

Restaurants and proposed changes to the Building Code

Questions and Answers Guide

Why is the Building Code changing?

The Building Code is changing to align with the Human Rights Tribunal decision that interpreted Section 20 of the Food Safety Regulations to include that washrooms within restaurants are to be accessible to persons in wheelchairs. As the Building Code deals with construction of buildings, including spaces used as restaurants, it is important that all newly constructed spaces that include restaurants comply with this decision.

What is considered a restaurant?

In this context, a restaurant is not currently defined within either the Food Safety Regulations or the Building Code. Amendments to the Food Safety Regulations are required to define restaurant. The Building Code Regulations will use that definition as well. The definition will reference any establishment that serves food to customers and offers space (i.e. seating and tables/counters) for the food to be eaten onsite.

The definition will apply to any traditional restaurants, fast food restaurants, cafe, deli, lunch counter, grocery store, sports facility (such as hockey rinks and bowling alleys), that serve food and seating on site to eat. Establishments that do not offer space for food to be eaten on the premises will not be captured by the definition. Using the same definition is important to ensure that a restaurant under the Food Safety Regulations, and subject to the Human Rights Tribunal decision, is captured in the Building Code.

What about take-out restaurants?

If there is no seating on the premises to eat and the expectation is to pay, pick up your food and take it with you to eat at another location, it would not be considered a restaurant under the proposed definition.

If I want to build a new restaurant what would I need to do?

The new restaurant would be required to comply with the current Nova Scotia Building Code. This would include providing a barrier-free path of travel from the exterior of the building, into the building and through the public portion of the restaurant to a washroom facility. This would apply to new construction or a renovated portion of an existing building where the use is a restaurant.

When do these requirements start?

The expected in-effect date for these requirements is on or after September 30, 2020.

What about existing restaurants?

These Building Code changes apply to the design, construction, and occupancy of new buildings, and the alteration, reconstruction, removal, relocation, occupancy and change of occupancy classification of existing buildings. As explained above, where a space within an existing building is converted for use as a restaurant, the new requirements within the Building Code would be applicable to the construction of that restaurant.

A process is currently underway to develop a plan to help existing restaurants comply with the Human Rights Tribunal decision – more information on that process will be shared in the next few months.

Office of the Fire Marshal March 9, 2020