

OEMC
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All About Building Regulation in Ontario
Administrative and Technical Issues

Building and Development Branch
Ministry of Municipal Affairs and Housing

Overview of Presentation

- Introduction – Regulatory Environment under the Building Code
- Building Code – Municipal Administrative Issues
 - Permit Fees under the Building Code Act, 1992
 - Qualifications of Chief Building Officials and Building Inspectors
- Building Code – Current Technical Issues
 - Re-inspection of On-site Sewage Systems
 - Fire Sprinklers
 - AODA
 - Energy Efficiency
- Questions

Ontario's Building Regulatory System: Introduction

- The Building Code is a regulation authorized by the Building Code Act, 1992 and sets out detailed administrative and technical requirements that must be met when a building is constructed, renovated, or undergoes certain changes of use
- Changes to the Building Code are approved by provincial Cabinet
- The Act and Code are administered by the Ministry of Municipal Affairs and Housing

Ontario's Building Regulatory System: Supporting Sustainability



- The Building Code is a technical document, but also plays a key role in promoting key government priorities, including support for sustainability
 - The Code includes provisions that support:
 - Energy conservation
 - Water conservation
 - Environmental integrity
 - Facilitation of the reuse of buildings
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Ontario's Building Regulatory System: Enforcement

- Enforcement is in the hands of “principal authorities”
 - primarily municipalities
- Enforcement activities include
 - the issuance of permits
 - inspection of buildings under construction
 - the issuance of orders and commencement of prosecutions



Ontario's Building Regulatory System: Code Development



- Ontario's Building Code is updated on a regular basis:
 - Current edition dates from 2006; next edition expected in 2011
 - However, interim changes to the Code are frequently made
- Code changes reflect:
 - Government priorities
 - Emergency situations
 - Coroner's jury recommendations
 - Changes in building technology
 - Changes implemented or proposed in other jurisdictions
- Potential Code changes undergo public and technical review, and are recommended based on technical feasibility, impact and enforceability

