available and of sufficient volume and pressure to prevent fires from spreading. Three standards are referenced in Note A -3.2.5.7.(1) in Appendix A, Division B of the B.C. Building Code for the purpose of calculating an adequate water supply, though these standards are not in themselves technical building requirements. Designers of buildings that are not provided with sprinklers or standpipe systems may need additional guidance from local governments to ensure fire flow is adequate. Factors such as the provision and proximity of fire services need to be considered when determining fire flow demand requirements, and these can be specific to each local government. Temporarily unrestricting this matter allows local governments to continue to provide specific requirements by bylaw for buildings not described in Sentence 3.2.5.7.(2) until this matter has received further review.

4. Plumbing Infrastructure – New December 2019

In developments where a building contains multiple uses or dwelling units, or where there is more than one building in the same development, the plumbing infrastructure by service type (water, fire service, storm sewer and sanitary sewer) may be shared. University campuses like Simon Fraser University are examples of where shared servicing may be found. In these types of developments, the B.C. Building Code does not adequately address plumbing infrastructure and if strictly adhered to, the Code can require oversized pipes.

Conditions such as rocky terrain or steep slopes may require site specific adaptations to plumbing services between buildings and the public infrastructure. Local authorities are familiar with the types of site constraints in their communities as well as their infrastructure, and for these reasons, they are better positioned to determine building requirements for plumbing infrastructure on challenging sites.

Local authorities now have the discretion to determine which sites require the application of local building requirements for the plumbing infrastructure between the service connections to the public system and the service connection to a building.

This authority is only intended for developments where the plumbing infrastructure is shared or for sites with constraints requiring unique plumbing solutions. The local building requirements may be inconsistent with the Code and may reference other standards such as the Master Municipal Construction Documents. This discretion does not extend to the plumbing inside of a building beyond its service connection, as the Code will still apply.

In the future, the Code may be expanded to address plumbing infrastructure in developments where infrastructure is shared. In the interim, local authorities are best positioned to determine local building requirements.

5. Exterior Design and Finish of Buildings in Relation to Wildfire Hazard within a Development Permit Area

Local governments can establish requirements for the exterior design and finish of buildings for the objective of wildfire hazard management within a development permit area. Such requirements typically relate to matters regulated in the B.C. Building Code, such as cladding or the use of non-combustible materials. Revisions to the Code to include requirements to minimize the spread of wildfire are under consideration. As this work will not be complete before the end of the transition period, the matter is temporarily unrestricted.

6. Flood Construction Level Requirements – December 2019 Revision

Local governments can address flood risk in a variety of ways, including adoption of a flood plain bylaw under section 524 (2) of the *Local Government Act*, setbacks from a water course in a zoning bylaw, and establishment of a development permit area. To



significantly reduce risk associated with buildings located in flood plains and setbacks, local governments may enact technical building requirements that apply within flood plain areas, including requirements for the location of furnaces and electrical or other fixed equipment susceptible to floodwater damage. These requirements can differ between jurisdictions and also within jurisdictions.

The matter requires further review and consultation to determine how best to achieve greater consistency in such requirements while providing sufficient flexibility for local governments to meet local needs. Significant work and collaboration with the federal government and other provincial ministries is also necessary to amend the B.C. Building Code.

For these reasons, any matter is unrestricted as it relates to flooding in the case of a building, or part of a building, that is located on a flood plain and below the flood level of that flood plain. The flood level can be designated by bylaw or if no flood level has been specified, the level expected to be reached by a 200-year flood can be used. Only those portions of a building below the flood level are unrestricted. Provincial building regulations apply to the remainder of the building.

3.4 List of Temporarily Unrestricted Matters with Time Limitations

The temporarily unrestricted matters listed below (items 1, 2, and 3) are temporarily unrestricted **only** if the bylaw(s) specifying the technical building requirement(s) for the matter was enacted on or before December 15, 2017 and has not been amended after that date as it relates to the matter. The matters are not unrestricted in any other circumstances.

1. Fire Sprinklers and Fire Sprinkler Systems

Currently, about 30 local governments in B.C. have bylaws that include fire sprinkler requirements that vary from those in the B.C. Building Code, and other local governments have expressed an interest in establishing similar requirements. To address the eventual elimination of local fire sprinkler requirements under the Building Act, the Building and Safety Standards Branch convened a Fire Sprinklers Working Group in 2015. The working group's recommendations for a provincial fire sprinkler regulation were approved in principle in fall 2015. Further policy work and legal analysis is still needed. Temporarily unrestricted fire sprinklers and fire sprinkler systems, with the time limitations noted above, ensures existing bylaw requirements remain effective.

