



## MMAH Proposed Changes Part 8 of the Building Code

On February 15, 2008 the MMAH released information pertaining to potential changes to Part 8 of the building code pertaining to Area bed size and Re-Inspection programs.

This information was reviewed and presented at the recent OOWA Conference.

The OOWA Government Relations committee will be preparing comments as request by the MMAH. OOWA would like to receive feedback and comments from any member regarding the proposed changes and will include these in our submission document.

**Members should send their comments to OOWA fax: 905-372-0322, email: [dorendt@yahoo.ca](mailto:dorendt@yahoo.ca)**

### **Proposed Changes to Sewage Systems**

The Ministry of Municipal Affairs and Housing is holding a public consultation to seek comments on proposed changes that would enhance drinking water quality and environmental protection.

Ontario's buildings and drinking water are safe. However, the Ontario government believes building safety and water quality can be improved. In order to support this continued improvement, the Government is proposing to make changes to the Building Code that would:

Introduce administrative requirements to support the maintenance (or re-inspection) of existing on-site sewage systems; and Incorporate technical requirements regulating tertiary treatment unit disposal beds ("area beds") that form part of certain on-site sewage systems.

Comments on the proposed technical and administrative changes to the Building Code must be submitted by May 1, 2008 through the MMAH website, or by e-mail, surface mail or facsimile.

Your participation in this consultation is important in guiding the development of potential changes to Ontario's Building Code and we thank you for contributing to Ontario's commitment to maintaining high standards of public safety.

If you have any questions please contact James Douglas, Manager, Code Development Legislative and Appeals at 416-585-7174, or Sabina Filipescu, Policy Adviser, at 416-585-6753.

### **Backgrounder**

#### **ON-SITE SEWAGE SYSTEMS**

The Building Code also sets standards for the construction, expansion, alteration or repair of on-site sewage systems (e.g. septic systems) for houses and small buildings where the systems are contained on one lot and have a daily design sewage flow of not more than 10,000 litres per day.

Under the Building Code Act, 1992 and the Building Code, enforcement of the on-site sewage provisions of the Act and Code is carried out by principal authorities (municipalities, health units and conservation authorities, depending on location).

Proposed amendments to the Code would authorize the establishment of programs to enforce Building Code's standards for the maintenance and operation of existing sewage systems, and require that these programs be enforced by principal authorities. In addition, principal authorities will be authorized to establish "discretionary" maintenance inspection programs for other areas as prescribed.

The Ministry is also seeking comments on proposed technical requirements regulating tertiary treatment unit disposal beds ("area beds") that form part of certain on-site sewage systems.

For further information please contact James Douglas, Manager, Code Development, Legislative and Appeals, Building and Development Branch, at 416-585-7174.

## **Questions and Answers**

### **ON-SITE SEWAGE SYSTEMS – INTRODUCTION**

#### What changes are being proposed to the Building Code?

The proposed amendments would also establish a framework for inspecting on-site sewage systems to ensure they are being properly maintained. Inspections would be required in some cases and discretionary in others.

The proposed amendments include administrative requirements such as the type, manner and frequency of inspections, qualifications of inspectors, and use of third party certification. Other proposed on-site sewage system amendments would establish technical requirements regulating tertiary treatment unit disposal beds (“area beds”) that form part of certain on-site sewage systems.

#### Where can I learn more about this Consultation? How can I become involved?

A Consultation Paper (including comment form) is available from the Building Code website at [www.ontario.ca/buildingcode](http://www.ontario.ca/buildingcode). Paper copies are also available by calling 416-585-6753. Interested persons are encouraged to attend information sessions that will be held in late March and early April across the Province. The locations, dates and times of these sessions will be posted in the aforementioned Building Code website. In addition, comments regarding the proposed changes may be submitted to the Building Code website.