Ontario's Building Regulatory System: Code Development



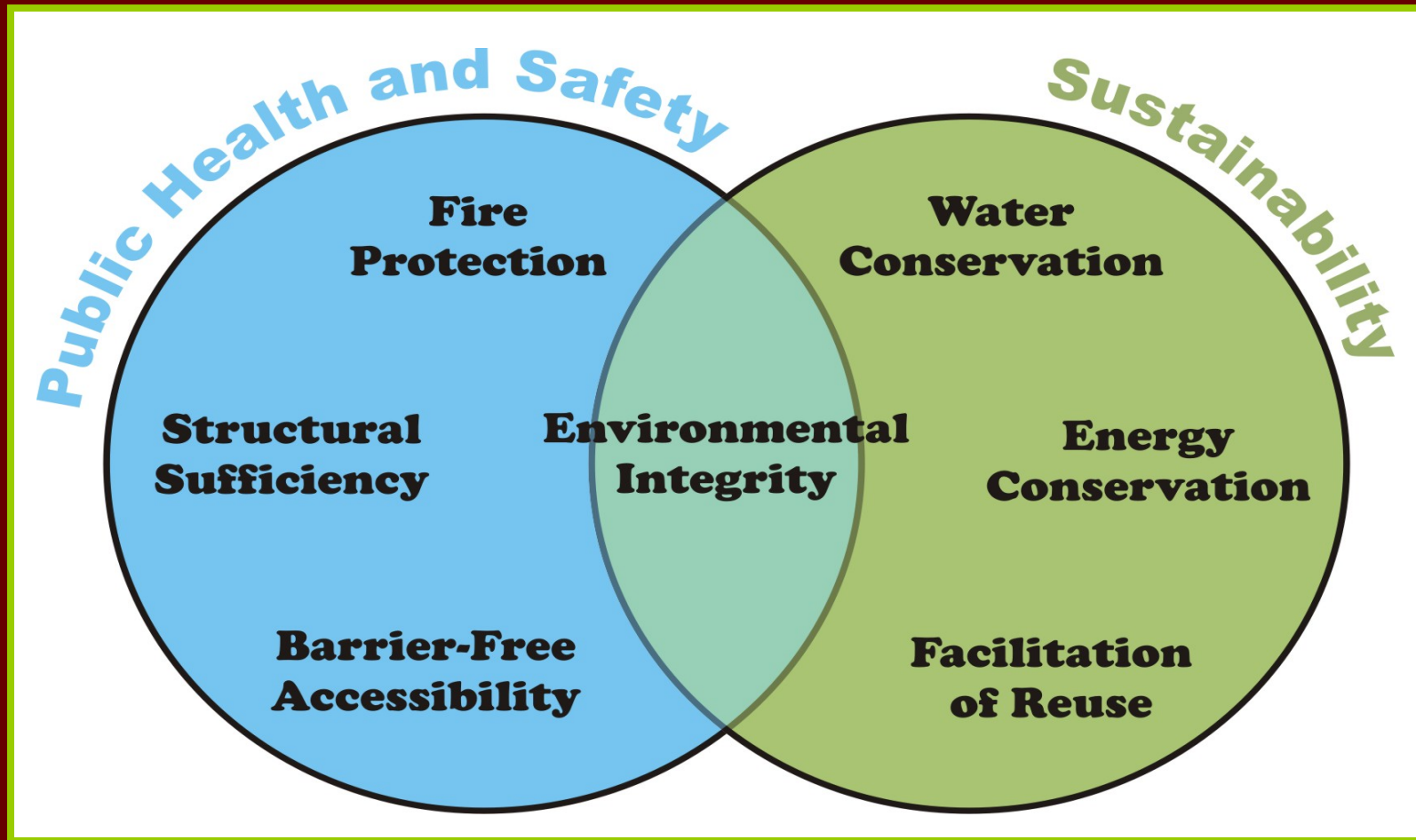
- Ontario's Building Code is largely based on the model National Building Code of Canada
- However, Ontario's Code is different from the model Code in key areas where Ontario has its own policy priorities:
 - Unique Code requirements
 - Consolidation of construction-related regulations in the Building Code
 - Higher or modified requirements

Ontario's Building Regulatory System: Objective-Based Format



- The 2006 Code was re-drafted in an “objective-based format”
- The objectives explain the “why” behind Code requirements, thereby enhancing Code understanding and compliance
- The objectives also provide a framework for the evaluation of “alternative solutions”, promoting innovation in construction materials, building systems, and building design

Ontario's Building Regulatory System: Code Objectives



Building Code - Municipal Administrative Issues

- **Permit Fees under the *Building Code Act, 1992***
- **Qualifications of Chief Building Officials and Building Inspectors**

Building Code – Municipal Administrative Issues: Permit Fees

- Under the Building Code, each municipality is empowered to prescribe the amount of fees payable on:
 - application of, and/or
 - issuance of building permits
- The total amount of fees for building enforcement must not exceed the anticipated reasonable costs to the municipality to administer the Act in its area of jurisdiction

Building Code - Municipal Administrative Issues: Report on Permit Fees

- The Building Code requires that every 12 months, each municipality must:
- prepare an annual report that contains such information as may be prescribed:
 - any fees authorized; and
 - costs to the municipality to administer and enforce the BCA and the provisions of the Building Code in its area of jurisdiction
 - total permit fees collected in the 12 month period ending no earlier than three months before the release of the report
- make its report available to the public in the manner required by the Building Code

Building Code - Municipal Administrative Issues: Annual Report on Permit Fees

- break down of the direct costs into categories such as:
 - administration and enforcement
 - review of applications
 - inspection of buildings
 - if any, the amount of the reserve fund at the end of the reporting period
- give notice of the preparation of the report to every person and every organization who requested such notice and provided an address
- give notice of any proposed change in fees to such persons as may be prescribed in the Code

