

## Building Code Act, 1992

### S.O. 1992, CHAPTER 23

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## INTERPRETATION

### Definitions

1. (1) In this Act,
  - “building” means,
    - (a) a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto,
    - (b) a structure occupying an area of ten square metres or less that contains plumbing, including the plumbing appurtenant thereto,
    - (c) plumbing not located in a structure,
    - (c.1) a sewage system, or
    - (d) structures designated in the building code; (“bâtiment”)

“building code” means regulations made under section 34; (“code du bâtiment”)

“change certificate” means a certificate prescribed under the building code or approved by the Minister as a change certificate; (“certificat de modification”)

“chief building official” means a chief building official appointed or constituted under section 3 or 4; (“chef du service du bâtiment”)

“code of conduct” means a code of conduct described in section 7.1; (“code de conduite”)

“construct” means to do anything in the erection, installation, extension or material alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere and “construction” has a corresponding meaning; (“construire”, “construction”, “travaux de construction”)

“demolish” means to do anything in the removal of a building or any material part thereof and “demolition” has a corresponding meaning; (“démolir”, “démolition”, “travaux de démolition”)

“director” means the person appointed as director under section 2; (“directeur”)

“final certificate” means a certificate prescribed under the building code or approved by the Minister as a final certificate; (“certificat définitif”)

“inspector” means an inspector appointed under section 3, 3.1, 4, 6.1 or 6.2; (“inspecteur”)

“maintenance inspection” means an inspection conducted under a maintenance inspection program; (“inspection d’entretien”)

“maintenance inspection program” means a program established under clause 7 (1) (b.1) or subsection 34 (2.2); (“programme d’inspections d’entretien”)

“Minister” means the Minister of Municipal Affairs and Housing; (“ministre”)

“municipality” means a local municipality; (“municipalité”)

“officer” means a property standards officer who has been assigned the responsibility of administering and enforcing by-laws passed under section 15.1; (“agent”)

“planning board” means a planning board established under section 9 or 10 of the *Planning Act*; (“conseil d’aménagement”)

“plans review certificate” means a certificate prescribed under the building code or approved by the Minister as a plans review certificate; (“certificat d’examen des plans”)

“plumbing” means a drainage system, a venting system and a water system or parts thereof; (“installation de plomberie”)

“principal authority” means,

- (a) the Crown,
- (b) the council of a municipality,
- (c) an upper-tier municipality that has entered into an agreement under subsection 3 (5), 6.1 (1) or 6.2 (1),
- (d) a board of health that has been prescribed for the purposes of subsection 3.1 (1) or has entered into an agreement under subsection 6.1 (2) or (3) or 6.2 (2),
- (e) a planning board that has been prescribed for the purposes of subsection 3.1 (1), or
- (f) a conservation authority that has been prescribed for the purposes of subsection 3.1 (1) or has entered into an agreement under subsection 6.2 (2); (“autorité principale”)

“registered code agency” means a person that has the qualifications and meets the requirements described in subsection 15.11 (4); (“organisme inscrit d’exécution du code”)

“regulations” means regulations made under this Act. (“règlements”) 1992, c. 23, s. 1 (1); 1997, c. 24, s. 224 (1, 2); 1997, c. 30, Sched. B, s. 1; 1999, c. 12, Sched. M, s. 1; 2002, c. 9, s. 2 (1-3); 2002, c. 17, Sched. C, s. 1 (1); 2002, c. 17, Sched. F, Table; 2006, c. 19, Sched. O, s. 1 (1); 2006, c. 21, Sched. F, s. 104 (1-3); 2006, c. 22, s. 112 (1).

#### **Interpretation**

(1.1) Except as provided in subsection (1.2), a reference to “this Act” in any provision of this Act shall be deemed to be a reference to this Act excluding sections 15.1 to 15.8. 1997, c. 24, s. 224 (3).

#### **Same**

(1.2) A reference to “this Act” in subsection 1 (1) and sections 2, 16, 19, 20, 21, 27, 31, 36 and 37 includes a reference to sections 15.1 to 15.8. 1997, c. 24, s. 224 (3).

**Chief building official**

(1.3) A reference to the “chief building official” in this Act, other than in subsections 1 (1), 3 (2), (3) and (6) and section 4, includes an inspector who has the same powers and duties as the chief building official,

- (a) in relation to sewage systems by virtue of subsections 3.1 (3) or 6.2 (4); and
- (b) in relation to plumbing by virtue of subsection 6.1 (5). 2002, c. 9, s. 2 (4).

**Exclusion**

(2) This Act does not apply to structures used directly in the extraction of ore from a mine. 1992, c. 23, s. 1 (2).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (1-3) - 17/06/1998; 1997, c. 30, Sched. B, s. 1 (1, 2) - 06/04/1998; 1999, c. 12, Sched. M, s. 1 - 22/12/1999  
2002, c. 9, s. 1, 2 (1-4) - 01/07/2005; 2002, c. 17, Sched. C, s. 1 (1) - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003  
2006, c. 19, Sched. O, s. 1 (1) - 22/06/2006; 2006, c. 21, Sched. F, s. 104 (1-3) - 25/07/2007; 2006, c. 22, s. 112 (1) - 03/07/2007

**Role of various persons**

1.1 (1) It is the role of every person who causes a building to be constructed,

- (a) to cause the building to be constructed in accordance with this Act and the building code and with any permit issued under this Act for the building;
- (b) to ensure that construction does not proceed unless any permit required under this Act has been issued by the chief building official; and
- (c) to ensure that construction is carried out only by persons with the qualifications and insurance, if any, required by this Act and the building code. 2002, c. 9, s. 3.

**Role of designers**

(2) It is the role of a designer,

- (a) if the designer’s designs are to be submitted in support of an application for a permit under this Act, to provide designs which are in accordance with this Act and the building code and to provide documentation that is sufficiently detailed to permit the design to be assessed for compliance with this Act and the building code and to allow a builder to carry out the work in accordance with the design, this Act and the building code;
- (b) to perform the role described in clause (a) in respect of only those matters for which the designer has the qualifications, if any, required by this Act and the building code; and
- (c) if the building code requires that all or part of the design or construction of a building be under general review, to perform the general review in respect of only those matters for which the designer has the qualifications, if any, required by this Act and the building code. 2002, c. 9, s. 3.

**Role of builders**

(3) It is the role of a builder,

- (a) to ensure that construction does not proceed unless any permit required under this Act has been issued by the chief building official;
- (b) to construct the building in accordance with the permit;
- (c) to use appropriate building techniques to achieve compliance with this Act and the building code; and
- (d) when site conditions affect compliance with the building code, to notify the designer and an inspector or the registered code agency, as appropriate. 2002, c. 9, s. 3.

**Role of manufacturers, etc.**

(4) It is the role of manufacturers, suppliers and retailers of products that are intended for use in Ontario in the construction of a building for a purpose that is regulated by this Act or the building code to ensure that the products comply with the standards established under this Act and the building code. 2002, c. 9, s. 3.

**Role of registered code agencies**

- (5) It is the role of a registered code agency,
- (a) to exercise powers and perform duties under this Act and the building code in connection with reviewing plans, issuing certificates, inspecting construction and performing other functions in accordance with this Act and the building code; and
  - (b) to carry out the duties of a registered code agency under this Act and the building code in respect of only those matters for which the registered code agency is qualified under this Act and the building code. 2002, c. 9, s. 3.

**Role of chief building officials**

- (6) It is the role of a chief building official,
- (a) to establish operational policies for the enforcement of this Act and the building code within the applicable jurisdiction;
  - (b) to co-ordinate and oversee the enforcement of this Act and the building code within the applicable jurisdiction;
  - (c) to exercise powers and perform the other duties assigned to him or her under this Act and the building code; and
  - (d) to exercise powers and perform duties in accordance with the standards established by the applicable code of conduct. 2002, c. 9, s. 3.

**Role of inspectors**

- (7) It is the role of an inspector,
- (a) to exercise powers and perform duties under this Act and the building code in connection with reviewing plans, inspecting construction, conducting maintenance inspections and issuing orders in accordance with this Act and the building code;
  - (b) to exercise powers and perform duties in respect of only those matters for which he or she has the qualifications required by this Act and the building code; and
  - (c) to exercise powers and perform duties in accordance with the standards established by the applicable code of conduct. 2002, c. 9, s. 3; 2006, c. 22, s. 112 (2).

**Limitation**

(8) Nothing in this section relieves any person from the duty to comply with any part of this Act or the building code or affects the rights or duties of a person not mentioned in this section in respect of the construction of a building. 2002, c. 9, s. 3; 2006, c. 19, Sched. O, s. 1 (2).

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 3 - 01/07/2005

2006, c. 19, Sched. O, s. 1 (2) - 22/06/2006; 2006, c. 22, s. 112 (2) - 03/07/2007

**ENFORCEMENT AUTHORITIES****Administration**

2. (1) The Minister is responsible for the administration of this Act. 1992, c. 23, s. 2 (1).

**Director**

(2) There shall be a director of the Building and Development Branch of the Ministry of Municipal Affairs and Housing who is appointed by the Lieutenant Governor in Council for the purposes of this Act. 2002, c. 9, s. 5.

**Acting director**

(3) The director may designate in writing a public servant employed under Part III of the *Public Service of Ontario Act, 2006* who works in the Ministry of Municipal Affairs and Housing to exercise the powers and perform the duties of the director in his or her absence or if he or she is unable to act. 2009, c. 33, Sched. 21, s. 2 (1).

**Delegation**

(4) The director may delegate in writing any of his or her powers or duties to one or more public servants employed under Part III of the *Public Service of Ontario Act, 2006* who work in the Ministry of Municipal Affairs and Housing, and may impose conditions or restrictions with respect to the delegation. 2009, c. 33, Sched. 21, s. 2 (1).

### **Section Amendments with date in force (d/m/y)**

1993, c. 27, Sched. - 31/12/1991; 1997, c. 24, s. 224 (4) - 17/06/1998

2002, c. 9, s. 4 - 01/07/2005; 2002, c. 9, s. 5 - 01/09/2003

2009, c. 33, Sched. 21, s. 2 (1) - 15/12/2009

#### **Enforcement by municipalities**

3. (1) The council of each municipality is responsible for the enforcement of this Act in the municipality, except where otherwise provided by this Act. 2002, c. 9, s. 6 (1).

#### **Chief building official, inspectors**

(2) The council of each municipality shall appoint a chief building official and such inspectors as are necessary for the enforcement of this Act in the areas in which the municipality has jurisdiction. 1992, c. 23, s. 3 (2).

(2.1) REPEALED: 2002, c. 9, s. 6 (2).

#### **Joint enforcement**

(3) The councils of two or more municipalities may enter into an agreement,

(a) providing for the joint enforcement of this Act within their respective municipalities;

(b) providing for the sharing of costs incurred in the enforcement of this Act within their respective municipalities; and

(c) providing for the appointment of a chief building official and inspectors. 1992, c. 23, s. 3 (3).

#### **Joint jurisdiction**

(4) If an agreement under subsection (3) is in effect, the municipalities have joint jurisdiction in the area comprising the municipalities. 1992, c. 23, s. 3 (4).

#### **Enforcement by upper-tier**

(5) The council of an upper-tier municipality and of one or more municipalities in the upper-tier municipality may enter into an agreement for the enforcement by the upper-tier municipality of this Act in the municipalities and for charging the municipalities the whole or part of the cost. 2002, c. 17, Sched. F, Table.

#### **Power of upper-tier**

(6) If an agreement under subsection (5) is in effect, the upper-tier municipality has jurisdiction for the enforcement of this Act in the municipalities that are parties to the agreement and shall appoint a chief building official and such inspectors as are necessary for that purpose. 2002, c. 17, Sched. F, Table.

(7) REPEALED: 2002, c. 17, Sched. F, Table.

#### **Certificate**

(8) The clerk of the municipality or upper-tier municipality shall issue a certificate of appointment bearing the clerk's signature or a facsimile of it to the chief building official and each inspector appointed by the municipality or upper-tier municipality. 1992, c. 23, s. 3 (8); 2002, c. 17, Sched. F, Table.

#### **Records**

(9) Every municipality and every upper-tier municipality that has jurisdiction for the enforcement of this Act shall retain such records as may be prescribed by regulation for the prescribed period of time. 2002, c. 9, s. 6 (3); 2002, c. 17, Sched. C, s. 2 (1).

### **Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 2 - 06/04/1998

2000, c. 5, s. 7 - 01/01/2001

2002, c. 9, s. 6 (1, 2) - 01/09/2003; 2002, c. 9, s. 6 (3) - 01/07/2005; 2002, c. 17, Sched. C, s. 2 (1) - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

#### **Enforcement, boards of health**

3.1 (1) A board of health, a planning board or a conservation authority prescribed in the building code is responsible for the enforcement of the provisions of this Act and the building code related to sewage systems in the municipalities and

territory without municipal organization prescribed in the building code. 1997, c. 30, Sched. B, s. 3; 1999, c. 12, Sched. M, s. 2 (1).

#### **Inspectors**

(2) The board of health, planning board or conservation authority shall appoint such sewage system inspectors as are necessary for the enforcement of this Act in the areas in which the board of health, planning board or conservation authority has jurisdiction under subsection (1). 1997, c. 30, Sched. B, s. 3; 1999, c. 12, Sched. M, s. 2 (2).

#### **Powers**

(3) A sewage system inspector appointed under this section in an area of jurisdiction or, if there is more than one inspector in the area of jurisdiction, the inspector designated by the board of health, planning board or conservation authority has the same powers and duties in relation to sewage systems as does the chief building official in respect of buildings. 1997, c. 30, Sched. B, s. 3; 1999, c. 12, Sched. M, s. 2 (3).

#### **Jurisdiction**

(4) A board of health, planning board or conservation authority prescribed for the purposes of subsection (1) has jurisdiction for the enforcement of this Act in the prescribed municipalities and territory without municipal organization. 1997, c. 30, Sched. B, s. 3; 1999, c. 12, Sched. M, s. 2 (4).

#### **Responsibility**

(5) If sewage system inspectors have been appointed under this section, the chief building official and inspectors appointed under section 3 or 4 shall not exercise their powers under this Act in respect of sewage systems. 1997, c. 30, Sched. B, s. 3.

#### **Certificate**

(6) The medical officer of health or the secretary-treasurer of a planning board or conservation authority shall issue a certificate of appointment bearing his or her signature, or a facsimile of it, to each sewage system inspector appointed by the board of health, planning board or conservation authority. 1997, c. 30, Sched. B, s. 3; 1999, c. 12, Sched. M, s. 2 (5).

#### **Records**

(7) Every board of health, planning board and conservation authority prescribed for the purposes of subsection (1) shall retain such records as may be prescribed by regulation for the prescribed period of time. 2002, c. 9, s. 7.

#### **Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 3 - 06/04/1998; 1999, c. 12, Sched. M, s. 2 (1-5) - 22/12/1999

2002, c. 9, s. 7 - 01/07/2005

#### **Provincial enforcement**

4. (1) Subject to section 3.1, Ontario is responsible for the enforcement of this Act in a territory without municipal organization. 1992, c. 23, s. 4 (1); 1997, c. 30, Sched. B, s. 4.