2. Accessibility of a Building

3. Adaptable Dwelling Units

Accessibility 2024 is the Province's 10-year action plan to make B.C. more accessible for persons with disabilities. Accessible housing was identified as one of [12 'building blocks' in the plan](#). The B.C. Building Code requires most public buildings and the public areas of multi-unit residential buildings to have a minimum level of accessibility. The Code also contains requirements for the design and construction of adaptable dwelling units which include features that can later be modified to improve accessibility for minimal cost to meet the changing needs of occupants. The Code requirements for adaptable dwelling units apply to single-storey suites in new residential multi-unit buildings, whenever adaptable housing is either required by local governments or built voluntarily.

Several local governments have enacted technical building requirements for accessible and adaptable dwelling units that exceed the requirements in the Code. Some local governments have also applied the existing Code requirements for adaptable dwelling units to buildings other than those referenced in the Code.



Due to its commitments in Accessibility 2024, the Province is working with local governments and other stakeholders to develop consistent accessibility and adaptability requirements that go beyond the current minimum requirements in the Code. As this work did not begin until 2018, these matters are temporarily unrestricted subject to the time limitations for bylaw enforcement noted above.

3.5 Matters that are ‘Out of Scope’ of the *Building Act*

The section 5 limits on local government authority only apply to technical building requirements enacted by bylaw that concern a topic, subject or theme (i.e., a ‘matter’) addressed in the B.C. Building Code (or another provincial building regulation). If the requirements do not concern a matter addressed in the Code, they are ‘out of scope’ of the *Building Act* and local governments *can* regulate these matters if they have authority to do so in other statutes. Table 2 lists examples of matters that are ‘out of scope’ of the section 5 limitations.

MATTER	DESCRIPTION
Backflow preventer testing after construction	Concerns the testing of backflow prevention devices after construction. See also cross-connection control below, and backflow preventers and backflow prevention in Table 3.
Cross-connection control outside the property line	A cross connection is an arrangement whereby the potable water supply is unintentionally connected, or has the potential to be connected, to a non-potable water supply. Cross-connection control is the regulation of cross connections. Local government cross-connection control programs typically monitor the installation, maintenance and field testing of backflow preventers. Note: Cross-connection control requirements within the property line are in scope of section 5.
Electric vehicle charging stations/plug-ins	Electric vehicle charging stations concern the number, location, and type of charging stations (and related matters such as signage) required in a building or facility to charge electric vehicles that use the building for parking. This includes wiring or pre-ducting for electric vehicle plug-ins.
Screening of equipment on roofs (or other locations)	Refers to screening materials placed on rooftops to screen or mask the appearance of equipment that may be considered unattractive, such as HVAC units, chillers or condensers (when such screening does not affect their performance). Screening can also be used to hide ground-mounted objects such as generators or recycling containers.



4. Technical Building Requirements Local Governments Cannot Enact

4.1 Matters Regulated by Provincial Building Regulations

Technical building requirements in bylaws that concern a topic, subject or theme (i.e., a ‘matter’) addressed in the B.C. Building Code (or another provincial building regulation) are of no legal force. Such requirements may be similar to, but not necessarily the same as, those found in Division B of the Code.

If a provincial building regulation regulates a matter, local governments cannot. This restriction on regulating matters applies broadly. Green roofs are an example. The B.C. Building Code regulates the design and construction of roofs but does not include a specific requirement for green roofs. Local governments cannot enact requirements for green roofs even though the Code does not, because they are related to the broader matter of roofing construction, which is regulated by the Code. Moreover, technical building requirements of any type (unless for unrestricted matters) enacted by local bylaw are of no legal force even if they are *identical to* the requirements of the B.C. Building Code. Table 3 lists examples of matters regulated by the Code for which building requirements in local government bylaws would be of no legal force.

Table 3: Examples of Matters for which Local Governments Cannot Enact Technical Building Requirements in Bylaws

MATTER (A topic, subject or theme addressed by the B.C. Building Code)	DESCRIPTION
Backflow prevention within the property line	Backflow is the flow of water or other liquids, mixtures or substances in the wrong direction into the distribution pipes of a supply of potable water that may make the water in the pipe non-potable. A backflow preventer is a device to prevent the flow of non-potable water or sewage in the wrong direction. Notes: Local governments may set backflow prevention requirements that are <i>outside</i> the property line, if they have authority to do so under other statutes.
Full cut-off lighting	Light fixtures that reduce light emitted above the plane of the horizontal with the general intention of reducing light pollution and providing improved visibility.
Green roofs	A roof designed to support topsoil and plants to reduce rainwater runoff, heat island effect and decrease the building’s space conditioning requirements. Green roofs may be referred to by other names such as a garden roof, living roof or eco roof.
Water-efficiency measures	Requirements for fixtures to reduce the use of water in a building, such as through low-flow toilets and urinals, low-flow faucets and shower fixtures, and so forth.