Building Code - Municipal Administrative Issues: Change in Permit Fees

- Before enacting a By-law to introduce or change a permit fee, the municipality must:
 - hold at least one public meeting at which any person who attends has an opportunity to make representations
 - ensure that a minimum of 21 days notice of public meeting is given
 - notice must also be given to every person and organization who has within the previous five years requested such a notice and has provided an address

Building Code – Municipal Administrative Issues: Change in Permit Fees

- The 21 days notice of the public meeting must:
 - set out the intention of the municipality to enact a by-law that would impose any fee that was not in effect on the day the notice is given or would change any fee that was in force on the day the notice is given
 - be sent by regular mail to every person and organization that previously requested such notice

Building Code – Municipal Administrative Issues: Change in Permit Fees (cont'd)

- The 21 days notice of the public meeting must also:
 - include the information, or
 - state that the information will be made available at no cost to any member of the public upon request
- The information that must be included in the 21 days public notice or be made available includes:
 - an estimate of the costs of administering and enforcing the Building Code Act and the provisions of the Building Code
 - the amount of the new fee or the change to the existing fee
 - the rationale for imposing the new fee or changing the fee

Building Code - Municipal Administrative Issues: Qualifications of Chief Building Officials

- As a result of the Building Code Statute Law Amendments Act, 2002 (former Bill 124), the Building Code Act, 1992 and the Building Code were amended to establish:
 - Qualification and registration requirements for building practitioners, including Building Officials

Qualifications of Chief Building Officials (cont'd)

- The qualification requirements are administered by MAH
- The ministry develops examinations, is looking at syllabi and has updated courses, arranges for training delivery through contracted bodies, and maintains a public register of qualified persons
- The qualifications that Building Officials must have include:
 - Successful completion of an examination program administered by MAH, and

Qualifications of Chief Building Officials (cont'd)

- filing of information with the Director, Building and Development Branch
- The Ministry also develops:
 - self-study manuals, and
 - voluntary, supportive technical training
- Training is available through licensed delivery agents, such as the Ontario Building Officials Association

Building Code – Current Technical Issues

- **Re-inspection of On-site Sewage Systems**
- **Fire Sprinklers**
- **OADA**
- **Energy Efficiency**

Building Code - Current Technical Issues: 2008 Consultation

- The government has consulted from February - May 2008 on changes to the Building Code that would:
 - Introduce administrative requirements respecting maintenance inspections of existing on-site sewage systems; and
 - Establish technical requirements for tertiary treatment unit disposal beds (“area beds”) that form part of certain on-site sewage systems
 - Require fire sprinklers in multiple-unit residential buildings greater than three storeys

Building Code- Current Technical Issues: Ontario

2008 Consultation

- MAH consulted with the public regarding:
 - the content of these proposed changes
 - implementation timing, should the changes be adopted
- During the consultation MAH hosted six information sessions across the province:
 - held in conjunction with fire safety “town halls” organized by the Office of the Fire Marshal

Building Code - Current Technical Issues Ontario 2008 Consultation

- A special stakeholder session was also held on February 26
- The deadline for submitting comments on the proposed changes was May 1, 2008
- Over 550 submissions were received, including submissions from LMCBO, OBOA, AMO, and individual municipalities

Building Code - Current Technical Issues: Sewage System Maintenance Inspections

- The Building Code regulates the construction, extension, alteration and repair of small on-site sewage systems (e.g., septic systems)
 - In addition, the Code contains standards for the operation and maintenance of existing on-site sewage systems
 - Principal authorities may inspect sewage systems to determine whether they are “unsafe”
 - Neither the BCA nor the Code currently require periodic inspections of existing systems by principal authorities
 - Proposed maintenance programs for on-site sewage systems were the result of amendments under the Clean Water Act, 2006
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Building Code - Current Technical Issues: Sewage System Maintenance Inspections



- Justice O'Connor's Inquiry into the events at Walkerton led to amendments to The Clean Water Act, 2006 (CWA), which made consequential amendments to the BCA concerning maintenance inspections of on-site sewage systems
- Amendments to the BCA which came into force on July 3, 2007, establish a legislative framework for sewage system maintenance inspections