#### **Agreements**

(2) The council of a municipality and the Crown in right of Ontario represented by the Minister may enter into an agreement providing for the enforcement of this Act in the municipality by Ontario subject to such payment in respect of costs as is set out in the agreement. 1992, c. 23, s. 4 (2).

#### **Idem**

(3) If an agreement under subsection (2) is in effect, Ontario has jurisdiction for the enforcement of this Act in the municipality. 1992, c. 23, s. 4 (3).

#### **Inspectors**

(4) Inspectors necessary for the enforcement of this Act in the areas in which Ontario has jurisdiction shall be appointed under Part III of the *Public Service of Ontario Act, 2006*. 1992, c. 23, s. 4 (4); 2006, c. 35, Sched. C, s. 8 (1).

#### **Chief building official**

(5) The director is the chief building official for the areas in which Ontario has jurisdiction. 1992, c. 23, s. 4 (5).

#### **Certificate**

(6) The Deputy Minister of Municipal Affairs and Housing shall issue a certificate of appointment bearing his or her signature or a facsimile of it to the director and each inspector appointed under subsection (4). 1992, c. 23, s. 4 (6); 1997, c. 24, s. 224 (5).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (5) - 17/06/1998; 1997, c. 30, Sched. B, s. 4 - 06/04/1998

2006, c. 35, Sched. C, s. 8 (1) - 20/08/2007

**Enforcement by registered code agency appointed by a principal authority**

4.1 (1) Subject to this Act and the building code, a principal authority may enter into agreements with registered code agencies authorizing the agency to perform the functions specified in the agreement in respect of the construction of any building or class of building specified in the agreement. 2002, c. 9, s. 8.

**Appointment**

(2) After entering into the agreement with the registered code agency, the principal authority may appoint the agency to perform specified functions in respect of the construction of a building or class of buildings. 2002, c. 9, s. 8.

**Delegation of power to appoint**

(3) The principal authority may delegate, in writing, to the chief building official the authority to make appointments described in subsection (2), and may impose conditions or restrictions with respect to the delegation. 2002, c. 9, s. 8.

**Same**

(4) Unless otherwise provided in the building code, an appointment of a registered code agency may authorize the agency to perform all of the applicable functions described in section 15.15,

- (a) before a permit is issued under section 8;
- (b) after a permit is issued under section 8; or
- (c) both before and after a permit is issued under section 8. 2002, c. 9, s. 8.

**Conflicts**

(5) A registered code agency shall not accept an appointment in the circumstances set out in the building code or if it would have a conflict of interest as determined in accordance with the building code. 2002, c. 9, s. 8.

**Effect of appointment**

(6) A registered code agency shall perform the functions specified in the appointment for the construction of a specified building or class of buildings and subject to the restrictions set out in this Act and the building code, and shall do so in the manner and subject to the restrictions, if any, set out in the building code. 2002, c. 9, s. 8.

**Same**

(7) The duty of the registered code agency to perform those functions begins when the appointment is made and ends when the appointment expires as described in section 15.19 or is terminated in accordance with section 15.20. 2002, c. 9, s. 8.

**Notice to the director**

(8) A principal authority that appoints a registered code agency shall give the director such information as may be prescribed by regulation. 2002, c. 9, s. 8.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 8 - 01/07/2005

**Enforcement by registered code agency appointed by an applicant**

4.2 (1) This section applies only if a principal authority authorizes it, by regulation, by-law or resolution, as the case may be, to apply within the jurisdiction of the principal authority. 2002, c. 9, s. 8.

**Appointment**

(2) Subject to this Act and the building code, a prescribed person who is entitled to apply for a permit under section 8 of this Act may appoint a registered code agency to perform all of the functions described in section 15.15 in respect of the construction of a building. 2002, c. 9, s. 8.



**Exception**

(3) Subsection (2) does not apply,

(a) if a registered code agency has been appointed by a principal authority to perform any function in respect of the construction; or

(b) if an inspector has begun to perform any function in respect of the construction. 2002, c. 9, s. 8.

**Manner of appointment**

(4) The appointment must be made in writing in the prescribed manner and is subject to the prescribed conditions and restrictions. 2002, c. 9, s. 8.

**Conflicts**

(5) A registered code agency shall not accept an appointment in the circumstances set out in the building code or if it would have a conflict of interest as determined in accordance with the building code. 2002, c. 9, s. 8.

**Effect of appointment**

(6) A registered code agency shall perform its functions for the specified building subject to the restrictions set out in this Act and the building code and shall do so in the manner and subject to the restrictions, if any, set out in the building code. 2002, c. 9, s. 8.

**Same**

(7) The duty of the registered code agency to perform those functions begins when the appointment is made and ends when the appointment expires as described in section 15.19 or is terminated in accordance with section 15.20. 2002, c. 9, s. 8.

**Replacement agency**

(8) A person who has appointed a registered code agency under subsection (2) in respect of the construction of a building cannot replace the agency after it has begun to perform any function in respect of the construction unless the appointment of that agency has expired as described in section 15.19 or has been terminated in accordance with section 15.20. 2002, c. 9, s. 8.

**Notice to director**

(9) The person who appoints a registered code agency under this section shall give the director such information as may be prescribed by regulation. 2002, c. 9, s. 8.

**Notice to chief building official**

(10) The person who appoints a registered code agency under this section shall give the chief building official such information as may be prescribed by regulation. 2002, c. 9, s. 8.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 8 - 01/07/2005

**Agreements re enforcement**

5. (1) The council of a municipality adjacent to territory without municipal organization and the Crown in right of Ontario represented by the Minister may enter into an agreement providing for the enforcement of this Act by the municipality in such part of the territory without municipal organization and subject to such payment in respect of costs as is set out in the agreement. 1992, c. 23, s. 5 (1).

**Area of municipal jurisdiction**

(2) The municipality has jurisdiction for the enforcement of this Act in the area designated in the agreement. 1992, c. 23, s. 5 (2).

**Application**

(3) An agreement under this section may apply to the enforcement of all or any part of this Act or the building code. 1997, c. 30, Sched. B, s. 5.

**Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 5 - 06/04/1998

**Agreement re review of plans**

6. (1) Two or more principal authorities may enter into an agreement providing for,
- (a) the review by a principal authority for compliance with the building code of plans and specifications for the construction of a building within its area of jurisdiction;
  - (b) an expedited review by another principal authority for compliance with the building code of plans and specifications for the construction of substantially similar buildings;
  - (c) the allocation of responsibility for reviews for compliance with the building code of plans and specifications for the construction of buildings;
  - (d) the resolution of disagreements about whether plans and specifications comply with the building code;
  - (e) indemnification; and
  - (f) such other matters as may be necessary to give effect to the agreement. 2002, c. 9, s. 9.

**Delegation**

(2) A principal authority may delegate to the chief building official the authority to make such decisions under an agreement as may be necessary for its implementation. 2002, c. 9, s. 9.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 9 - 01/07/2005

**Agreement re plumbing**

6.1 (1) Despite any other provision of this Act, the council of an upper-tier municipality and of one or more municipalities in the upper-tier municipality may enter into an agreement for the enforcement by the upper-tier municipality of the provisions of this Act and the building code related to plumbing in the municipalities and for charging the municipalities the whole or part of the cost. 2002, c. 17, Sched. C, s. 3 (1).

**Delegation to health unit**

(2) If an agreement under subsection (1) is in effect, the council of an upper-tier municipality may by agreement delegate its powers under subsection (1) to a board of health having jurisdiction in the municipalities that are parties to the agreement. 2002, c. 9, s. 10; 2002, c. 17, Sched. C, s. 3 (2).

**Delegation by municipality**

(3) A municipality that is not a party to an agreement under subsection (1) may enter into an agreement with the board of health having jurisdiction in the municipality for the enforcement of the provisions of this Act and the building code relating to plumbing. 2002, c. 9, s. 10.

**Plumbing inspectors**

(4) The council of an upper-tier municipality or the board of health may appoint plumbing inspectors for the purpose of this section. 2002, c. 9, s. 10; 2002, c. 17, Sched. C, s. 3 (3).

**Powers**

(5) A plumbing inspector appointed under this section or, if there is more than one inspector in the area of jurisdiction, the senior plumbing inspector has the same powers and duties in relation to plumbing as does the chief building official in respect of buildings other than the issuance of conditional permits. 2002, c. 9, s. 10.

**Responsibility**

(6) If plumbing inspectors have been appointed under this section, the chief building official and inspectors appointed under section 3 or 4 shall not exercise their powers under this Act in respect of plumbing. 2002, c. 9, s. 10.

**Application**

(7) Subsections 3 (8) and (9) and section 7 apply with necessary modifications to the council of an upper-tier municipality or a board of health that has assumed responsibility for plumbing under this section. 2002, c. 9, s. 10; 2002, c. 17, Sched. C, s. 3 (4).

**Transition, plumbing**

(8) If, on July 1, 1993, an upper-tier municipality was carrying out plumbing inspections under the *Ontario Water Resources Act* in the municipalities that formed part of the upper-tier municipality, the upper-tier municipality shall enforce the provisions of this Act and the building code related to plumbing in all of the municipalities forming part of the upper-tier

municipality until the council of the upper-tier municipality by by-law determines otherwise, whereupon section 3 applies. 2002, c. 17, Sched. C, s. 3 (5).

#### **Same**

(9) Subsections (4) to (7) apply with necessary modifications to an upper-tier municipality that has assumed responsibility for plumbing under subsection (8). 2002, c. 9, s. 10; 2002, c. 17, Sched. C, s. 3 (6).

#### **Interpretation**

(10) For the purpose of subsection (8), an upper-tier municipality that has been deemed to be a county by any general or special Act for the purposes of section 76 of the *Ontario Water Resources Act*, as it read on June 30, 1993, shall be deemed to be an upper-tier municipality that was carrying out plumbing inspections under the *Ontario Water Resources Act* in the municipalities that formed part of the upper-tier municipality for municipal purposes on July 1, 1993. 2002, c. 17, Sched. C, s. 3 (7).

#### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 10 - 01/07/2005; 2002, c. 17, Sched. C, s. 3 (1-7) - 01/07/2005

#### **Agreement re sewage systems**

6.2 (1) Despite any other provision of this Act, the council of an upper-tier municipality and of one or more municipalities in the upper-tier municipality may enter into an agreement for the enforcement by the upper-tier municipality of the provisions of this Act and the building code related to sewage systems in the municipalities and for charging the municipalities the whole or part of the cost. 2002, c. 17, Sched. C, s. 3 (8).

#### **Delegation**

(2) A municipality that is not a party to an agreement under subsection (1) may enter into an agreement with a board of health or a conservation authority having jurisdiction in the municipality for the enforcement of the provisions of this Act and the building code related to sewage systems. 2002, c. 9, s. 10.

#### **Inspectors**

(3) The council of an upper-tier municipality, board of health or conservation authority may appoint sewage system inspectors for the purposes of this section. 2002, c. 9, s. 10; 2002, c. 17, Sched. C, s. 3 (9).

#### **Powers**

(4) A sewage system inspector appointed under this section in an area of jurisdiction or, if there is more than one inspector in the area of jurisdiction, the inspector designated by the council of an upper-tier municipality, board of health or conservation authority has the same powers and duties in relation to sewage systems as does the chief building official in respect of buildings. 2002, c. 9, s. 10; 2002, c. 17, Sched. C, s. 3 (10).

#### **Responsibility**

(5) If sewage system inspectors have been appointed under this section, the chief building official and inspectors appointed under section 3 or 4 shall not exercise their powers under this Act in respect of sewage systems. 2002, c. 9, s. 10.

#### **Application**

(6) Subsections 3 (8) and (9) and section 7 apply with necessary modifications to the council of an upper-tier municipality, board of health or conservation authority that has assumed responsibility for sewage systems under this section. 2002, c. 9, s. 10; 2002, c. 17, Sched. C, s. 3 (11).

#### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 10 - 01/07/2005; 2002, c. 17, Sched. C, s. 3 (8-11) - 01/07/2005

#### **By-laws, resolutions, regulations**

7. (1) The council of a municipality or of an upper-tier municipality that has entered into an agreement under subsection 3 (5) or a board of health prescribed for the purposes of section 3.1 may pass by-laws, a planning board prescribed for the purposes of section 3.1 may pass resolutions and a conservation authority prescribed for the purposes of section 3.1 or the Lieutenant Governor in Council may make regulations, applicable to the matters for which and in the area in which the municipality, upper-tier municipality, board of health, planning board, conservation authority or the Province of Ontario, respectively, has jurisdiction for the enforcement of this Act,

- (a) prescribing classes of permits under this Act, including permits in respect of any stage of construction or demolition;

- (b) providing for applications for permits and requiring the applications to be accompanied by such plans, specifications, documents and other information as is prescribed;
- (b.1) subject to the regulations made under subsection 34 (2.1), establishing and governing a program to enforce standards prescribed under clause 34 (2) (b), in addition to any programs established under subsection 34 (2.2);
- (b.2) subject to the regulations made under subsection 34 (2.2), governing a program established under subsection 34 (2.2);
- (c) requiring the payment of fees on applications for and on the issuance of permits, requiring the payment of fees for maintenance inspections, and prescribing the amounts of the fees;
- (c.1) requiring the payment of interest and other penalties, including payment of collection costs, when fees are unpaid or are paid after the due date;
- (d) providing for refunds of fees under such circumstances as are prescribed;
- (e) requiring a person specified in the building code to give notice to the chief building official or an inspector or to a registered code agency if one is appointed, of any of the stages of construction specified in the building code, in addition to the stages of construction prescribed under subsection 10.2 (1) and prescribing the period of time after such notice is given during which an inspection may be carried out;
- (f) prescribing forms respecting permits and applications for permits and providing for their use;
- (g) enabling the chief building official to require that a set of plans of a building or any class of buildings as constructed be filed with the chief building official on completion of the construction under such conditions as may be prescribed in the building code;
- (h) providing for the transfer of permits when land changes ownership;
- (i) requiring the person to whom a permit is issued to erect and maintain fences to enclose the site of the construction or demolition within such areas of the municipality as may be prescribed;
- (j) prescribing the height and description of the fences required under clause (i). 1992, c. 23, s. 7; 1997, c. 30, Sched. B, s. 6; 1999, c. 12, Sched. M, s. 3; 2002, c. 9, s. 11 (1); 2002, c. 17, Sched. F, Table; 2006, c. 19, Sched. O, s. 1 (5); 2006, c. 22, s. 112 (3-5).

**Fees**

(2) The total amount of the fees authorized under clause (1) (c) must not exceed the anticipated reasonable costs of the principal authority to administer and enforce this Act in its area of jurisdiction. 2002, c. 9, s. 11 (2).

**Reduction in fees**

(3) A regulation, by-law or resolution establishing fees under clause (1) (c) must provide for reduced fees to be payable in respect of the construction of a building for which a registered code agency is appointed under section 4.2. 2002, c. 9, s. 11 (2).