#### What is the deadline for submitting comments?

**Comments may be submitted until May 1, 2008.**

### **ON-SITE SEWAGE SYSTEMS**

#### Why is the Government proposing these changes?

The proposed amendments to the Building Code concerning maintenance inspections of on-site sewage systems would support the Clean Water Act, 2006, which included complimentary amendments to the Building Code Act, 1992. The Clean Water Act was introduced following Justice O’Connor’s Walkerton Inquiry report. The purpose of the Clean Water Act is to protect drinking water supplies. This legislation permits communities to protect their municipal drinking water supplies by creating local multi-stakeholder committees that are required to develop collaborative, locally driven, science-based protection plans. These committees will identify potential risks to local water sources and identify actions to be taken to reduce or eliminate these risks. Among other matters, Justice O’Connor’s report identified improperly installed and poorly maintained septic systems as a potential threat to drinking water.

#### If the potential changes are approved, will there be a transition period to phase in the new requirements?

The Building Code requirements related to discretionary maintenance inspection programs are proposed to come into force on January 1, 2009.

The required programs will not be in force until a source protection plan for a given area is approved by the Minister of the Environment. The plans are required under O. Regulation 285/07 made under the Clean Water Act, 2006, and are anticipated to be submitted to the Minister of the Environment by 2012.

#### 10. What areas are subject to required programs? What areas are subject to discretionary programs?

It is proposed that required maintenance inspection programs would apply to sewage systems located in prescribed areas. These areas are anticipated to be a subset of the "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 Clean Water Act, 2006.

The method of delineating these areas will be set out in future technical rules under the Clean Water Act, 2006.

Where a principal authority has established a discretionary maintenance inspection program, the program must apply to all sewage systems in the area of jurisdiction of the principal authority, except in areas where a required inspection program applies.

For further information about the Clean Water Act, 2006, please contact **The Ministry of the Environment** at "Ask the Expert" at [source.protection@ontario.ca](mailto:source.protection@ontario.ca).

What types of sewage systems would be affected by this proposed change?

All classes of sewage systems currently regulated by the Building Code will be affected by the proposed changes relating to maintenance inspection programs.

Who would enforce required and discretionary inspection programs?

It is proposed that both required and discretionary programs will be enforced by principal authorities. Depending on location in the Province, the principal authorities responsible for on-site sewage systems enforcement would be a municipality, public health unit, or conservation authority.

What qualifications must be fulfilled by inspectors appointed by the enforcement body?

Inspectors who inspect on-site sewage systems must pass Ministry examinations related to the on-site sewage requirements of the Building Code. It is proposed that the Building Code be amended to allow inspections to be carried out by persons who have not passed examinations if they do not issue orders and they operate under the supervision of a person who is qualified under the Building Code.

Are Principal Authorities required to conduct the inspections?

Under the Building Code proposals principal authorities have the choice of conducting inspections or accepting third-party certifications in place of inspections. Third-party certification would confirm that a sewage system has been inspected and found to comply with the applicable Building Code standards. It is proposed that designers or on-site sewage systems installers registered under the Building Code may sign certificates of inspection.

How will conflict of interest issues be addressed?

It is proposed that any person who has participated in the design or construction of the sewage system cannot sign a third-party certificate. Also, a person who is an elected official, employee or officer of a principal authority could not sign a certificate.

What is an area bed?

Area beds are a type of soil absorption system used in conjunction with an on-site sewage system that includes a tertiary treatment unit listed in the supplementary standards (SB-5) to the Building Code. Area beds are designed to further treat and disperse effluent within the soil. They are comprised of a stone layer situated on top of a sand layer and may be installed in or on soil.

Why is the government proposing to put standards for area beds in the Code?

The Building Code does not presently contain specific requirements relating to the design and construction of area bed systems. The Ministry is proposing to establish area bed requirements in the Building Code.

If you have any questions about this consultation please contact James Douglas, Manager, Code Development, Legislative and Appeals, Building and Development Branch at 416-585-7174.