Building Code - Current Technical Issues: Sewage System Maintenance Inspections

- These BCA amendments:
 - authorize regulations to establish programs to enforce standards for the maintenance and operation of existing sewage systems,
 - require that these programs be enforced by principal authorities,
 - authorize principal authorities to establish “discretionary” maintenance inspection programs for existing sewage systems
- The principal authorities that would enforce programs would be the same authority that current enforces BCA requirements related to sewage systems

Building Code - Current Technical Issues: Sewage System Maintenance Inspections

- Principal authorities appoint inspectors, set fees for the inspections, and may accept “3rd party certificates”
- Inspectors:
 - May enter upon land and into buildings to conduct inspection without a warrant,
 - May only enter into dwellings to conduct an inspection with a warrant, subject to certain conditions, and
 - May make orders requiring compliance or to carry out test.
- BCA amendments provide for regulation that governs sewage system maintenance inspections

Building Code - Current Technical Issues: Sewage System Maintenance Inspections

- Types of Systems Affected:
 - All systems currently regulated through Part 8 of Division B of the Building Code would be subject to sewage system maintenance inspection programs.

Building Code - Current Technical Issues: Sewage System Maintenance Inspections



Area of Application (Required Programs):

- Would apply to sewage systems located in “prescribed areas”
- Anticipated to be a subset of "vulnerable areas" identified in an assessment report included in a source protection plan subject to posting on the environmental registry in accordance with section 30 of the CWA
- The areas will be identified in assessment reports attached to individual source protection plans

Note: Questions related to the Clean Water Act, 2006 and source protection plans can be directed to the Ministry of the Environment at: source.protection@ontario.ca

Building Code - Current Technical Issues: Sewage System Maintenance Inspections



Area of application (Discretionary Programs):

- Under the BCA, principal authorities could choose to establish Discretionary Programs
- It is proposed that the Building Code will establish a requirement that Discretionary Programs would apply in all areas within the jurisdiction of a principal authority not covered by Required Programs

Building Code - Current Technical Issues: Sewage System Maintenance Inspections

Frequency of Inspections			
Type of Inspection		Required Program	Discretionary Program
Initial Inspections	Permit Issued	5 years after first applicable source protection plan.	Within 5 years of establishing the program.
	Inspected under discretionary program	5 years after first applicable source protection plan.	Within 5 years of establishing the program.
	No permit	3 years after first applicable source protection plan.	Within 5 years of establishing the program.
Subsequent Inspections		Once within 5 year period following initial inspection.	Once within each 5 year period following the initial inspection.

Building Code - Current Technical Issues: Sewage System Maintenance Inspections



- Third-party Certificates:
- Principal authorities, as an alternative to conducting an inspection, could accept a “third party” certificate
- Each certificate would confirm that a particular sewage system has been inspected and is in compliance with Section 8.9. of Division B of the Code
- Certificates would need to be signed by a designer or a sewage system installer registered under the Building Code
- A person signing a certificate cannot be in conflict of interest as defined in the Building Code

Building Code - Current Technical Issues: Sewage System Maintenance Inspections



- Inspector Qualifications:
- Inspectors must be qualified under the Building Code unless they do not issue orders and are supervised by a chief building official or inspector
- However, entry into dwellings (as is the case for all BCA inspections) would require a warrant unless the consent of the occupier is obtained, or there is an immediate danger to health and safety

Building Code - Current Technical Issues: Sewage System Maintenance Inspections



- Building Code requirements related to Discretionary Programs would come into force on January 1, 2009
- Required Programs will not be in force until a source protection plan for a given area is in effect
- The plans are required under the Clean Water Act, 2006, and it is anticipated that plans will be submitted to the Minister of the Environment by 2012