**Report on fees**

(4) Every 12 months, each principal authority shall prepare a report that contains such information as may be prescribed about any fees authorized under clause (1) (c) and costs of the principal authority to administer and enforce this Act in its area of jurisdiction. 2002, c. 9, s. 11 (2).

**Same**

(5) The principal authority shall make its report available to the public in the manner required by regulation. 2002, c. 9, s. 11 (2).

**Change in fees**

(6) If a principal authority proposes to change any fee imposed under clause (1) (c), the principal authority shall,

- (a) give notice of the proposed changes in fees to such persons as may be prescribed; and
- (b) hold a public meeting concerning the proposed changes. 2002, c. 9, s. 11 (2); 2006, c. 22, s. 112 (6).

**Same, notice**

(7) The notice of proposed changes in fees must contain the prescribed information, including information about the public meeting, and must be given in the prescribed manner. 2002, c. 9, s. 11 (2).

**Same, public meeting**

(8) The public meeting concerning proposed changes in fees must be held within the period specified by regulation before the regulation, by-law or resolution to implement the proposed changes is made. 2002, c. 9, s. 11 (2).

**Fees may be added to tax roll**

(8.1) Section 398 of the *Municipal Act, 2001* or section 264 of the *City of Toronto Act, 2006*, as the case may be, applies, with necessary modifications, to fees established by a municipality or local board under clause (1) (c) and, with the approval of the treasurer of a local municipality, to fees established under clause (1) (c) by a conservation authority whose area of jurisdiction includes any part of the local municipality. 2006, c. 22, s. 112 (7).

**Forms**

(9) The power to prescribe forms under clause (1) (f) does not include the power to prescribe a form for a particular purpose where there is a form for that purpose prescribed in the building code or approved by the Minister. 2002, c. 9, s. 11 (2); 2006, c. 21, Sched. F, s. 104 (4).

**Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 6 - 06/04/1998; 1999, c. 12, Sched. M, s. 3 - 22/12/1999

2002, c. 9, s. 11 (1, 2) - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 19, Sched. O, s. 1 (3) - 22/06/2006; 2006, c. 19, Sched. O, s. 1 (5) - 01/07/2006; 2006, c. 21, Sched. F, s. 104 (4) - 25/07/2007; 2006, c. 22, s. 112 (3-7) - 03/07/2007

**Code of conduct**

7.1 (1) A principal authority shall establish and enforce a code of conduct for the chief building official and inspectors. 2002, c. 9, s. 12.

**Purposes**

(2) The following are the purposes of a code of conduct:

1. To promote appropriate standards of behaviour and enforcement actions by the chief building official and inspectors in the exercise of a power or the performance of a duty under this Act or the building code.
2. To prevent practices which may constitute an abuse of power, including unethical or illegal practices, by the chief building official and inspectors in the exercise of a power or the performance of a duty under this Act or the building code.
3. To promote appropriate standards of honesty and integrity in the exercise of a power or the performance of a duty under this Act or the building code by the chief building official and inspectors. 2002, c. 9, s. 12.

**Contents**

(3) A code of conduct must provide for its enforcement and include policies or guidelines to be used when responding to allegations that the code has been breached and disciplinary actions that may be taken if the code is breached. 2002, c. 9, s. 12.

**Public notice**

(4) The principal authority shall ensure that the code of conduct is brought to the attention of the public. 2002, c. 9, s. 12.

**Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. M, s. 4 - 22/12/1999

2002, c. 9, s. 12 - 01/07/2005

CONSTRUCTION AND DEMOLITION

**Building permits**

8. (1) No person shall construct or demolish a building or cause a building to be constructed or demolished unless a permit has been issued therefor by the chief building official. 1992, c. 23, s. 8 (1); 1997, c. 30, Sched. B, s. 7 (1).

**Application for permit**

(1.1) An application for a permit to construct or demolish a building may be made by a person specified by regulation and the prescribed form or the form approved by the Minister must be used and be accompanied by the documents and information specified by regulation. 2002, c. 9, s. 14 (1); 2006, c. 21, Sched. F, s. 104 (5).

#### Issuance of permits

- (2) The chief building official shall issue a permit referred to in subsection (1) unless,
- (a) the proposed building, construction or demolition will contravene this Act, the building code or any other applicable law;
  - (b) the applicant is a builder or vendor as defined in the *Ontario New Home Warranties Plan Act* and is not registered under that Act;

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 8 (2) (b) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 147)**

- (b) the applicant is a builder or a vendor, as defined in clause (a) of the definition of “builder” or “vendor”, as the case may be, in section 1 of the *Ontario New Home Warranties Plan Act*, and is not registered under that Act;
- (b.1) the *Architects Act* or the *Professional Engineers Act* requires that the proposed construction of the building be designed by an architect or a professional engineer or a combination of both and the proposed construction is not so designed;
- (c) a person who prepared drawings, plans, specifications or other documents or gave an opinion concerning the compliance of the proposed building or construction with the building code does not have the applicable qualifications, if any, set out in the building code or does not have the insurance, if any, required by the building code;
  - (d) the plans review certificate, if any, required for the application does not contain the prescribed information;
  - (e) the application for the permit is not complete; or
  - (f) any fees due have not been paid. 2002, c. 9, s. 14 (2); 2014, c. 7, Sched. 3, s. 1.

#### Restriction

(2.1) If the application includes a plans review certificate that contains the prescribed information, the chief building official is not entitled to refuse to issue the permit on the grounds that the proposed construction of the building to which the certificate relates does not comply with the building code. 2002, c. 9, s. 14 (2).

#### Decision

(2.2) If an application for a permit meets the requirements prescribed by regulation, the chief building official shall, unless the circumstances prescribed by regulation apply, decide within the period prescribed by regulation whether to issue the permit or to refuse to issue it. 2009, c. 33, Sched. 21, s. 2 (2).

#### Same, reasons for refusal

(2.3) If the chief building official refuses to issue the permit, he or she shall inform the applicant of all of the reasons for the refusal of the permit and shall do so within the period prescribed by regulation. 2002, c. 9, s. 14 (2).

#### Conditional permit

- (3) Even though all requirements have not been met to obtain a permit under subsection (2), the chief building official may issue a conditional permit for any stage of construction if,
- (a) compliance with by-laws passed under sections 34 and 38 of the *Planning Act* and with such other applicable law as may be set out in the building code has been achieved in respect of the proposed building or construction;
  - (b) the chief building official is of the opinion that unreasonable delays in the construction would occur if a conditional permit is not granted; and
  - (c) the applicant and such other person as the chief building official determines agree in writing with the municipality, upper-tier municipality, board of health, planning board, conservation authority or the Crown in right of Ontario to,
    - (i) assume all risk in commencing the construction,
    - (ii) obtain all necessary approvals in the time set out in the agreement or, if none, as soon as practicable,
    - (iii) file plans and specifications of the complete building in the time set out in the agreement,
    - (iv) at the applicant’s own expense, remove the building and restore the site in the manner specified in the agreement if approvals are not obtained or plans filed in the time set out in the agreement, and
    - (v) comply with such other conditions as the chief building official considers necessary, including the provision of security for compliance with subclause (iv). 1992, c. 23, s. 8 (3); 1997, c. 30, Sched. B, s. 7 (2); 1999, c. 12, Sched. M, s. 5 (1); 2002, c. 17, Sched. F, Table.

#### **Delegation re conditional permits**

(3.1) A principal authority may, in writing, delegate to the chief building official the power to enter into agreements described in clause (3) (c) and may impose conditions or restrictions with respect to the delegation. 2002, c. 9, s. 14 (3).

#### **Criteria**

(4) In considering whether a conditional permit should be granted, the chief building official shall, among other matters, have regard to the potential difficulty in restoring the site to its original state and use if required approvals are not obtained. 1992, c. 23, s. 8 (4).

#### **Registration**

(5) Any agreement entered into under clause (3) (c) may be registered against the land to which it applies and the municipality, upper-tier municipality, board of health, planning board, conservation authority or the Province of Ontario, as the case may be, is entitled to enforce its provisions against the owner and, subject to the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land. 1999, c. 12, Sched. M, s. 5 (2); 2002, c. 17, Sched. F, Table.

#### **Enforcement of agreement**

(6) If the chief building official determines that a building has not been removed or a site restored as required by an agreement under clause (3) (c), the chief building official may cause the building to be removed and the site restored and for this purpose the chief building official, an inspector and their agents may enter upon the land and into the building governed by the agreement at any reasonable time without a warrant. 1992, c. 23, s. 8 (6).

#### **Lien**

(7) If the building is in a municipality, the municipality shall have a lien on the land for the amount spent on the removal of the building and restoration of the site under subsection (6) and the amount shall have priority lien status as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 3 (1).

#### **Deemed taxes**

(8) If the building is in territory without municipal organization, the amount spent on the removal of the building and restoration of the site under subsection (6) is a debt owing to the Crown and may be collected under the *Provincial Land Tax Act, 2006* as if it was tax imposed under that Act. 1992, c. 23, s. 8 (8); 2006, c. 33, Sched. Z.3, s. 4 (1).

#### **Disclosure of prescribed information**

(8.1) The chief building official shall, within the period and in the manner prescribed by regulation, give to the corporation designated under section 2 of the *Ontario New Home Warranties Plan Act* the information prescribed by regulation relating to permits issued under this section and the applications for those permits. 2009, c. 33, Sched. 21, s. 2 (3).

#### **Referral of plans, etc.**

(9) Upon reasonable grounds, the chief building official or registered code agency may refer drawings, plans or specifications accompanying applications for permits or the reports arising out of the general review of the construction of a building to the Association of Professional Engineers of Ontario or the Ontario Association of Architects for the purpose of determining if the *Professional Engineers Act* or the *Architects Act* is being contravened. 2002, c. 9, s. 14 (4).

#### **Same**

(9.1) At the request of the Association of Professional Engineers of Ontario or the Ontario Association of Architects, the chief building official shall refer documents and information described in subsection (9) to those associations for the purpose of determining if the *Professional Engineers Act* or the *Architects Act* is being contravened. 2002, c. 9, s. 14 (4).

#### **Revocation of permits**

- (10) Subject to section 25, the chief building official may revoke a permit issued under this Act,
- (a) if it was issued on mistaken, false or incorrect information;
  - (b) if, after six months after its issuance, the construction or demolition in respect of which it was issued has not, in the opinion of the chief building official, been seriously commenced;
  - (c) if the construction or demolition of the building is, in the opinion of the chief building official, substantially suspended or discontinued for a period of more than one year;
  - (d) if it was issued in error;
  - (e) if the holder requests in writing that it be revoked; or

(f) if a term of the agreement under clause (3) (c) has not been complied with. 1992, c. 23, s. 8 (10).

**Prohibition**

(11) No person shall construct or demolish a building or cause a building to be constructed or demolished except in accordance with this Act and the building code. 1992, c. 23, s. 8 (11).

**Notice of change**

(12) No person shall make a material change or cause a material change to be made to a plan, specification, document or other information on the basis of which a permit was issued without notifying, filing details with and obtaining the authorization of the chief building official. 1992, c. 23, s. 8 (12).

**Prohibition**

(13) No person shall construct or demolish a building or cause a building to be constructed or demolished except in accordance with the plans, specifications, documents and any other information on the basis of which a permit was issued or any changes to them authorized by the chief building official. 1992, c. 23, s. 8 (13).

**Restriction**

(14) If a request for authorization referred to in subsection (12) or (13) is accompanied by a change certificate that contains the prescribed information, the chief building official is not entitled to refuse to authorize the change on the grounds that the construction of the building to which the certificate relates does not comply with the building code. 2002, c. 9, s. 14 (5).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (6) - 17/06/1998; 1997, c. 30, Sched. B, s. 7 (1, 2) - 06/04/1998; 1999, c. 12, Sched. M, s. 5 (1, 2) - 22/12/1999

2002, c. 9, s. 13, 14 (1-5) - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 21, Sched. F, s. 104 (5) - 25/07/2007; 2006, c. 32, Sched. C, s. 3 (1) - 01/01/2007; 2006, c. 33, Sched. Z.3, s. 4 (1) - 01/01/2009

2009, c. 33, Sched. 21, s. 2 (2, 3) - 01/01/2011

2014, c. 7, Sched. 3, s. 1 - 24/07/2014

2015, c. 28, Sched. 1, s. 147 - not in force

9. REPEALED: 2009, c. 33, Sched. 21, s. 2 (4).

**Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 8 - 06/04/1998

2002, c. 9, s. 15 - 01/07/2005

1992, c. 23, s. 9 (5) - no effect - see 2009, c. 33, Sched. 21, s. 2 (4) - 01/07/2010

2009, c. 33, Sched. 21, s. 2 (4) - 01/07/2010

**Change of use**

10. (1) Even though no construction is proposed, no person shall change the use of a building or part of a building or permit the use to be changed if the change would result in an increase in hazard, as determined in accordance with the building code, unless a permit has been issued by the chief building official. 2002, c. 9, s. 16.

**Permit**

(2) The chief building official shall issue a permit under subsection (1), unless,

(a) the building if used as proposed would result in a contravention of this Act or the building code or any other applicable law;

(b) the application for it is incomplete; or

(c) any fees due are unpaid. 1992, c. 23, s. 10 (2).

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 16 - 01/09/2003



#### **Prohibition re sewage systems**

10.1 No person shall operate or maintain a sewage system or permit a sewage system to be operated or maintained except in accordance with this Act and the building code. 1997, c. 30, Sched. B, s. 9.

#### **Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 9 - 06/04/1998

#### **Notice of readiness for inspection**

10.2 (1) At each stage of construction specified in the building code, the prescribed person shall notify the chief building official or the registered code agency, if any, that the construction is ready to be inspected. 2002, c. 9, s. 17.

#### **Inspection**

(2) After the notice is received, an inspector or the registered code agency, as the case may be, shall carry out the inspection required by the building code within the prescribed period. 2002, c. 9, s. 17.

#### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 17 - 01/07/2005

#### **Occupancy or use after completion**

11. (1) Except as authorized by the building code, a person shall not occupy or use a building or part of a building that is newly erected or installed or permit it to be occupied or used until the requirements set out in this section are met. 2002, c. 9, s. 18.

#### **Notice of date of completion**

(2) Notice of the date of completion of the building or part must be given to the chief building official or the registered code agency, if any. 2002, c. 9, s. 18.

#### **Final certificate**

(3) If a registered code agency has been appointed for the building or part of the building by a principal authority to perform the functions described in clause 4.1 (4) (b) or (c) or has been appointed under section 4.2, a final certificate that contains the prescribed information must be issued. 2002, c. 9, s. 18.

#### **Inspection, etc.**

(4) If subsection (3) does not apply,

(a) either the building or part must be inspected or 10 days must elapse after notice of the date of completion is served on the chief building official; and

(b) any order made under section 12 must be complied with. 2002, c. 9, s. 18.

#### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 18 - 01/07/2005

#### **Inspection of building site**

12. (1) An inspector may enter upon land and into buildings at any reasonable time without a warrant for the purpose of inspecting the building or site in respect of which a permit is issued or an application for a permit is made. 1992, c. 23, s. 12 (1).

#### **Order**

(2) An inspector who finds a contravention of this Act or the building code may make an order directing compliance with this Act or the building code and may require the order to be carried out immediately or within such time as is specified in the order. 1992, c. 23, s. 12 (2).

#### **Service**

(3) The order shall be served on the person whom the inspector believes is contravening this Act or the building code. 1992, c. 23, s. 12 (3).

#### **Form and contents**

(4) The prescribed form or the form approved by the Minister must be used for the order and it must contain sufficient information to specify the nature of the contravention and its location and the nature of the compliance that is required. 2002, c. 9, s. 19; 2006, c. 21, Sched. F, s. 104 (6).

**Posting**

(5) The inspector may post a copy of the order on the site of the construction or demolition. 1992, c. 23, s. 12 (5).

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 19 - 01/07/2005

2006, c. 21, Sched. F, s. 104 (6) - 25/07/2007

**Order not to cover**

13. (1) An inspector may make an order prohibiting the covering or enclosing of any part of a building pending inspection. 1992, c. 23, s. 13 (1).

**Form of order**

(1.1) The prescribed form or the form approved by the Minister must be used for an order made under this section. 2002, c. 9, s. 20 (1); 2006, c. 21, Sched. F, s. 104 (7).

**Service**

(2) The order shall be served on the person to whom the permit is issued, if any, and on such other persons affected thereby as the inspector determines. 1992, c. 23, s. 13 (2).

**Posting**

(3) The inspector may post a copy of the order on the site of the construction. 1992, c. 23, s. 13 (3).

**Inspection**

(4) An inspection shall be made within a reasonable time after the person to whom the order is made has given notice that the part of the building is ready for inspection. 1992, c. 23, s. 13 (4).

**Service**

(5) Section 27 does not apply to a notice under subsection (4). 1992, c. 23, s. 13 (5).

**Order to uncover**

(6) A chief building official or registered code agency who has reason to believe that part of a building that is covered or enclosed has not been constructed in compliance with this Act or the building code may order the persons responsible for the construction to uncover the part at their own expense for the purpose of an inspection if,

- (a) the part was covered or enclosed contrary to an order made under subsection (1);
- (b) a notice required to be given to the chief building official, registered code agency or inspector before the part was covered or enclosed under a by-law, resolution or regulation made under clause 7 (e) was not given, or a notice required under section 10.2 was not received;
- (c) in cases where a notice required under section 10.2 is received, the period prescribed under subsection 10.2 (2) did not elapse before the part was covered or enclosed;
- (d) in cases where a notice required by a by-law, resolution or regulation made under clause 7 (e) is given,
  - (i) the inspection period prescribed under clause 7 (e) did not elapse before the part was covered or enclosed, or
  - (ii) if an inspection period is not prescribed under clause 7 (e), a reasonable period of time after the notice was given did not elapse before the part was covered or enclosed; or
- (e) the part has been constructed without a permit being issued. 2006, c. 19, Sched. O, s. 1 (6).

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 20 (1, 2) - 01/07/2005; 2002, c. 9, s. 20 (3) - no effect - see 2006, c. 19, Sched. O, s. 2 - 22/06/2006

2006, c. 19, Sched. O, s. 1 (6) - 22/06/2006; 2006, c. 21, Sched. F, s. 104 (7) - 25/07/2007

**Stop work order**

14. (1) If an order made under section 12 or 13 is not complied with within the time specified in it, or where no time is specified, within a reasonable time, the chief building official or registered code agency, as the case may be, may order that all or any part of the construction or demolition cease. 1992, c. 23, s. 14 (1); 2002, c. 9, s. 21 (1).

**Form of order**

(1.1) The prescribed form or the form approved by the Minister must be used for the order. 2002, c. 9, s. 21 (2); 2006, c. 21, Sched. F, s. 104 (8).

**Service**

(2) The order shall be served on such persons affected thereby as the chief building official or registered code agency determines and a copy shall be posted on the site of the construction or demolition. 1992, c. 23, s. 14 (2); 2002, c. 9, s. 21 (3).

**Timing**

(3) The order is effective from the time it is posted under subsection (2). 1992, c. 23, s. 14 (3).

**Effect of order**

(4) If an order to cease construction or demolition is made, no person shall perform any act in the construction or demolition of the building in respect of which the order is made other than work necessary to carry out the order made under section 12 or 13. 1992, c. 23, s. 14 (4).

**Referral to chief building official**

(5) When a registered code agency makes an order under this section, the agency shall refer the matter to the chief building official as soon as practicable. 2002, c. 9, s. 21 (4).

**Same**

(6) The referral must be made in the prescribed manner. 2002, c. 9, s. 21 (4).

**Effect of referral**

(7) After making the referral, the registered code agency shall take no further steps in respect of the matter to which the order refers and the principal authority that issued the permit is responsible for the enforcement of this Act in respect of the matter. 2002, c. 9, s. 21 (4).

**Powers of chief building official**

(8) The chief building official may amend or rescind any order made by the registered code agency in respect of the matter. 2002, c. 9, s. 21 (4).

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 21 (1-4) - 01/07/2005

2006, c. 21, Sched. F, s. 104 (8) - 25/07/2007

15. REPEALED: 2002, c. 9, s. 22.

**Section Amendments with date in force (d/m/y)**

1993, c. 27, Sched. - 31/12/1991; 1997, c. 24, s. 224 (7) - 17/06/1998; 1997, c. 30, Sched. B, s. 10 (1, 2) - 06/04/1998; 1999, c. 12, Sched. M, s. 6 (1, 2) - 22/12/1999

2002, c. 9, s. 22 - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

**PROPERTY STANDARDS**

**Municipal property standards**

15.1 (1) In sections 15.1 to 15.8 inclusive,

“committee” means a property standards committee established under section 15.6; (“comité”)

“occupant” means any person or persons over the age of 18 years in possession of the property; (“occupant”)

“owner” includes,

- (a) the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the person's own account or as agent or trustee of any other person, or who would receive the rent if the land and premises were let, and
- (b) a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property; ("propriétaire")

"property" means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property; ("bien")

"repair" includes the provision of facilities, the making of additions or alterations or the taking of any other action that may be required to ensure that a property conforms with the standards established in a by-law passed under this section. ("réparation") 1997, c. 24, s. 224 (8).

**Adoption of policy**

(2) Where there is no official plan in effect in a municipality, the council of a municipality may, by by-law approved by the Minister, adopt a policy statement containing provisions relating to property conditions. 1997, c. 24, s. 224 (8).

**Standards for maintenance and occupancy**

(3) The council of a municipality may pass a by-law to do the following things if an official plan that includes provisions relating to property conditions is in effect in the municipality or if the council of the municipality has adopted a policy statement as mentioned in subsection (2):

- 1. Prescribing standards for the maintenance and occupancy of property within the municipality or within any defined area or areas and for prohibiting the occupancy or use of such property that does not conform with the standards.
- 2. Requiring property that does not conform with the standards to be repaired and maintained to conform with the standards or the site to be cleared of all buildings, structures, debris or refuse and left in graded and levelled condition. 1997, c. 24, s. 224 (8).

**No distinction on the basis of relationship**

(4) The authority to pass a by-law under subsection (3) does not include the authority to pass a by-law that sets out requirements, standards or prohibitions that have the effect of distinguishing between persons who are related and persons who are unrelated in respect of the occupancy or use of a property, including the occupancy or use as a single housekeeping unit. 1997, c. 24, s. 224 (8).

**Provision of no effect**

(5) A provision in a by-law is of no effect to the extent that it contravenes the restrictions described in subsection (4). 1997, c. 24, s. 224 (8).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (8) - 17/06/1998

2002, c. 9, s. 23 - 01/07/2005

**Inspection of property without warrant**

15.2 (1) Where a by-law under section 15.1 is in effect, an officer may, upon producing proper identification, enter upon any property at any reasonable time without a warrant for the purpose of inspecting the property to determine,

- (a) whether the property conforms with the standards prescribed in the by-law; or
- (b) whether an order made under subsection (2) has been complied with. 1997, c. 24, s. 224 (8).

**Contents of order**

(2) An officer who finds that a property does not conform with any of the standards prescribed in a by-law passed under section 15.1 may make an order,

- (a) stating the municipal address or the legal description of the property;
- (b) giving reasonable particulars of the repairs to be made or stating that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition;

(c) indicating the time for complying with the terms and conditions of the order and giving notice that, if the repair or clearance is not carried out within that time, the municipality may carry out the repair or clearance at the owner's expense; and

(d) indicating the final date for giving notice of appeal from the order. 1997, c. 24, s. 224 (8).

#### **Service and posting of order**

(3) The order shall be served on the owner of the property and such other persons affected by it as the officer determines and a copy of the order may be posted on the property. 1997, c. 24, s. 224 (8).

#### **Registration of order**

(4) The order may be registered in the proper land registry office and, upon such registration, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the day on which the order was served under subsection (3) and, when the requirements of the order have been satisfied, the clerk of the municipality shall forthwith register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of the order. 1997, c. 24, s. 224 (8).

#### **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (8) - 17/06/1998

#### **Appeal of order**

15.3 (1) An owner or occupant who has been served with an order made under subsection 15.2 (2) and who is not satisfied with the terms or conditions of the order may appeal to the committee by sending a notice of appeal by registered mail to the secretary of the committee within 14 days after being served with the order. 1997, c. 24, s. 224 (8).

#### **Confirmation of order**

(2) An order that is not appealed within the time referred to in subsection (1) shall be deemed to be confirmed. 1997, c. 24, s. 224 (8).

#### **Duty of committee**

(3) The committee shall hear the appeal. 2002, c. 9, s. 24.

#### **Powers of committee**

(3.1) On an appeal, the committee has all the powers and functions of the officer who made the order and the committee may do any of the following things if, in the committee's opinion, doing so would maintain the general intent and purpose of the by-law and of the official plan or policy statement:

1. Confirm, modify or rescind the order to demolish or repair.
2. Extend the time for complying with the order. 2002, c. 9, s. 24.

#### **Appeal to court**

(4) The municipality in which the property is situate or any owner or occupant or person affected by a decision under subsection (3.1) may appeal to the Superior Court of Justice by notifying the clerk of the municipality in writing and by applying to the court within 14 days after a copy of the decision is sent. 2002, c. 9, s. 24.

#### **Appointment**

(5) The Superior Court of Justice shall appoint, in writing, a time and place for the hearing of the appeal and may direct in the appointment the manner in which and the persons upon whom the appointment is to be served. 2002, c. 9, s. 24.

#### **Judge's powers**

(6) On the appeal, the judge has the same powers and functions as the committee. 1997, c. 24, s. 224 (8).

#### **Effect of decisions**

(7) An order that is deemed to be confirmed under subsection (2) or that is confirmed or modified by the committee under subsection (3) or a judge under subsection (6), as the case may be, shall be final and binding upon the owner and occupant who shall carry out the repair or demolition within the time and in the manner specified in the order. 1997, c. 24, s. 224 (8).

#### **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (8) - 17/06/1998

2002, c. 9, s. 24 - 01/09/2003

**Power of municipality if order not complied with**

15.4 (1) If an order of an officer under section 15.2 (2) is not complied with in accordance with the order as deemed confirmed or as confirmed or modified by the committee or a judge, the municipality may cause the property to be repaired or demolished accordingly. 1997, c. 24, s. 224 (8).

**Warrantless entry**

(2) For the purpose of subsection (1), employees or agents of the municipality may enter the property at any reasonable time without a warrant in order to repair or demolish the property. 1997, c. 24, s. 224 (8).

**No liability**

(3) Despite subsection 31 (2), a municipal corporation or a person acting on its behalf is not liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the municipality in the reasonable exercise of its powers under subsection (1). 1997, c. 24, s. 224 (8).

**Lien**

(4) The municipality shall have a lien on the land for the amount spent on the repair or demolition under subsection (1) and the amount shall have priority lien status as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 3 (2).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (8) - 17/06/1998

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 3 (2) - 01/01/2007

**Certificate of compliance**

15.5 (1) An officer who, after inspecting a property, is of the opinion that the property is in compliance with the standards established in a by-law passed under section 15.1 may issue a certificate of compliance to the owner. 1997, c. 24, s. 224 (8).

**Request for certificate**

(2) An officer shall issue a certificate to an owner who requests one and who pays the fee set by the council of the municipality in which the property is located. 1997, c. 24, s. 224 (8).

**Fee for certificate**

(3) A council of a municipality may set a fee for the issuance of a certificate. 1997, c. 24, s. 224 (8).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (8) - 17/06/1998

**Property standards committee**

15.6 (1) A by-law passed under section 15.1 shall provide for the establishment of a committee composed of such persons, not fewer than three, as the council considers advisable to hold office for such term and on such conditions as the by-law may establish. 1997, c. 24, s. 224 (8).

**Filling of vacancies**

(2) The council of the municipality shall forthwith fill any vacancy that occurs in the membership of the committee. 1997, c. 24, s. 224 (8).

**Compensation**

(3) The members of the committee shall be paid such compensation as the council may provide. 1997, c. 24, s. 224 (8).

**Chair**

(4) The members shall elect a chair from among themselves; when the chair is absent through illness or otherwise, the committee may appoint another member as acting chair. 1997, c. 24, s. 224 (8).

**Quorum**

(5) A majority of the members constitutes a quorum for transacting the committee's business. 1997, c. 24, s. 224 (8).

**Secretary**

(6) The members shall provide for a secretary for the committee. 1997, c. 24, s. 224 (8).

#### **Duty of secretary**

(7) The secretary shall keep on file the records of all official business of the committee, including records of all applications and minutes of all decisions respecting those applications, and section 253 of the *Municipal Act, 2001* or section 199 of the *City of Toronto Act, 2006*, as the case may be, applies with necessary modifications to the minutes and records. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 3 (3).

#### **Rules of procedure and oaths**

(8) The committee may, subject to subsection (9), adopt its own rules of procedure and any member may administer oaths. 1997, c. 24, s. 224 (8).

#### **Where committee required to give notice**

(9) The committee shall give notice or direct that notice be given of the hearing of an appeal to such persons as the committee considers advisable. 1997, c. 24, s. 224 (8).

#### **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (8) - 17/06/1998

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 3 (3) - 01/01/2007

#### **Emergency order re dangerous non-conformity with standards**

15.7 (1) If upon inspection of a property the officer is satisfied that there is non-conformity with the standards in a by-law passed under section 15.1 to such extent as to pose an immediate danger to the health or safety of any person, the officer may make an order containing particulars of the non-conformity and requiring remedial repairs or other work to be carried out immediately to terminate the danger. 1997, c. 24, s. 224 (8).

#### **Service**

(2) The order shall be served on the owner of the property and such other persons affected thereby as the officer determines and a copy shall be posted on the property. 1997, c. 24, s. 224 (8).