**Consultation on Proposed Changes to Ontario's Building Code**

Background Information on On-site Sewage Systems and Ontario's Building Code

There are an estimated 1.2 million on-site sewage systems in Ontario. When properly designed, installed and maintained in accordance with the Building Code, on-site sewage systems contribute to safe drinking water and protect the environment. In 1998, the Building Code was amended to establish standards for new and renovated on-site sewage systems for houses and small buildings where the systems are contained on one lot and have a daily design sewage flow of not more than 10,000 litres per day. Other larger and more complex systems are regulated under the Ontario Water Resources Act administered by the Ministry of the Environment.

The Building Code regulates the construction, installation, repair, alteration and extension of on-site sewage systems. The Code classifies sewage systems as follows:

Class 1 — a chemical toilet, an incinerating toilet, a recirculating toilet, a self-contained portable toilet and all forms of privy including a portable privy, an earth pit privy, a pail privy, a privy vault and a composting toilet system;

Class 2 — a greywater system;

Class 3 — a cesspool;

Class 4 — a leaching bed system; and

Class 5 — a system that requires or uses a holding tank for the retention of hauled sewage at the site where it is produced prior to its collection by a hauled sewage system.

The Building Code also contains operation and maintenance requirements for on-site sewage systems. In particular, the Code requires that all on-site sewage systems be operated and maintained to prevent breakout of effluent to the surface, leakage from any component of the system, or leakage into ground water or surface water. Moreover, sewage systems must be operated in accordance with the basis on which their construction was approved and the manufacturer's requirements. There is great variety within the Class 4 category, which represents the most common type of small, on-site sewage system in Ontario. However, most Class 4 systems include a septic tank and leaching bed, and rely on gravity to move effluent through its components.

Some Class 4 systems contain additional components such as pumps, filters and secondary and tertiary treatment units. Under the Building Code, a Class 4 system that incorporates a tertiary treatment unit may be designed with a specific type of trench-based absorption system known as a shallow buried trench. In addition, other Class 4 systems utilizing certain tertiary treatment units may be designed with a bed-type absorption system known as an "area bed".

Standards for "area bed" systems, however, are not set out in the Building Code, but their use has been authorized by the Building Materials Evaluation Commission (BMEC).

The BMEC is a regulatory body authorized under the Building Code Act, 1992, whose mandate is to evaluate new and innovative construction materials, systems and designs for use in construction in Ontario. Since 1998 the BMEC has issued eight separate "area bed" authorizations for use in construction in Ontario. (Authorizations of the BMEC are available on the Building Code website at [www.ontario.ca/buildingcode](http://www.ontario.ca/buildingcode).)

Under the Building Code Act, 1992 and Building Code enforcement of the on-site sewage provisions of the Act and Code is carried out by principal authorities (municipalities, health units and conservation authorities).

What Changes are Proposed for On-Site Sewage Systems?

This consultation paper proposes two types of Building Code amendments related to on-site sewage systems:

Administrative requirements for maintenance inspections (re-inspections) of on-site sewage systems; and

Technical requirements for area beds.

### **Administrative Requirements for Maintenance Inspections**

In response to the events in Walkerton of 2000, the Government of Ontario appointed a public inquiry, which resulted in Justice Dennis O'Connor's report in 2002. The report concluded that drinking water should be protected at its source through a coordinated planning process. Among other matters, improperly installed and poorly maintained septic systems were identified as a potential threat to drinking water.

In response to Justice O'Connor's report, the government introduced the Clean Water Act, 2006, which was proclaimed in force on July 3, 2007. This legislation permits communities to protect their municipal drinking water supplies by creating multi-stakeholder committees that are required to develop collaborative, locally driven, science-based protection plans. These committees will identify potential risks to local water sources and identify actions to be taken to reduce or eliminate these risks.

The Clean Water Act, 2006 included complimentary amendments to the Building Code Act, 1992, concerning maintenance inspection programs for on-site sewage systems.

These amendments authorize regulations to establish programs to enforce the Building Code's standards for the maintenance and operation of existing sewage systems, and to require that these programs be enforced by principal authorities.

It is proposed that required maintenance inspection programs would apply to sewage systems located in prescribed areas. These areas are anticipated to be a subset of the "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 Clean Water Act, 2006. The method of delineating these areas will be set out in future technical rules under the Clean Water Act, 2006.