Building Code - Current Technical Issues: Sewage System Maintenance Inspections



- Concerns have been raised about cost to property owners if upgrades are needed to rectify unsafe systems
- Enforcement bodies are concerned about increased enforcement costs and potential liability
- Current proposed changes would establish a requirement that Discretionary Programs apply to the entire geographic area of a jurisdiction
- Some stakeholders view Discretionary Programs and their geographic application as a matter for local authority to decide

Building Code - Current Technical Issues: Sewage System Maintenance Inspections



- A Building Code Technical Advisory Committee will convene in Fall 2008 to review stakeholders concerns and the proposed changes to on-site sewage systems
- Subsequently, the Technical Advisory Committee will submit their recommendations to the Minister
- Proposed on-site sewage system maintenance requirements, as well as area bed requirements, are anticipated to go forward for government approval in Fall 2008

Building Code - Current Technical Issues: Area Beds

- Standards for “area bed” systems are not currently set out in the Building Code
- The use of many area bed systems has been authorized by the Building Materials Evaluation Commission (BMEC) and their use has become widespread
- MAH is, therefore, proposing to amend the Building Code to establish requirements for construction, operation and maintenance of area beds
- The proposed amendments, should they be adopted, would come into force upon filing of the regulations

Building Code - Current Technical Issues: Residential Fire Sprinklers

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- “Fire protection” is a purpose of the Building Code as set out in the BCA
 - Fire safety requirements have been featured in the Code since its inception in 1975 and these requirements have been enhanced over time
 - The mNBC and other provinces require sprinklering of large multiple-unit residential buildings - generally higher than three storeys

Building Code - Current Technical Issues: Residential Fire Sprinklers



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- On June 18, 2008 the government filed Ontario Regulation 205/08 to further amend the Building Code to require fire sprinklers in multiple-unit residential buildings over three storeys in height
 - The new requirements will apply to construction under building permits applied for on or after April 1, 2010
 - The new requirements are intended to improve fire safety, and further harmonize Ontario's Building Code with the requirements set out in the mNBC

Building Code - Current Technical Issues: Residential Fire Sprinklers

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- The new regulation requires mandatory fire sprinklers in multiple-unit residential buildings over three storeys in height
 - Due to this new requirement, certain pre-existing alternatives to residential fire sprinklers are being removed from the Building Code
 - Some examples include:
 - measures related to balconies and areas of refuge
 - compensating features including smoke control, heat detection, exiting, areas of refuge and emergency operation of elevators

Building Code - Current Technical Issues: Residential Fire Sprinklers

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- In recognition of the benefits of sprinklered buildings, other provisions have been approved to further harmonize Ontario's Code with the mNBC:
 - Examples include:
 - Allowing non-masonry firewalls in high buildings
 - Allowing combustible cladding on high buildings
 - Due to the benefits of the new sprinkler requirements, the maximum size for live-work units has been increased from 150 m² to 200 m²

Building Code - Current Technical Issues: Residential Fire Sprinklers



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- On May 7, 2008 MPP Linda Jeffrey introduced the Residential Fire Sprinkler Systems Act, 2008 (Bill 78)
 - If enacted, the Bill would amend the Building Code Act, City of Toronto Act, and Municipal Act to authorize municipalities to pass by-laws requiring the installation of fire sprinkler systems in new residential buildings
 - Standards would be in the Building Code but the scope of application would be governed by municipal by-law
 - Status: Bill passed 2nd reading in the House

Current Technical Issues: Accessibility for Ontarians with Disabilities Act (AODA)

- Purpose:
- To achieve accessibility for persons with disabilities by 2025
- Standards Development Committees (SDCs):
- To implement this legislation, the Minister of Community and Social Services (MCSS) has established, in consultation with affected ministries, 5 SDCs:
 - Transportation
 - Customer Service
 - Information/Communications
 - Employment, and
 - Built Environment

Current Technical Issues: Accessibility for Ontarians with Disabilities Act (AODA)



- Each SDC will develop a proposed accessibility standard which will undergo public consultation
- The SDC will review public comments and then make recommendations to the Government for consideration
- The government will then decide whether to approve regulations under the AODA, and/or other statutes as applicable