#### **Emergency powers**

(3) After making an order under subsection (1), the officer may, either before or after the order is served, take any measures necessary to terminate the danger and, for this purpose, the municipality may, through its employees and agents, at any time enter upon the property in respect of which the order was made without a warrant. 1997, c. 24, s. 224 (8).

#### **No liability**

(4) Despite subsection 31 (2), a municipal corporation or a person acting on its behalf is not liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the municipality in the reasonable exercise of its powers under subsection (3). 1997, c. 24, s. 224 (8).

#### **Service**

(5) If the order was not served before measures were taken to terminate the danger, the officer shall serve copies of the order in accordance with subsection (2) as soon as practicable after the measures have been taken, and each copy of the order shall have attached to it a statement by the officer describing the measures taken by the municipality and providing details of the amount expended in taking the measures. 1997, c. 24, s. 224 (8).

#### **Service of statement**

(6) If the order was served before the measures were taken, the officer shall serve a copy of the statement mentioned in subsection (5) in accordance with subsection (2) as soon as practicable after the measures have been taken. 1997, c. 24, s. 224 (8).

#### **Application to court**

(7) As soon as practicable after the requirements of subsection (5) or (6) have been complied with, the officer shall apply to a judge of the Superior Court of Justice for an order confirming the order made under subsection (1) and the judge shall hold a hearing for that purpose. 1997, c. 24, s. 224 (8); 2002, c. 9, s. 25.

#### **Powers of judge**

- (8) The judge in disposing of an application under subsection (7) shall,
- (a) confirm, modify or rescind the order; and

- (b) determine whether the amount spent on measures to terminate the danger may be recovered in whole, in part or not at all. 1997, c. 24, s. 224 (8).

**Order final**

- (9) The disposition under subsection (8) is final. 1997, c. 24, s. 224 (8).

**Lien**

(10) The amount determined by the judge to be recoverable shall be a lien on the land and shall have priority lien status as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 3 (4).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (8) - 17/06/1998

2002, c. 9, s. 25 - 01/09/2003; 2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 3 (4) - 01/01/2007

**Inspection powers of officer**

- 15.8 (1) For the purposes of an inspection under section 15.2, an officer may,
- (a) require the production for inspection of documents or things, including drawings or specifications, that may be relevant to the property or any part thereof;
  - (b) inspect and remove documents or things relevant to the property or part thereof for the purpose of making copies or extracts;
  - (c) require information from any person concerning a matter related to a property or part thereof;
  - (d) be accompanied by a person who has special or expert knowledge in relation to a property or part thereof;
  - (e) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection; and
  - (f) order the owner of the property to take and supply at the owner's expense such tests and samples as are specified in the order. 1997, c. 24, s. 224 (8).

**Samples**

(2) The officer shall divide the sample taken under clause (1) (e) into two parts and deliver one part to the person from whom the sample is taken, if the person so requests at the time the sample is taken and provides the necessary facilities. 1997, c. 24, s. 224 (8).

**Same**

(3) If an officer takes a sample under clause (1) (e) and has not divided the sample into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken. 1997, c. 24, s. 224 (8).

**Receipt**

(4) An officer shall provide a receipt for any document or thing removed under clause (1) (b) and shall promptly return them after the copies or extracts are made. 1997, c. 24, s. 224 (8).

**Evidence**

(5) Copies of or extracts from documents and things removed under this section and certified as being true copies of or extracts from the originals by the person who made them are admissible in evidence to the same extent as and have the same evidentiary value as the originals. 1997, c. 24, s. 224 (8).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (8) - 17/06/1998

UNSAFE BUILDINGS

**Inspection of unsafe buildings**

15.9 (1) An inspector may enter upon land and into buildings at any reasonable time without a warrant for the purpose of inspecting a building to determine,



- (a) whether the building is unsafe; or
- (b) whether an order made under subsection (4) has been complied with. 2002, c. 9, s. 26.

**Interpretation**

- (2) A building is unsafe if the building is,
- (a) structurally inadequate or faulty for the purpose for which it is used; or
  - (b) in a condition that could be hazardous to the health or safety of persons in the normal use of the building, persons outside the building or persons whose access to the building has not been reasonably prevented. 2002, c. 9, s. 26.

**Sewage systems**

(3) In addition to the criteria set out in subsection (2), a sewage system is unsafe if it is not maintained or operated in accordance with this Act and the building code. 2002, c. 9, s. 26.

**Order**

(4) An inspector who finds that a building is unsafe may make an order setting out the reasons why the building is unsafe and the remedial steps necessary to render the building safe and may require the order to be carried out within the time specified in the order. 2002, c. 9, s. 26.

**Service**

(5) The order shall be served on the owner and each person apparently in possession of the building and such other persons affected thereby as the chief building official determines and a copy of the order may be posted on the site of the building. 2002, c. 9, s. 26.

**Order respecting occupancy**

(6) If an order of an inspector under subsection (4) is not complied with within the time specified in it, or where no time is specified, within a reasonable time, the chief building official,

- (a) may by order prohibit the use or occupancy of the building; and
- (b) may cause the building to be renovated, repaired or demolished to remove the unsafe condition or take such other action as he or she considers necessary for the protection of the public. 2002, c. 9, s. 26.

**Power of entry**

(7) For the purpose of clause (6) (b), the chief building official, an inspector and their agents may enter upon land and into buildings at any reasonable time without a warrant. 2002, c. 9, s. 26.

**Service**

(8) The order under clause (6) (a) shall be served on the owner and each person apparently in possession of the building and such other persons affected thereby as the chief building official determines and a copy of the order shall be posted on the site of the building. 2002, c. 9, s. 26.

**Timing**

- (9) The order under clause (6) (a) is effective from the time it is posted. 2002, c. 9, s. 26.

**Lien**

(10) If the building is in a municipality, the municipality shall have a lien on the land for the amount spent on the renovation, repair, demolition or other action under clause (6) (b) and the amount shall have priority lien status as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be. 2002, c. 17, Sched. C, s. 4 (1); 2006, c. 32, Sched. C, s. 3 (5).

**Deemed taxes**

(11) If the building is in territory without municipal organization, the amount spent on the renovation, repair, demolition or other action under clause (6) (b) is a debt owing to the Crown and may be collected under the *Provincial Land Tax Act, 2006* as if it was tax imposed under that Act. 2002, c. 9, s. 26; 2006, c. 33, Sched. Z.3, s. 4 (2).

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 26 - 01/07/2005; 2002, c. 17, Sched. C, s. 4 (1) - 01/07/2005

2006, c. 32, Sched. C, s. 3 (5) - 01/01/2007; 2006, c. 33, Sched. Z.3, s. 4 (2) - 01/01/2009

#### **Emergency order where immediate danger**

15.10 (1) If upon inspection of a building an inspector is satisfied that the building poses an immediate danger to the health or safety of any person, the chief building official may make an order containing particulars of the dangerous conditions and requiring remedial repairs or other work to be carried out immediately to terminate the danger. 2002, c. 9, s. 26.

#### **Service**

(2) The order shall be served on the owner and each person apparently in possession of the building and such other persons affected thereby as the chief building official determines and a copy shall be posted on the site of the building. 2002, c. 9, s. 26.

#### **Emergency powers**

(3) After making an order under subsection (1), the chief building official may, either before or after the order is served, take any measures necessary to terminate the danger and, for this purpose, the chief building official, an inspector and their agents may at any time enter upon the land and into the building in respect of which the order was made without a warrant. 2002, c. 9, s. 26.

#### **No liability**

(4) Despite subsection 31 (2), the Crown, a municipality, an upper-tier municipality, a board of health, a planning board or a conservation authority or a person acting on behalf of any of them is not liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the chief building official or an inspector in the reasonable exercise of his or her powers under subsection (3). 2002, c. 9, s. 26; 2002, c. 17, Sched. C, s. 5 (1).

#### **Service**

(5) If the order was not served before measures were taken to terminate the danger, the chief building official shall serve copies of the order in accordance with subsection (2) as soon as practicable after the measures have been taken and each copy of the order shall have attached to it a statement by the chief building official describing the measures taken and providing details of the amount spent in taking the measures. 2002, c. 9, s. 26.

#### **Service of statement**

(6) If the order was served before the measures were taken, the chief building official shall serve a copy of the statement mentioned in subsection (5) in accordance with subsection (2) as soon as practicable after the measures have been taken. 2002, c. 9, s. 26.

#### **Application to court**

(7) As soon as practicable after subsections (5) and (6) have been complied with, the chief building official shall apply to the Superior Court of Justice for an order confirming the order made under subsection (1) and the court shall hold a hearing for that purpose. 2002, c. 9, s. 26.

#### **Powers of court**

- (8) In disposing of an application under subsection (7), the court shall,
- (a) confirm, modify or rescind the order; and
  - (b) determine whether the amount spent on measures to terminate the danger may be recovered in whole, in part or not at all. 2002, c. 9, s. 26.

#### **Order final**

- (9) The disposition under subsection (8) is final. 2002, c. 9, s. 26.

#### **Lien**

(10) If the building is in a municipality, the amount determined by the judge to be recoverable shall be a lien on the land and shall have priority lien status as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be. 2002, c. 17, Sched. C, s. 5 (2); 2006, c. 32, Sched. C, s. 3 (6).

#### **Deemed taxes**

(11) If the building is in territory without municipal organization, the amount determined by the judge to be recoverable is a debt owing to the Crown and may be collected under the *Provincial Land Tax Act, 2006* as if it was tax imposed under that Act. 2002, c. 9, s. 26; 2006, c. 33, Sched. Z.3, s. 4 (3).

#### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 26 - 01/07/2005; 2002, c. 17, Sched. C, s. 5 (1, 2) - 01/07/2005

2006, c. 32, Sched. C, s. 3 (6) - 01/01/2007; 2006, c. 33, Sched. Z.3, s. 4 (3) - 01/01/2009

## MAINTENANCE INSPECTION PROGRAMS

### Maintenance inspections

15.10.1 (1) An inspector may enter upon land and into buildings at any reasonable time without a warrant for the purpose of conducting a maintenance inspection. 2006, c. 22, s. 112 (8).

### Order

(2) An inspector who finds a contravention of this Act or the building code may make an order directing compliance with this Act or the building code and may require the order to be carried out immediately or within such time as is specified in the order. 2006, c. 22, s. 112 (8).

### Service

(3) The order shall be served on the person whom the inspector believes is contravening this Act or the building code. 2006, c. 22, s. 112 (8).

### Form and contents

(4) The prescribed form or the form approved by the Minister must be used for the order and it must contain sufficient information to specify the nature of the contravention and its location and the nature of the compliance that is required. 2006, c. 22, s. 112 (8).

### Posting

(5) The inspector may post a copy of the order on the site of the maintenance inspection. 2006, c. 22, s. 112 (8).

### Section Amendments with date in force (d/m/y)

2006, c. 22, s. 112 (8) - 03/07/2007

## QUALIFICATIONS

### Qualifications for various positions

15.11 (1) A person is not eligible to be appointed as a chief building official unless he or she has the qualifications set out in the building code for the position. 2002, c. 9, s. 27.

### Same

(2) Subsection (1) also applies to every inspector who has the same powers and duties as a chief building official in relation to sewage systems or to plumbing, to the extent of those powers and duties. 2002, c. 9, s. 27.

### Qualifications for inspectors

(3) A person is not eligible to be appointed as an inspector under this Act unless he or she has the qualifications set out in the building code for the position. 2002, c. 9, s. 27.

### Qualifications for registered code agencies

(4) A person is not eligible to be appointed as a registered code agency under this Act unless the person has the qualifications and meets the requirements set out in the building code. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (7).

### Qualifications for designers

(5) A person is not eligible to engage in any of the following activities unless he, she or it has the qualifications and meets the requirements set out in the building code to be a designer:

1. Prepare a design or give other information or opinion concerning whether a building or part of a building complies with the building code, if the design, information or opinion is to be submitted to a chief building official in connection with,
  - i. an application for a permit,
  - ii. a request for the authorization referred to in subsection 8 (12) or (13), or
  - iii. a report described in paragraph 2.

2. If a general review of the construction of a building or part of a building is required by the building code, prepare a written report based on the general review. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (7).

**Same**

- (6) In subsection (5),

“design” includes a plan, specification, sketch, drawing or graphic representation respecting the construction of a building. 2002, c. 9, s. 27.

**Prohibition**

(7) No person shall represent, directly or indirectly, that he, she or it has the qualifications or meets the requirements established under this section if the person does not have those qualifications or does not meet those requirements. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (7).

**Non application**

(8) Subsection (5) does not apply to a holder of any licence or certificate issued under the *Architects Act* or the *Professional Engineers Act*. 2014, c. 7, Sched. 3, s. 2.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 27 - 01/09/2003

2006, c. 19, Sched. O, s. 1 (7) - 22/06/2006

2014, c. 7, Sched. 3, s. 2 - 24/07/2014

**Qualifications re sewage systems**

15.12 (1) No person shall engage in the business of constructing on site, installing, repairing, servicing, cleaning or emptying sewage systems unless the person has the qualifications and meets the requirements set out in the building code. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (8).

**Prohibition**

(2) No person shall represent, directly or indirectly, that he, she or it has the qualifications or meets the requirements referred to in subsection (1) if the person does not have those qualifications or does not meet those requirements. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (8).

**Duty to notify the chief building official**

(3) If any part of the construction of a building will be undertaken by a person described in subsection (1) (a “specified person”), no person shall begin or continue the construction of a sewage system, or cause it to begin or continue, unless the person has given the chief building official the prescribed information about the specified person. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (8).

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 27 - 01/09/2003

2006, c. 19, Sched. O, s. 1 (8) - 22/06/2006

**Duty to have insurance**

15.13 (1) Every registered code agency, every person referred to in subsection 15.11 (5) and such other persons as may be specified in the building code who construct buildings are required to have the insurance coverage specified by the building code. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (9).

**Exception**

(2) Subsection (1) does not apply to a person who is a builder or vendor within the meaning of the *Ontario New Home Warranties Plan Act* in respect of the construction of a building. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (10).

**Prohibition**

(3) No person shall represent, directly or indirectly, that he, she or it has the insurance coverage required by subsection (1) if the person does not have that insurance coverage. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (10).

**Qualification or requirement**

(4) If the building code so provides, the insurance coverage constitutes a qualification or requirement for the purposes of a position referred to in section 15.11. 2002, c. 9, s. 27.

**Duty to notify the chief building official**

(5) If any part of the construction of a building will be undertaken by a person who is required by subsection (1) to have insurance (a “specified person”), no person shall begin or continue the construction, or cause it to begin or continue, unless the person has given the chief building official the prescribed information about the specified person and the insurance coverage of the specified person. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (10).

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 27 - 01/09/2003

2006, c. 19, Sched. O, s. 1 (9, 10) - 22/06/2006

**POWERS AND DUTIES OF REGISTERED CODE AGENCIES****Notice to chief building official**

15.14 (1) Every registered code agency shall give the chief building official such information as may be prescribed by regulation. 2002, c. 9, s. 28.