4.2 Restricted Matters

Local governments are also restricted from enacting technical building requirements for restricted matters. **Restricted matters** are building matters that are not regulated in a provincial building regulation that local governments are nonetheless restricted from regulating. Restricted matters will be listed in a regulation. At present, **no matters** are designated as restricted.



5. Questions to Help Local Governments Review Bylaws

The following questions will help local governments determine if a technical building requirement in a bylaw is subject to the limitations of section 5 of the *Building Act*. As explained, a matter that a building requirement relates to will generally fall into one of four categories:

1. **In scope:** Local governments cannot set technical building requirements because the section 5 limitations apply to these matters.
2. **Out of scope:** Local government can set technical building requirements because the section 5 limitations do not apply to these matters.
3. **Unrestricted:** Local governments can set technical building requirements because these matters are listed in a regulation as unrestricted matters.
4. **Restricted:** Local governments cannot set technical building requirements because these matters are listed in a regulation as restricted matters.

1. Is the building requirement in a bylaw?

NO = If the answer is no, the requirement is not affected by the *Building Act*. For more information, see Section 2.1 of this guide on what section 5 does not affect.

YES = If the answer is yes, move to Question 2.

2. Does the requirement relate to a matter regulated in the B.C. Building Code (or another provincial building regulation), even if the Code does not include a comparable specific requirement?

NO = If the answer is no, move to Question 3.

YES = If the answer is yes, move to Question 4.

3. Is the matter on the restricted list?

NO = If the answer is no, local governments can regulate the matter if they have authority to do so in other statutes. For more information, see Section 3.5 of this guide on out-of-scope matters.

YES = If the answer is yes, local governments cannot set building requirements that relate to the matter even though it is not regulated by the Province. For more information, see Section 4.2 of this guide on restricted matters.



4. Is the matter on the unrestricted list?

NO = If the answer is no, then any building requirements in bylaws that relate to this matter are of no legal force. For more information, see Section 4.1 of this guide on matters regulated by provincial building regulations.

YES = If the answer is yes, then local governments may set building requirements that relate to the matter. For more information, see Sections 3.1 to 3.4 of this guide on unrestricted matters.

5.1 Section 5 Restrictions in a Nutshell

- **Technical Building Requirements:** Requirements for the construction, alteration, repair and demolition of buildings. A technical building requirement can define the methods, materials, products, assemblies, or dimensions to be used or performance to be achieved when building.
- **No Legal Force:** Any technical building requirements enacted at any time in any bylaw has no legal force unless:
 - They are for matters the Province has unrestricted or temporarily unrestricted.
 - They are for matters that are not regulated by provincial building regulations (primarily the B.C. Building Code), and local governments have authority to regulate them in other statutes.
 - They are enacted under statutes not listed in section 5 (2) of the *Building Act*. The Acts listed in section 5 (2) are:
 - The *Community Charter*;
 - The *Fire Services Act*;
 - The *Islands Trust Act*;
 - The *Local Government Act*;
 - The *University Act*; and
 - Any other Act prescribed by regulation.

Summary of Section 5 Changes for Local Governments

	Local Governments Can Regulate the Matter	Local Governments Cannot Regulate the Matter
If a matter <i>is</i> regulated in a provincial building regulation:	If the matter is listed in the unrestricted matters regulation OR if the local government has authority to do so under a statute not listed in section 5 (2) of the <i>Building Act</i>	In all cases except unrestricted matters
If a matter <i>is not</i> regulated in a provincial building regulation:	If the local government has authority to do so under other statutes	If the matter is listed in the restricted matters regulation



6. Procedural Guidance for Amending or Repealing Bylaws

This information is provided for general guidance only. It is not legal advice and should not be relied upon for that purpose. Local governments are advised to obtain their own legal advice prior to amending or repealing their bylaws.

Local technical building requirements remained in force until the end of the two-year transition period on December 15, 2017. Local governments were encouraged to review their bylaws in preparation for amending or repealing technical building requirements before that date. The Province anticipated local governments would have one of three types of bylaws that may need to be amended or repealed:

1. Bylaw requirements made post-*Community Charter* (i.e., after January 1, 2004) with Minister's approval;
2. Bylaw requirements made post-*Community Charter* (i.e., after January 1, 2004) without Minister's approval; or
3. Pre-*Community Charter* bylaw requirements (i.e., made before January 1, 2004).