Questions related to the Clean Water Act, 2006 and source protection plans can be directed to:

"Ask the Expert" at [source.protection@ontario.ca](mailto:source.protection@ontario.ca)

Source Protection Programs Branch  
Ministry of the Environment  
8th Floor, 2 St Clair Ave W  
Toronto, ON, M4V1L5

The amendments to the Building Code Act, 1992 also authorize principal authorities to establish "discretionary" maintenance inspection programs for existing sewage systems. These programs would be subject to provisions under the Building Code.

The amendments to the Building Code Act, 1992 authorize principal authorities to pass by-laws, regulations or resolutions governing both types of programs.

The amendments to the Building Code Act, 1992 also provide for the Building Code to authorize principal authorities to accept a certificate ("third party certificate"), as an alternative to conducting an inspection, confirming that a sewage system has been inspected and found to comply with the applicable Building Code standards.

This consultation paper proposes that changes be made to the Building Code to establish the following details related to required and discretionary maintenance inspection programs:

Classes of sewage systems affected;

Areas affected;

Qualifications of inspectors;

The frequency of inspections; and

Requirements related to third party certificates.

The purpose of the proposed standards for maintenance inspections is to assess compliance with Section 8.9, Operation and Maintenance, of the Building Code in respect of existing on-site sewage systems. These proposed administrative amendments are intended to assure compliance with Section 8.9 in order to better support the Code's health and safety and environmental integrity objectives.

This consultation paper proposes a maintenance inspection methodology for possible inclusion as an Appendix Note to the Building Code. This methodology could be considered by principal authorities when designing maintenance inspection programs for on-site sewage systems.

Transition

The Building Code requirements related to discretionary maintenance inspection programs are proposed to come into force on January 1, 2009.

The required programs will not be in force until a source protection plan for a given area is approved by the Minister of the Environment. The plans are required under O. Regulation 285/07 made under the Clean Water Act, 2006, and are anticipated to be submitted to the Minister of the Environment by 2012.

## 2) Technical Requirements for Area Beds

The Ministry is also seeking comments on proposed technical changes to Part 8 of Division B in respect of the design and construction of area bed on-site sewage systems.

Area beds are a soil absorption system used in conjunction with an on-site sewage system that includes a tertiary treatment unit listed in the supplementary standards (SB-5) to the Building Code. Area beds are designed to further treat and disperse effluent within the soil. They are comprised of a stone layer situated on top of a sand layer and may be installed in or on soil.

The Building Code does not presently contain specific requirements relating to the design and construction of area bed systems. The Ministry is proposing to establish area bed requirements in the Building Code.

Specifically, the proposed construction requirements for area beds include:

Their size or footprint;

Sizing the stone and sand layers and when a "mantle" of imported fill is necessary;

Their thickness and the type of sand used;

Means of ensuring proper distribution of effluent; and

Maintenance and testing.

Transition

The proposed Building Code requirements related to area bed systems are proposed to come into force upon filing.

### **Comment Submission**

We look forward to receiving your comments on the proposed technical and administrative changes to the Building Code. Your active involvement helps ensure that potential Code changes are fully informed, are technically and economically feasible, and are enforceable.

#### **Steps to submission:**

Review this consultation paper, including the specific regulatory proposals;

Complete Part A of the Comment Form included in this Consultation Paper; and

Complete Parts B and/or C, depending on which proposed Building Code amendments you would like to comment on.

Your response to this consultation must be received by the Ministry by:

### **May 1, 2008**

In order to maximize the effectiveness of your comments and to fully understand your views, we ask that your comments relate to the specific proposed changes listed in this consultation. A comment that refers to other requirements in the Code, for which no change is proposed, will not be considered as part of this consultation. However, should you wish to comment on other Code requirements, you may do so by completing the "Code Change Request Form to 2006 Building Code" available on the Building Code website at:

[www.ontario.ca/buildingcode](http://www.ontario.ca/buildingcode)

If you do not support the proposed changes, or would support the changes with modifications, please include an explanation of the rationale for your concerns to help the Ministry and the Technical Advisory Committees understand your views.