**Notice to the director**

(2) Every registered code agency shall give the director such information as may be prescribed by regulation. 2002, c. 9, s. 28.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

**Functions of registered code agencies**

15.15 The following are the functions that a registered code agency may be appointed to perform in respect of the construction of a building:

1. Review designs and other materials to determine whether the proposed construction of a building complies with the building code.
2. Issue plans review certificates.
3. Issue change certificates.
4. Inspect the construction of a building for which a permit has been issued under this Act.
5. Issue final certificates.
6. Perform such other functions as may be authorized under this Act or in the building code. 2002, c. 9, s. 28.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

**Scope of agency’s powers**

15.16 (1) A registered code agency may exercise the powers and perform the duties specified in this Act and the building code in respect only of the functions and the building specified in a particular appointment. 2002, c. 9, s. 28.

**Confidentiality**

(2) A registered code agency shall not collect, use or disclose information except in accordance with the building code. 2002, c. 9, s. 28.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

**Persons acting on behalf of an agency**

15.17 (1) A registered code agency may authorize, in writing, one or more prescribed persons to exercise powers and perform its functions under this Act, subject to such conditions as may be prescribed by regulation. 2002, c. 9, s. 28.

**Certificate of authorization**

(2) The registered code agency shall issue a certificate of authorization containing the prescribed information to the authorized person. 2002, c. 9, s. 28.

#### **Powers and duties of inspector**

(3) The authorized person may exercise the powers and perform the duties of an inspector under any of the following provisions, in respect of the construction of a building for which the agency is appointed under this Act:

1. Section 12 (inspection).
2. Section 13 (order not to cover).
3. Section 16 (entry to dwellings).
4. Section 18 (powers of inspector). 2002, c. 9, s. 28.

#### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

#### **Duties re certificates and orders**

15.18 (1) When a registered code agency makes an order under this Act, the agency shall give a copy of the order within the period prescribed by regulation to the chief building official. 2002, c. 9, s. 28.

#### **Certificates**

(2) A registered code agency shall issue such certificates and use such forms as may be required by the building code and shall include in them or provide such information as may be prescribed. 2002, c. 9, s. 28.

#### **Same**

(3) A certificate issued under this Act by a registered code agency must be in the prescribed form or the form approved by the Minister. 2002, c. 9, s. 28; 2006, c. 21, Sched. F, s. 104 (9).

#### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

2006, c. 21, Sched. F, s. 104 (9) - 25/07/2007

#### **Expiry of an agency's appointment**

15.19 (1) The appointment of a registered code agency expires when the agency has performed the functions for which it was appointed in respect of construction of the specified building. 2002, c. 9, s. 28.

#### **Same, by virtue of circumstances**

(2) The appointment of a registered code agency that has not performed all of the functions for which it is appointed in respect of the construction expires if either of the following events occurs:

1. The chief building official refuses to issue a permit for construction of the specified building.
2. The permit for construction of the building is revoked. 2002, c. 9, s. 28.

#### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

#### **Termination of an agency's appointment**

15.20 (1) The appointment of a registered code agency shall not be terminated except in accordance with this section and the building code. 2002, c. 9, s. 28.

#### **Same**

(2) The building code may specify that the consent of the director to the termination of an appointment is required. 2002, c. 9, s. 28.

#### **Effect of termination, appointment by principal authority**

(3) If the registered code agency was appointed by a principal authority, upon the termination of the appointment the principal authority becomes responsible to ensure that the remaining functions of the agency are performed by the principal authority or another registered code agency. 2002, c. 9, s. 28.

#### **Same, appointment by applicant**

(4) If the registered code agency was appointed under section 4.2, upon the termination of the appointment the person who made the appointment becomes responsible to ensure that the remaining functions of the agency are performed by another

registered code agency or, with the prior written agreement of the principal authority, by the principal authority or to ensure that work on the construction is halted. 2002, c. 9, s. 28.

**Powers of the director**

(5) When the appointment of a registered code agency is terminated, the director may give directions to anyone described in subsection (6) in order to facilitate the transfer of the agency's functions. 2002, c. 9, s. 28.

**Same**

(6) Directions may be given to the person who made the appointment that has been terminated, to the registered code agency whose appointment has been terminated and to a transferee registered code agency. 2002, c. 9, s. 28.

**Duties**

(7) The person to whom directions are given shall comply with them. 2002, c. 9, s. 28.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

**Order to suspend construction**

15.21 (1) The chief building official may, by order, suspend all or part of the construction of the building to which the appointment of a registered code agency relates,

- (a) if the chief building official has reason to believe that the registered code agency has ceased to perform the functions specified in the appointment; and
- (b) if the appointment of the registered code agency has not expired or been terminated. 2002, c. 9, s. 28.

**Same**

(2) If the appointment of a registered code agency under section 4.2 is terminated, the chief building official shall, by order, suspend the construction of the applicable building until,

- (a) another registered code agency is appointed to perform the remaining functions of the original registered code agency; or
- (b) the principal authority agrees, in writing, to perform the remaining functions of the original registered code agency. 2002, c. 9, s. 28.

**Delegation**

(3) A principal authority may delegate to the chief building official the power to agree to perform the remaining functions of a registered code agency appointed under section 4.2 whose appointment is terminated and may impose conditions and restrictions on the delegation. 2002, c. 9, s. 28.

**Effect of order**

(4) If an order is issued under this section, no person shall perform any act in the construction of the building in respect of which the order is made, other than work necessary to secure the safety and security of the building and of the construction site. 2002, c. 9, s. 28.

**Procedural matters**

(5) Subsections 14 (2) and (3) apply with respect to an order under this section. 2002, c. 9, s. 28.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

**Conflict between appointment and Act, etc.**

15.22 This Act and the building code prevail over the terms of an appointment of a registered code agency. 2002, c. 9, s. 28.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

GENERAL POWERS OF INSPECTION AND ENFORCEMENT

**Duty to carry identification**

15.23 The chief building official, inspectors and persons authorized by a registered code agency to exercise powers and perform functions on its behalf shall carry their certificate of appointment or authorization, as the case may be, when performing their duties and shall produce them for inspection upon request. 2002, c. 9, s. 29.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 29 - 01/07/2005

**Entry to dwellings**

16. (1) Despite sections 8, 12, 15, 15.2, 15.4, 15.9 and 15.10.1, an inspector or officer shall not enter or remain in any room or place actually being used as a dwelling unless,

- (a) the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and entry made only under the authority of a warrant issued under this Act;
- (a.1) a warrant issued under this Act is obtained;
- (b) the delay necessary to obtain a warrant or the consent of the occupier would result in an immediate danger to the health or safety of any person;
- (c) the entry is necessary to terminate a danger under subsection 15.7 (3) or 15.10 (3); or
- (d) the requirements of subsection (2) are met and the entry is necessary to remove a building or restore a site under subsection 8 (6), to remove an unsafe condition under clause 15.9 (6) (b) or to repair or demolish under subsection 15.4 (1). 1992, c. 23, s. 16 (1); 1997, c. 24, s. 224 (9, 10); 2002, c. 9, s. 30; 2006, c. 19, Sched. O, s. 1 (11); 2006, c. 22, s. 112 (9).

**Notice**

(2) Within a reasonable time before entering the room or place for a purpose described in clause (1) (d), the inspector or officer shall serve the occupier with notice of his or her intention to enter it. 1992, c. 23, s. 16 (2); 1997, c. 24, s. 224 (11).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (9-11) - 17/06/1998

2002, c. 9, s. 30 - 01/07/2005

2006, c. 19, Sched. O, s. 1 (11) - 22/06/2006; 2006, c. 22, s. 112 (9) - 03/07/2007

17. REPEALED: 2002, c. 9, s. 31 (2).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (12) - 17/06/1998; 1999, c. 12, Sched. M, s. 7 - 22/12/1999

2002, c. 9, s. 31 (1) - 01/09/2003; 2002, c. 9, s. 31 (2) - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

**Recovery of expenditures for repairs, etc.**

17.1 (1) This section applies if money is spent by a board of health, planning board or conservation authority or, in the circumstances described in subsection (2), by the Crown or an upper-tier municipality or, in the circumstances described in subsection (4), by a municipality,

- (a) to carry out a removal and restoration under subsection 8 (6);
- (b) to carry out a renovation, repair, demolition or other action under clause 15.9 (6) (b); or
- (c) to perform remedial or other work under subsection 15.10 (1) where the amount spent is determined to be recoverable by a judge under subsection 15.10 (8). 1999, c. 12, Sched. M, s. 8; 2002, c. 9, s. 32 (1); 2002, c. 17, Sched. F, Table.

**In municipalities**

- (2) If the building in respect of which money was spent is in a municipality,
  - (a) the upper-tier municipality, board of health, planning board, conservation authority or the Crown may instruct the municipality to recover the amount spent;
  - (b) subsection 8 (7), 15.9 (10) or 15.10 (10), as the case may be, applies to the collection of the amount; and



- (c) the money collected, less the costs reasonably attributable to the collection, shall be paid by the municipality to the upper-tier municipality, board of health, planning board, conservation authority or the Crown. 1999, c. 12, Sched. M, s. 8; 2002, c. 9, s. 32 (2); 2002, c. 17, Sched. F, Table.

**Not interest of the Crown**

(3) Where the Crown instructs the municipality under clause (2) (a) to recover the amount spent, the lien referred to in subsection 8 (7), 15.9 (10) or 15.10 (10) is not an estate or interest of the Crown within the meaning of clause 379 (7) (b) of the *Municipal Act, 2001* or clause 350 (7) (b) of the *City of Toronto Act, 2006*, as the case may be. 1999, c. 12, Sched. M, s. 8; 2002, c. 9, s. 32 (3); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 3 (7).

**In territory without municipal organization**

- (4) If the building in respect of which money was spent is located in territory without municipal organization,
- (a) the municipality, board of health, planning board or conservation authority may give the Minister of Finance written notice of the amount that was spent, requesting the collection of the amount under the *Provincial Land Tax Act, 2006*;
  - (b) the amount may be collected under that Act as if it was tax imposed under it; and
  - (c) the Minister of Finance shall pay the amount collected under that Act, less the costs reasonably attributable to the collection, to the municipality, board of health, planning board or conservation authority. 2006, c. 33, Sched. Z.3, s. 4 (4).

**Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. M, s. 8 - 22/12/1999

2002, c. 9, s. 32 (1-4) - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 3 (7) - 01/01/2007; 2006, c. 33, Sched. Z.3, s. 4 (4) - 01/01/2009

**Powers of inspector**

18. (1) For the purposes of an inspection under this Act, an inspector may,
- (a) require the production for inspection of documents or things, including drawings or specifications, that may be relevant to the building or any part thereof;
  - (b) inspect and remove documents or things relevant to the building or part thereof for the purpose of making copies or extracts;
  - (c) require information from any person concerning a matter related to a building or part thereof;
  - (d) be accompanied by a person who has special or expert knowledge in relation to a building or part thereof;
  - (e) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection; and
  - (f) order any person to take and supply at that person's expense such tests and samples as are specified in the order. 1992, c. 23, s. 18 (1); 1997, c. 30, Sched. B, s. 11.

**Samples**

(2) The inspector shall divide the sample taken under clause (1) (e) into two parts and deliver one part to the person from whom the sample is taken, if the person so requests at the time the sample is taken and provides the necessary facilities. 1992, c. 23, s. 18 (2).

**Idem**

(3) If an inspector takes a sample under clause (1) (e) and has not divided the sample into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken. 1992, c. 23, s. 18 (3).

**Receipt**

(4) An inspector shall provide a receipt for any document or thing removed under clause (1) (b) and shall promptly return them after the copies or extracts are made. 1992, c. 23, s. 18 (4).

**Evidence**

(5) Copies of or extracts from documents and things removed under this section and certified as being true copies of or extracts from the originals by the person who made them are admissible in evidence to the same extent as and have the same evidentiary value as the originals. 1992, c. 23, s. 18 (5).

**Form of order**

(6) The prescribed form or the form approved by the Minister must be used for an order under subsection (1). 2002, c. 9, s. 33; 2006, c. 21, Sched. F, s. 104 (10).

**Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 11 - 06/04/1998

2002, c. 9, s. 33 - 01/07/2005

2006, c. 21, Sched. F, s. 104 (10) - 25/07/2007

18.1 REPEALED: 2002, c. 9, s. 34.

**Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 12 - 06/04/1998

2002, c. 9, s. 34 - 01/09/2003

**Obstruction of inspector, etc.**

19. (1) No person shall hinder or obstruct, or attempt to hinder or obstruct, a chief building official, inspector, officer or a person authorized by a registered code agency in the exercise of a power or the performance of a duty under this Act. 1997, c. 24, s. 224 (13); 2002, c. 9, s. 35 (1).

**Occupied dwellings**

(2) A refusal of consent to enter or remain in a place actually used as a dwelling is not hindering or obstructing within the meaning of subsection (1) unless the inspector, officer or authorized person is acting under a warrant issued under this Act or in the circumstances described in clause 16 (1) (b), (c) or (d). 1997, c. 24, s. 224 (13); 2002, c. 9, s. 35 (2).

**Assistance**

(3) Every person shall assist any entry, inspection, examination, testing or inquiry by an inspector, chief building official, officer or a person authorized by a registered code agency in the exercise of a power or performance of a duty under this Act. 1997, c. 24, s. 224 (13); 2002, c. 9, s. 35 (3).

**Same**

(4) No person shall neglect or refuse,

(a) to produce any documents, drawings, specifications or things required under clause 15.8 (1) (a) or (e) by an officer or under clause 18 (1) (a) or (e) by an inspector or by a person authorized by a registered code agency; or

(b) to provide any information required under clause 15.8 (1) (c) by an officer or under clause 18 (1) (c) by an inspector or by a person authorized by a registered code agency. 2002, c. 9, s. 35 (4).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (13) - 17/06/1998; 1997, c. 30, Sched. B, s. 13 - 06/04/1998

2002, c. 9, s. 35 (1-4) - 01/07/2005

**Obstruction or removal of order**

20. No person shall obstruct the visibility of an order and no person shall remove a copy of an order posted under this Act unless authorized to do so by an inspector, officer or registered code agency. 1997, c. 24, s. 224 (14); 2002, c. 9, s. 36.

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (14) - 17/06/1998

2002, c. 9, s. 36 - 01/07/2005

**Warrant for entry and search**

21. (1) A provincial judge or justice of the peace may at any time issue a warrant in the prescribed form authorizing a person named in the warrant to enter and search a building, receptacle or place if the provincial judge or justice of the peace is satisfied by information on oath that there is reasonable ground to believe that,

(a) an offence under this Act has been committed; and

- (b) the entry into and search of the building, receptacle or place will afford evidence relevant to the commission of the offence. 1992, c. 23, s. 21 (1).

**Seizure**

(2) In a search warrant, the provincial judge or justice of the peace may authorize the person named in the warrant to seize anything that there is reasonable ground to believe will afford evidence relevant to the commission of the offence. 1992, c. 23, s. 21 (2).