Current Technical Issues: Accessibility for Ontarians with Disabilities Act (AODA)



- Example of SDC - Built Environment:
 - The scope of the Built Environment Accessibility Standard includes public open spaces and streetscape elements as well as building elements in a range of occupancies
 - MAH is the “lead ministry” in providing administrative and technical support to the Accessible Built Environment-SDC (ABE-SDC)
 - Expect that the Building Code will be the vehicle to implement certain standards resulting from the ABE-SDC
 - Anticipate ABE-SDC release of the proposed standard for public review by February 2009

Current Technical Issues: Accessibility for Ontarians with Disabilities Act (AODA)



- SDC membership is broad, drawing from a variety of sectors, with representatives from
 - The accessibility community
 - Private and non-profit sectors (including the building sector)
 - Municipalities and the broader public sector
 - Provincial ministries

Current Technical Issues: Accessibility for Ontarians with Disabilities Act (AODA)



- Membership comprises 50 percent representation by the disabled or those representing the disability community
- Municipalities, building officials, builders, designers and building owners are also represented
- Four ministries represented on the ABE-SDC:
 - MAH (as lead ministry), MHLTC, MPIR, and MEDT
 - Ministry members do not have voting privileges

Building Code - Current Technical Issues: Energy Efficiency

- Government objective is to reduce energy consumption and greenhouse gas emissions and to create a culture of conservation in Ontario
- Significant changes in the 2006 Building Code:
 - Higher mandatory energy efficiency requirements for houses and larger buildings
 - Support for “green” building technologies
- Certain energy efficiency Building Code changes took effect December 31, 2006, while subsequent changes are being implemented through December 31, 2011

Building Code - Current Technical Issues: Energy Efficiency

- Tools to support implementation of these new requirements include:
 - Best practices guide for the installation of near-full height basement insulation
 - Printed and electronic copies are available
 - Financial assistance to develop energy efficiency skills training aimed at the construction trades
 - \$250,000 grant to OBOA to hire a consultant; work completed; now looking at delivery of training
 - Building Code technical training (expect to be completed Fall `08)

Building Code - Current Technical Issues: Energy Efficiency

- Medium Term: by 2009
- More energy efficient windows/sliding doors
- Higher insulation levels- ceilings, walls & foundation walls
- Wall assembly to include insulating sheathing to reduce “thermal bridging” – e.g. the loss of heat through studs
- High-efficiency gas and propane-fired furnaces (90%)
- Higher standards for electrically heated houses

Building Code - Current Technical Issues: Energy Efficiency

- Medium Term: by 2011
 - EnerGuide 80 as a regulatory tool
 - Houses to meet standards that achieve the performance levels of EnerGuide 80
 - mNECB + 25% - all large buildings will be required to be 25% more energy efficient
- Longer Term:
 - Updating of model National Energy Code for Buildings
 - Potential updating of model National Energy Code for Houses
 - Energy as part of the “Core Codes”

Ontario's Building Code - Keep Informed

- Visit the Building Code website:
 - www.ontario.ca/buildingcode
- Subscribe to CodeNews:
 - Free email newsletter: notifications of Building Code amendments, training, public consultations and other Building Code announcements
 - Register on the Building Code website or www.codenews.ca



The screenshot shows the Ontario Building Code website. The header includes the Ontario logo and the text "Ministry of Municipal Affairs and Housing". Below the header is a navigation menu with links for "Publications", "Qualification & Registration", "Interpretations", "Appeals & Approvals", "Training", and "CodeNews". The main content area features a large banner for the "2006 BUILDING CODE COMPENDIUM" with a description of the site's resources. To the right, there is a "hot topics" section with several news items, including "O. Reg. 137/07 amends the 2006 Building Code", "Clean Water Act Proclaimed", "New URL and Software Upgrade", "QuARTS", and "New 2006 Building Code".

THANK YOU

ANY QUESTIONS?