In reviewing the proposed changes, you are encouraged to keep in mind a number of considerations related to the benefits and impacts of the proposed changes. Some possible considerations are set out below.

For tracking purposes please remember to include the following on each Comment Form:

Your name;

Your mailing address; and

Whether you are responding on behalf of yourself or an organization.

Completed Comment Forms and supporting documents may be submitted to the Ministry by website, e-mail, fax, or mail:

**To submit an online comment, follow this link:**

[www.ontario.ca/buildingcode](http://www.ontario.ca/buildingcode)

**E-mail:**

[sabina.filipescu@ontario.ca](mailto:sabina.filipescu@ontario.ca)

Subject Line: 2008 Building Code Consultation

**Mail:**

2008 Building Code Consultation  
c/o Building and Development Branch  
Ministry of Municipal Affairs and Housing  
777 Bay Street – 2nd Floor  
Toronto, ON  
M5G 2E5

**Fax:**

(416) 585-7531

Subject Line: 2008 Building Code Consultation

Any questions on the consultation may be directed to:

David Brezer, Director and Chief Building Official

(416) 585-6656

Sabina Filipescu, Policy Advisor

(416) 585-6753

**Considerations for Comment**

Below is a list of things to keep in mind when preparing your submission to the consultation.

**Considerations regarding the proposed requirements for on-site sewage systems**

What are the economic benefits resulting from the manufacture, installation and repair of on-site sewage systems?

Is there sufficient capacity within the industry to design, manufacture, supply, install, maintain and test on-site sewage systems?

Do the proposed technical area bed standards provide an acceptable level of health and safety and environmental protection?

Do the proposed transition periods provide sufficient time for industry/stakeholders to prepare for these Code changes?

Are there implementation alternatives (e.g., qualification of inspectors, frequency of inspections) that could achieve similar outcomes?

Are the proposed Code changes readily enforceable? What are the impacts on local authorities to undertake maintenance inspections?

Is the proposed maintenance inspection methodology helpful? If so, what form should it take (e.g., regulations within the Building Code, an Appendix Note)?

Would any additional technical training be required for building officials, builders, designers, installers, septage haulers, etc?

**Comment Form**

Online comment form is available at

[www.obc.mah.gov.on.ca/Page2995.aspx](http://www.obc.mah.gov.on.ca/Page2995.aspx)

## **REGIONAL INFORMATION SESSIONS**

You are invited to attend regional information sessions and comment on the proposed changes outlined in the consultation documents. The regional information sessions will be held in coordination with the Office of the Fire Marshal's Town Halls on fire safety issues. Regional information sessions will be open to the public and reservations are not required. These information sessions will take place on:

<b>MMAH Regional Information Sessions</b>				
Location	Date	Time	Venue	Location
Sudbury	17-Mar-08	10:00 – 12:00	Ambassador Hotel	225 Falconbridge Road, Sudbury
London	19-Mar-08	10:00 – 12:00	Holiday Inn	864 Exeter Rd.
Thunder Bay	31-Mar-08	10:00 – 12:00	Valhalla Inn	1 Valhalla Inn Road
Ottawa	02-Apr-08	10:00 – 12:00	Travelodge	1376 Carling Ave.
Hamilton	07-Apr-08	10:00 – 12:00	Courtyard Marriott Hotel	1224 Upper James Street
Toronto	08-Apr-08	10:00 – 12:00	Le Parc Conference Centre	8432 Leslie St

If you have questions about these proposed amendments or consultations, please contact Sabina Filipescu, Policy Adviser, at 416-585-6753.

OOWA is urging all its members to participate by sending your comments to the OOWA Government Relations Committee via email [dorendt@yahoo.ca](mailto:dorendt@yahoo.ca) or by fax: 905-372-0322

**All OOWA members are encouraged to attend the information sessions taking place in their area.**

If you require additional information please contact;

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Cobourg, ON K9A 4S3  
Tel: 905-372-2722  
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