**Same**

- (3) Anyone who seizes something under a search warrant shall,
- (a) give a receipt for the thing seized to the person from whom it was seized; and
  - (b) bring the thing seized before the provincial judge or justice of the peace issuing the warrant or another provincial judge or justice to be dealt with according to law. 1992, c. 23, s. 21 (3).

**Expiry of warrant**

(4) A search warrant shall state the date on which it expires, which date shall be not later than fifteen days after the warrant is issued. 1992, c. 23, s. 21 (4).

**Time for execution**

(5) A search warrant may be executed only between 6 a.m. and 9 p.m. unless it provides otherwise. 1992, c. 23, s. 21 (5).

**Application**

(6) Sections 159 and 160 of the *Provincial Offences Act* apply with necessary modifications in respect of any thing seized under this section. 1992, c. 23, s. 21 (6).

**DISPUTE RESOLUTION, REVIEWS AND APPEALS**

**Review of inspector's order**

22. (1) The chief building official may review and amend or rescind an order made by an inspector. 1992, c. 23, s. 22 (1).

**Powers**

(2) A chief building official may exercise any of the powers or perform any of the duties of an inspector. 1992, c. 23, s. 22 (2).

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 37 - 01/07/2005

**Building Code Commission**

23. (1) The Building Code Commission is continued under the name Building Code Commission in English and Commission du code du bâtiment in French and shall be composed of those persons appointed by the Lieutenant Governor in Council. 1992, c. 23, s. 23 (1).

**Chair**

(2) The Lieutenant Governor in Council may designate one of the members as chair and one or more of the members as vice-chair. 1992, c. 23, s. 23 (2).

**Eligibility**

- (3) A person is not eligible to be a member of the Commission if the person is,
- (a) a deputy minister of a ministry;
  - (b) a public servant employed under Part III of the *Public Service of Ontario Act, 2006*;
  - (c) an employee of a municipality; or
  - (d) in a prescribed relationship to a registered code agency. 2006, c. 35, Sched. C, s. 8 (2).

**Remuneration**

(4) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. 1992, c. 23, s. 23 (4).

**Quorum**

(5) Three members of the Commission constitute a quorum. 1992, c. 23, s. 23 (5).

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 38 - 01/07/2005

2006, c. 35, Sched. C, s. 8 (2) - 20/08/2007

**Dispute resolution**

24. (1) This section applies if there is a dispute,

- (a) between an applicant for a permit, a holder of a permit or a person to whom an order is given and the chief building official, a registered code agency or an inspector concerning the sufficiency of compliance with the technical requirements of the building code;
- (b) between an applicant for a permit and the chief building official concerning whether the official complied with subsection 8 (2.2) or (2.3); or
- (c) between a holder of a permit and the chief building official, a registered code agency or an inspector concerning whether the requirements of subsection 10.2 (2) have been met. 2002, c. 9, s. 39.

**Application for dispute resolution**

(1.1) A party to the dispute may apply to the Building Code Commission to resolve the issue. 2002, c. 9, s. 39.

**Hearing**

(2) The Building Code Commission shall hold a hearing to decide the dispute and shall give the parties to the dispute notice of the hearing. 2002, c. 9, s. 39.

**Same**

(2.1) A hearing to decide a dispute described in clause (1) (b) or (c) must be held within the prescribed period. 2002, c. 9, s. 39.

**Powers**

(3) The Building Code Commission shall, by order, determine a dispute described in clause (1) (a) and, for that purpose, may substitute its opinion for that of the chief building official, registered code agency or inspector. 2002, c. 9, s. 39.

**Same**

(3.1) The Building Code Commission shall, by order, determine a dispute described in clause (1) (b) or (c) and, for that purpose, may require the chief building official, registered code agency or inspector, as the case may be, to comply with the applicable subsection of the Act. 2002, c. 9, s. 39.

**Decision final**

(4) The decision of the Building Code Commission is final. 1992, c. 23, s. 24 (4).

**Restrictions on members**

(5) Members of the Building Code Commission holding a hearing shall not,

- (a) take part before the hearing in any investigation or consideration of the subject-matter of the hearing; or
- (b) communicate directly or indirectly in relation to the subject-matter of the hearing with any person unless all parties are given notice and allowed to participate. 1992, c. 23, s. 24 (5).

**Independent advice**

(6) Despite subsection (5), members of the Building Code Commission may seek independent legal or technical advice but the nature of the advice shall be made known to the parties in order that they may make submissions. 1992, c. 23, s. 24 (6).

**Evidence**

(7) The findings of fact at a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. 1992, c. 23, s. 24 (7).

**Restriction**

(8) Members of the Building Code Commission shall not participate in a decision of the Commission pursuant to a hearing unless they were present throughout the hearing. 1992, c. 23, s. 24 (8).

**Idem**

(9) Except with the consent of the parties, no decision of the Building Code Commission shall be given unless all members present throughout the hearing participate in the decision. 1992, c. 23, s. 24 (9).

**Release of evidence**

(10) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released by the Building Code Commission to that person within a reasonable time after the matter in issue has been finally determined. 1992, c. 23, s. 24 (10).

**Section Amendments with date in force (d/m/y)**

1993, c. 27, Sched. - 31/12/1991

2002, c. 9, s. 39 - 01/07/2005

**Appeal to court**

25. (1) A person who considers themselves aggrieved by an order or decision made by the chief building official, a registered code agency or an inspector under this Act (except a decision under subsection 8 (3) not to issue a conditional permit) may appeal the order or decision to the Superior Court of Justice within 20 days after the order or decision is made. 2002, c. 9, s. 40 (2).

**Extension of time**

(2) A judge to whom an appeal is made may, upon such conditions as the judge considers appropriate, extend the time for making the appeal before or after the time set out in subsection (1), if the judge is satisfied that there is reasonable grounds for the appeal and for applying for the extension. 1992, c. 23, s. 25 (2).

**Effect of appeal**

(3) If an appeal is made under this section in respect of a matter in which a question is pending before the Building Code Commission, the proceeding before the Commission is terminated. 1992, c. 23, s. 25 (3).

**Powers of judge**

(4) On an appeal, a judge may affirm or rescind the order or decision and take any other action that the judge considers the chief building official, registered code agency or inspector ought to take in accordance with this Act and the regulations and, for those purposes, the judge may substitute his or her opinion for that of the official, agency or inspector. 2002, c. 9, s. 40 (3).

**Reference to Commission**

(5) A judge may refer a question respecting the interpretation of the technical requirements of the building code or the sufficiency of compliance with the technical requirements of the building code to the Building Code Commission for a hearing and report to the judge. 1992, c. 23, s. 25 (5).

**Procedure**

(6) The procedure on the reference shall be the same as on an application under section 24. 1992, c. 23, s. 25 (6).

**Stay of order or decision**

(7) An appeal under subsection (1) does not stay the operation of the order or decision appealed from but a judge may, on such terms as are just, stay the operation of the order or decision until the disposition of the appeal. 2000, c. 26, Sched. K, s. 1.

**Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. K, s. 1 - 06/12/2000

2002, c. 9, s. 40 (1) - 01/09/2003; 2002, c. 9, s. 40 (2, 3) - 01/07/2005

**Further appeal**

26. (1) A party to the hearing before the Superior Court of Justice under section 25 may appeal from the decision to the Divisional Court. 1992, c. 23, s. 26 (1); 2002, c. 9, s. 41 (1).

**Minister represented**

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. 1992, c. 23, s. 26 (2).

#### **Powers of Divisional Court**

(3) An appeal under this section may be made on any question that is not a question of fact alone and the Divisional Court may,

- (a) confirm or alter the decision of the judge;
- (b) direct the chief building official, registered code agency or inspector to take any action that the official, agency or inspector is authorized to take under this Act;
- (c) refer the matter back to the judge for reconsideration; or
- (d) substitute its opinion for that of the chief building official, registered code agency, inspector or judge. 2002, c. 9, s. 41 (2).

#### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 41 (1) - 01/09/2003; 2002, c. 9, s. 41 (2) - 01/07/2005

#### **Service**

27. (1) A notice or order required by this Act to be served may be served personally or by registered mail sent to the last known address of the person to whom notice is to be given or to that person's agent for service. 1992, c. 23, s. 27 (1).

#### **Idem**

(2) If a notice or order is served by registered mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom the notice or order is given or that person's agent for service establishes that, acting in good faith, through absence, accident, illness or other unintentional cause the notice was not received until a later date. 1992, c. 23, s. 27 (2); 1997, c. 24, s. 224 (15).

#### **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (15) - 17/06/1998

### AUTHORIZATIONS AND RULINGS

#### **Building Materials Evaluation Commission**

28. (1) The Building Materials Evaluation Commission is continued under the name Building Materials Evaluation Commission in English and Commission d'évaluation des matériaux de construction in French and shall be composed of those persons appointed by the Lieutenant Governor in Council. 1992, c. 23, s. 28 (1).

#### **Chair**

(2) The Lieutenant Governor in Council may designate one of the members as chair and one of the members as vice-chair. 1992, c. 23, s. 28 (2).

#### **Remuneration**

(3) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. 1992, c. 23, s. 28 (3).

#### **Powers and duties**

- (4) The Building Materials Evaluation Commission may,
- (a) conduct research on, and examine, construction materials, systems and building designs or cause such research to be conducted and examinations to be undertaken;
  - (b) upon application therefor, authorize the use, subject to any conditions that may be set out, of any innovative material, system or building design in respect of any building or part thereof; and
  - (c) make recommendations to the Minister respecting changes in this Act or the building code. 1992, c. 23, s. 28 (4); 2002, c. 9, s. 43.

#### **Innovative materials**

(5) The use of any innovative material, system or building design in the manner approved by the Commission shall be deemed not to be a contravention of the building code. 1992, c. 23, s. 28 (5).

#### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 42 - 01/07/2005; 2002, c. 9, s. 43 - 01/09/2003

#### **Binding interpretations by the Minister**

28.1 (1) The Minister may issue a written interpretation of any provision of the building code, and the Minister's interpretation is binding on any person exercising a power or performing a duty under this Act and on any person who is subject to this Act. 2002, c. 9, s. 44.

#### **Public notice**

(2) A statement setting out the Minister's interpretation of a provision of the building code shall be made available to the public in the prescribed manner. 2002, c. 9, s. 44.

#### **Legislation Act, 2006, Part III**

(3) The Minister's interpretation of a provision of the building code is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2002, c. 9, s. 44; 2006, c. 21, Sched. F, s. 136 (1).

#### **Delegation**

(4) The Minister may delegate his or her power under subsection (1) to the director. 2002, c. 9, s. 44.

#### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 44 - 01/07/2005

2006, c. 21, Sched. F, s. 136 (1) - 25/07/2007

#### **Rulings by Minister**

29. (1) The Minister may, subject to such conditions as the Minister in his or her discretion considers appropriate, make rulings,

- (a) approving the use of innovative materials, systems or building designs evaluated by a materials evaluation body designated in the building code;
- (b) adopting an amendment to a code, formula, standard, guideline, protocol or procedure that has been adopted by reference in the building code; or
- (c) approving the use of alternative materials, systems and building designs which, in the opinion of the Minister, will achieve the level of performance required by the building code. 1997, c. 30, Sched. B, s. 14 (1); 1999, c. 12, Sched. M, s. 9 (1); 2002, c. 9, s. 45 (1).

#### **Delegation**

(2) The Minister may by order delegate the power to make rulings to the director. 1992, c. 23, s. 29 (2).

#### **Status**

(3) A ruling is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 1992, c. 23, s. 29 (3); 2006, c. 21, Sched. F, s. 136 (1).

#### **Publication**

(4) Notice of a ruling shall be published at least once in *The Ontario Gazette* and made available, upon request, to members of the public. 1992, c. 23, s. 29 (4).

#### **Application**

(5) A ruling of the Minister under clause (1) (a) or (c) entitles a person to use the approved material, system or building design in all of Ontario unless the ruling states otherwise. 1999, c. 12, Sched. M, s. 9 (2).

#### **Approved materials**

(6) The use of an approved material, system or building design in the manner approved in a ruling under clause (1) (a) or (c) shall be deemed not to be a contravention of the building code. 1999, c. 12, Sched. M, s. 9 (2).

#### **Conflicts**

(7) In the event of a conflict between an authorization of the Building Materials Evaluation Commission and a ruling of the Minister under clause (1) (a) or (c), the ruling prevails. 1992, c. 23, s. 29 (7); 1997, c. 30, Sched. B, s. 14 (4); 2002, c. 9, s. 45 (2).

#### **Restriction**

(8) If a materials evaluation body designated in the building code has examined or has expressed its intention to examine an innovative material, system or building design, the Building Materials Evaluation Commission shall not exercise its power under subsection 28 (4) in respect of that material, system or building design. 1992, c. 23, s. 29 (8).

**Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 14 (1-4) - 06/04/1998; 1999, c. 12, Sched. M, s. 9 (1, 2) - 22/12/1999

2002, c. 9, s. 45 (1, 2) - 01/07/2005

2006, c. 21, Sched. F, s. 136 (1) - 25/07/2007

**Inquiry**

30. (1) If it appears to the Minister that there is or may be a failure in construction or demolition standards or in the enforcement of this Act or the building code, the Minister may designate a person to conduct an inquiry into the failure. 1992, c. 23, s. 30 (1).

**Application of *Public Inquiries Act, 2009***

(2) Section 33 of the *Public Inquiries Act, 2009* applies to the inquiry. 2009, c. 33, Sched. 6, s. 43.

**Section Amendments with date in force (d/m/y)**

2009, c. 33, Sched. 6, s. 43 - 01/06/2011

GENERAL

**Immunity from action**

31. (1) No action or other proceeding for damages shall be instituted against the director, a member of the Building Code Commission or the Building Materials Evaluation Commission, or anyone acting under their authority, a person conducting an inquiry under section 30, a chief building official, an inspector or an officer for any act done in good faith in the execution or intended execution of any power or duty under this Act or the regulations or for any alleged neglect or default in the execution in good faith of that power or duty. 1992, c. 23, s. 31 (1); 1997, c. 24, s. 224 (16).

**Liability**

(2) Subsection (1) does not relieve the Crown, a municipality, an upper-tier municipality, a board of health, a planning board or a conservation authority of liability in respect of a tort committed by their respective chief building official or inspectors to which they would otherwise be subject and the Crown, municipality or upper-tier municipality, board of health, planning board or conservation authority is liable for any such tort as if subsection (1) were not enacted. 2002, c. 17, Sched. F, Table.

**Immunity re registered code agencies**

(3) The Crown, a municipality, an upper-tier municipality, a board of health, a planning board or a conservation authority is not liable for any harm or damage resulting from any act or omission by a registered code agency or by a person authorized by a registered code agency under subsection 15.17 (1) in the performance or intended performance of any function set out in section 15.15. 2002, c. 9, s. 47; 2002, c. 17, Sched. C, s. 6 (1).