Since the *Community Charter's* concurrent authority provisions remained in force until December 15, 2017, ministerial approval may have been needed to amend or repeal bylaws described in types (1) and (3) above, if an amendment or repeal was made on or prior to that date. An amendment or repeal made after December 15, 2017, should not need ministerial approval.

The amendment or repeal of bylaw requirements enacted under bylaws of type (2) above should not need ministerial approval, either before or after December 15, 2017, because such approval was not required or obtained when the bylaw was enacted.

Local governments are responsible for their own bylaw review and for doing so on their own timelines. Any technical building requirements in bylaws automatically became of no force on December 15, 2017, unless the requirements are for unrestricted matters. To assist local governments in their reviews, the Province can respond to inquiries about specific types of technical building requirements.



7. For More Information

Find out more about the *Building Act*:

Website: Regular updates, including other guides in this series, will be posted online as they become available - see www.gov.bc.ca/buildingact.

Email: Building.Safety@gov.bc.ca

Mail: Building and Safety Standards Branch
Office of Housing and Construction Standards
PO Box 9844 Stn Prov Govt
Victoria, British Columbia
CANADA - V8W 9T2



8. Glossary of Terms

Access or Accessible (in relation to a building): Access or accessible means that a person with disabilities is, without assistance, able to approach, enter, pass to and from, and make use of an area and its facilities, or both, as required by the B.C. Building Code.

Adaptable Dwelling Unit: Adaptable dwelling unit means a dwelling unit designed and constructed to facilitate future modification to provide access for persons with disabilities. The B.C. Building Code does not require dwelling units to be adaptable; however, when an adaptable dwelling unit is constructed, it must follow the B.C. Building Code requirements for doing so.

B.C. Building Code: The B.C. Building Code includes the B.C. Plumbing Code. This Code applies to the construction of new residential, commercial, institutional and industrial buildings as well as to alterations, additions to and demolition of existing buildings. It sets minimum standards for health, safety, fire and structural protection, accessibility, energy efficiency, protection from water and sewer damage, and water efficiency. The B.C. Building Code is the principal provincial building regulation.

Building Act: Enacted by the Province in 2015, the *Building Act* is British Columbia's first Act dedicated solely to building and construction.

Building Regulation: A provincial regulation made under section 3 of the *Building Act*. Building regulations generally include a number of building requirements. The principal building regulation is the B.C. Building Code.

Building Requirements (also referred to as technical building requirements): Building requirements are the technical requirements for the construction, alteration, repair and demolition of buildings. A requirement can define the methods, materials, products, assemblies, dimensions or performance required by the regulation. Building requirements can be found in the B.C. Building Code (a provincial regulation) and other provincial building regulations.

Heritage Building: A heritage building means any of the following:

- a. A building that is protected heritage property;
- b. A building that is subject to temporary heritage protection under section 606 of the *Local Government Act*;
- c. A building that is subject to an agreement under section 610 (1) of the *Local Government Act*;
- d. A building that is identified in a register of heritage property established under section 598 (1) of the *Local Government Act*.

Local Authority: Under the *Building Act*, local authority means any of the following bodies that have authority to enforce the B.C. Building Code (and other provincial building regulations):

- a. A municipality;
- b. A regional district;
- c. The Nisga'a Nation;
- d. A treaty First Nation;



- e. The board of governors of the University of British Columbia; and
- f. Any other authority prescribed by provincial regulation.

Local Authority Variation: Under section 7 of the *Building Act*, a local authority variation is a building requirement or set of requirements that:

- Differs from requirements in provincial building regulations (primarily the B.C. Building Code);
- Is requested of the Province by a local authority or group of local authorities (this includes local governments);
- Requires the Minister’s approval; and
- If approved, is enacted through a provincial building regulation that applies in the jurisdictions of the local authorities making the request.

Protected Heritage Property: Protected heritage property has the same meaning as in section 1 of Schedule 1 to the *Local Government Act*.

Restricted Matter: A matter not regulated in a provincial building regulation that local governments are nonetheless restricted from regulating. Restricted matters will be listed in a regulation under the *Building Act*.

Technical Building Requirements: See glossary entry for “Building Requirements”.

Unrestricted Matter: A matter regulated in the B.C. Building Code (or other provincial building regulations) for which local governments have authority to set their own requirements in bylaws. Unrestricted matters will be listed in a regulation under the *Building Act*.

Variation: Under sections 7 and 8 of the *Building Act*, a variation is a technical building requirement that differs from the requirements in the B.C. Building Code (or other provincial building regulations).



FOR MORE INFORMATION PLEASE VISIT:
WWW.GOV.BC.CA/BUILDINGACT