**Same**

(4) The Crown, a municipality, an upper-tier municipality, a board of health, a planning board or a conservation authority is not liable for any harm or damage resulting from any act or omission in the execution or intended execution of any power or duty under this Act or the regulations by their respective chief building official or inspectors if the act was done or omitted in reasonable reliance on a certificate issued or other information given under this Act by a registered code agency or by a person authorized by a registered code agency under subsection 15.17 (1). 2002, c. 9, s. 47; 2002, c. 17, Sched. C, s. 6 (2).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (16) - 17/06/1998; 1997, c. 30, Sched. B, s. 15 - 06/04/1998; 1999, c. 12, Sched. M, s. 10 - 22/12/1999

2002, c. 9, s. 46, 47 - 01/07/2005; 2002, c. 17, Sched. C, s. 6 (1, 2) - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

32. REPEALED: 2002, c. 9, s. 48.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 48 - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

32.1 REPEALED: 2002, c. 9, s. 49.



### **Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 16 - 06/04/1998

2002, c. 9, s. 49 - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

33. REPEALED: 2002, c. 9, s. 50.

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 50 - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

### **Regulations**

34. (1) The Lieutenant Governor in Council may make regulations governing standards for the construction and demolition of buildings, including,

1. designating structures that are to be defined as buildings under subsection 1 (1);
  - 1.1 prescribing the functions for which a registered code agency may be appointed under subsection 4.1 (4);
  - 1.2 prescribing the information that a principal authority is required to give to the director under subsection 4.1 (8);
  - 1.3 prescribing the persons who may appoint a registered code agency under subsection 4.2 (2);
  - 1.4 prescribing the manner in which the appointment of a registered code agency under section 4.2 may be made and prescribing conditions and restrictions with respect to each appointment;
  - 1.5 prescribing the information that a person who appoints a registered code agency is required to give to the director under subsection 4.2 (9) or to the chief building official under subsection 4.2 (10);
2. prescribing the conditions under which “as constructed plans” may be required by a chief building official under clause 7 (g);
  - 2.1 prescribing the information about the fees and costs to be included in a report under subsection 7 (4) and the manner in which the report is to be made available to the public;
  - 2.2 prescribing the persons to whom notice of proposed changes in fees is to be given under subsection 7 (6), the information to be included in the notice and the manner in which the notice is to be given;
  - 2.3 prescribing the period within which the public meeting referred to in subsection 7 (6) must be held;
  - 2.4 prescribing the records to be maintained by a principal authority and the period for which the records must be retained;
3. governing the manner of construction and types and quality of materials used therein;
  - 3.1 establishing objectives governing the standards for the construction and demolition of buildings;
  - 3.2 prescribing the persons who may apply for a permit under section 8 and the information to be provided with an application for a permit under section 8;
  - 3.3 prescribing the information that a plans review certificate must contain for the purposes of clause 8 (2) (d);
  - 3.4 prescribing requirements and circumstances for the purposes of subsection 8 (2.2) and prescribing the period within which the chief building official is required to make a decision under subsection 8 (2.2) and the manner of determining when the period begins;
  - 3.4.1 prescribing the period within which the chief building official is required to inform an applicant under subsection 8 (2.3) and the manner of determining when the period begins;
  - 3.5 prescribing the information that a plans review certificate must contain under subsection 8 (2.1) and a change certificate must contain under subsection 8 (14);
4. setting out the applicable laws with which compliance must be achieved before a conditional permit may be issued under subsection 8 (3);
  - 4.1 prescribing the information that a chief building official is required to give under subsection 8 (8.1) and prescribing the period within which and the manner in which the chief building official shall give the information;
5. governing the design of buildings and the use to which they may be put;
6. REPEALED: 2009, c. 33, Sched. 21, s. 2 (7).

7. setting out rules and policies to be observed in the interpretation of the building code by any person exercising a power or discretion conferred under the Act or the building code;
8. determining an increase in hazard for the purposes of section 10;
9. adopting by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, formula, standard, guideline, protocol or procedure and requiring compliance with any code, formula, standard, guideline, protocol or procedure that is so adopted;
- 9.1 requiring any part of the construction of a building described in clauses 11 (3) (a) and (b) of the *Architects Act* or subsection 12 (4) and clause 12 (5) (a) of the *Professional Engineers Act* to be designed by an architect or a professional engineer or a combination of both;
10. requiring any part of the design, construction or demolition of a building to be under the general review of an architect or a professional engineer or a combination of both and that copies of reports arising from the general review be provided to the chief building official or to a registered code agency;
11. designating organizations to test prefabricated building units to the standards prescribed by the building code and providing for the placing of their label on units that conform to the standards;
12. requiring the approval of an inspector or a registered code agency in respect of any method, matter or thing;
13. requiring the posting on buildings or sites of construction or demolition of such documents or information as is prescribed;
14. requiring such documents, information, records, drawings or specifications as are prescribed to be kept on the site of construction or demolition;
- 14.1 prescribing the records to be kept by any person and the returns of information and reports to be made by any person and providing for the inspection and examination of the records;
15. requiring notice to be given to the chief building official, an inspector or a registered code agency respecting any matter in the course of construction, including notice of readiness for inspection at the stages of construction of a building, and specifying the person required to give the notices;
- 15.1 prescribing the type and manner of inspections for the purposes of subsection 10.2 (2) (readiness for inspection) and prescribing the period within which the inspections must be carried out;
- 15.2 prescribing the information that must be given to the chief building official about a person who is required by subsection 15.12 (3) to have certain qualifications or to meet certain requirements or both;
- 15.3 prescribing the information that must be given to the chief building official under subsection 15.13 (5) about any person required to have insurance coverage and about the coverage;
- 15.4 prescribing the manner in which a referral to the chief building official under subsection 14 (5) must be made;
16. requiring notice to be given to the chief building official respecting the change in prescribed classes of use made of a building;
17. requiring the chief building official to transmit to the director such returns or reports as are prescribed;
18. prescribing conditions under which a building or any part of a building may be occupied, including requiring notice to be given to a chief building official or registered code agency and requiring permission to be received from the official or agency before the building or part may be occupied;
19. exempting any building or person or class thereof from compliance with all or any part of this Act and the regulations and prescribing conditions for the exemption;
20. prescribing the form of a warrant and the form in which the information upon oath will be taken under section 21;
21. requiring the alteration of any part of an existing building where construction in relation to the building affects that part;
22. requiring the payment of fees in respect of applications to the Building Materials Evaluation Commission and prescribing the amounts thereof;
- 22.1 prescribing the manner in which the Minister's written interpretations under section 28.1 are to be made available to the public;
23. designating materials evaluation bodies for the purposes of section 29;

24. establishing criteria to be followed by the Minister in respect of a ruling under section 29;
25. prescribing procedures of the Building Code Commission and the Building Materials Evaluation Commission;
26. prescribing the persons to whom notice shall be given of the issuance of a permit, the time for giving the notice and the class of buildings for which notice is required;
27. defining, for the purposes of this Act and the building code, any word or expression not defined in this Act, and in so doing may define a word or expression differently for different provisions;
28. prescribing forms and providing for their use or requiring that forms provided by the Minister or the director be used, and prescribing the information that must be contained in the forms;
29. prescribing boards of health, planning boards and conservation authorities that are responsible for the enforcement of the provisions of this Act related to sewage systems and the municipalities and territory without municipal organization in which they will have jurisdiction to carry out the enforcement;
30. permitting chief building officials or registered code agencies, subject to such conditions as are set out in the building code, to allow the use of materials, systems and building designs other than those prescribed in the building code with respect to the construction of buildings;
31. governing the location of sewage systems;
32. designating areas in which any class of sewage system may not be established;
33. prescribing qualifications for chief building officials, inspectors, registered code agencies, designers and other persons referred to in section 15.12 and related matters including,
  - i. requiring different qualifications for different classes of officials, inspectors, agencies, designers and other persons,
  - ii. requiring assessments or examinations in connection with obtaining or maintaining the required qualifications,
  - iii. establishing one or more registers identifying persons with qualifications and such other information as the regulation may require, and
  - iv. requiring fees to be paid in connection with the qualifications;
34. establishing certification, registration or licensing schemes for chief building officials, inspectors, registered code agencies, designers and other persons referred to in sections 15.11 (qualifications) and 15.12 (qualifications re sewage systems) which may include provision for,
  - i. the eligibility or ineligibility of classes of persons to obtain certification, registration or a licence,
  - ii. categories or classes of certification, registration or licence,
  - iii. application for the issuance, amendment or renewal of a certificate, registration or a licence,
  - iv. the issuance, amendment or renewal of a certificate, registration or a licence or the refusal to do so,
  - v. suspension, revocation or cancellation of a certificate, registration or a licence,
  - vi. the imposition of conditions relating to a certificate, registration or licence, including conditions relating to the qualifications of directors, officers, partners, employees and others associated with the holder of the certificate, registration or licence, conditions relating to the manner in which specified persons carry out activities under this Act and the building code and conditions relating to insurance coverage, including the kinds and amounts of insurance and the circumstances in which a person will be considered to be covered by insurance,
  - vii. the establishment and maintenance of one or more registers containing information about the holders of certificates, registrations or licences and containing such information as may be given to the director under paragraph 35.1, and
  - viii. fees payable in connection with certification, registration or licensing;
35. prescribing an appeal to a prescribed tribunal from a refusal to issue or renew a certificate, registration or licence or a suspension, revocation or cancellation of a certificate, registration or licence, prescribing the circumstances in which the decision appealed from takes effect immediately despite the appeal, and prescribing the circumstances in which the tribunal may stay the decision pending the outcome of the appeal;

- 35.1 requiring the Ontario Association of Architects and the Association of Professional Engineers of Ontario to give the prescribed information to the director;
- 35.2 prescribing fees payable to the Crown by the Ontario Association of Architects and the Association of Professional Engineers of Ontario in connection with the registers referred to in paragraphs 33 and 34 and in respect of the development of training materials for a purpose described in paragraph 33 or 34;
- 35.3 prescribing the persons who are required under subsection 15.13 (1) to have insurance coverage and prescribing the kinds and amounts of insurance that are required and the circumstances in which the person will be considered to be covered by insurance;
- 35.4 prescribing additional functions that registered code agencies may perform;
- 35.5 prescribing the manner in which registered code agencies and persons authorized by them under subsection 15.17 (1) are required to perform any of their functions;
- 35.6 prescribing the manner in which a registered code agency is authorized to collect, use and disclose information;
- 35.7 prescribing circumstances in which a registered code agency may be appointed in respect of a building even though an inspector or another registered code agency has already carried out a function described in section 15.15;
- 35.8 prescribing circumstances in which a registered code agency cannot be appointed, including circumstances that would constitute a conflict of interest for a registered code agency;
- 35.9 prescribing the information that a registered code agency is required to give to the director or to the chief building official;
- 35.10 prescribing the classes of persons that may be authorized by a registered code agency under subsection 15.17 (1), the conditions to which the authorization may be subject and the information that must be included in a certificate of authorization;
- 35.11 prescribing certificates and the form of certificates referred to in subsection 15.18 (2), the information that the certificates are required to contain and the circumstances and manner in which registered code agencies are permitted to issue them;
- 35.12 prescribing the circumstances in which the appointment of a registered code agency may be terminated and the conditions that must be met before the termination of an appointment, including,
  - i. requiring the consent of the director and authorizing the director to impose conditions and restrictions in connection with the consent, and
  - ii. authorizing an appeal to a person specified in the regulations from a decision of the director or conditions imposed by the director;
- 36. designating persons, specifying powers of a chief building official or inspector that those designated persons may exercise to enforce this Act and the building code in relation to the qualifications of persons described in sections 15.11 and 15.12 and the requirement in section 15.13 for insurance coverage, and establishing conditions for the exercise of the specified powers;
- 37. prescribing any transitional matters necessary for the regulation of sewage systems, including matters relating to,
  - i. licensing and certification and the qualifications of inspectors and persons described in subsection 15.12 (1),
  - ii. certificates of approval and orders issued under the *Environmental Protection Act*,
  - iii. enforcement issues,
  - iv. matters commenced under the *Environmental Protection Act*, including appeals,
  - v. records and documents to be kept or transferred and the payment of associated costs,
  - vi. certification of records and their use in courts,
  - vii. the continuation of matters commenced under the *Environmental Protection Act*, and
  - viii. the transfer of responsibilities involving any municipality or any board of health, conservation authority or planning board prescribed under section 3.1;
- 38. permitting the Building Code Commission to sit in one or more divisions simultaneously upon such conditions as may be prescribed in the regulation;

- 39. authorizing one member of the Building Code Commission, with the approval of the chair or vice-chair, to hear and determine any matter and deeming the member to constitute the commission for that purpose, under such conditions as may be prescribed in the regulation;
- 39.1 prescribing relationships for the purposes of clause 23 (3) (d) (eligibility to be a member of the Commission);
- 39.2 prescribing the period within which the Building Code Commission must hold a hearing in respect of a dispute described in clause 24 (1) (b) or (c);
- 39.3 providing for transitional provisions relating to the effect of a repeal or re-enactment of any provision of this Act;
- 40. prescribing any matter referred to in this Act as prescribed. 1992, c. 23, s. 34 (1); 1997, c. 30, Sched. B, s. 17 (1-4); 1999, c. 12, Sched. M, s. 11; 2002, c. 9, s. 51 (1, 2, 4-14); 2006, c. 19, Sched. O, s. 1 (12-17); 2006, c. 35, Sched. C, s. 8 (3); 2009, c. 33, Sched. 21, s. 2 (5-7); 2014, c. 7, Sched. 3, s. 3.

**Standards for existing buildings**

(2) The Lieutenant Governor in Council may make regulations to establish standards that existing buildings must meet even though no construction is proposed, including regulations,

- (a) prescribing any or all of the matters set out in subsection (1) as applicable to existing buildings;
- (b) establishing standards for maintenance, retrofit, operation, occupancy and repair;
- (c) prescribing standards related to resource conservation and environmental protection; and
- (d) prescribing standards, methods and equipment for the inspection, cleaning, disinfecting and emptying of sewage systems. 1992, c. 23, s. 34 (2); 1997, c. 30, Sched. B, s. 17 (5); 2006, c. 22, s. 112 (10).

**Discretionary maintenance inspection programs**

(2.1) The Lieutenant Governor in Council may make regulations governing programs established under clause 7 (1) (b.1), including regulations,

- (a) governing the classes of buildings and area affected by a program;
- (b) governing the type and manner of inspections that are conducted under a program and the frequency of the inspections;
- (c) authorizing the principal authority that establishes a program, as an alternative to conducting an inspection, to accept a certificate, in a form approved by the Minister, that is signed by a person who belongs to a class of persons specified by the regulations and that confirms that the person has conducted an inspection and is of the opinion that the building that was inspected complies with the standards prescribed under clause (2) (b) that are enforced by the program. 2006, c. 22, s. 112 (11).

**Sewage system maintenance inspection programs**

(2.2) The Lieutenant Governor in Council may make regulations establishing and governing programs to enforce standards prescribed under clause (2) (b) in relation to sewage systems, including regulations,

- (a) governing the classes of sewage systems affected by the program;
- (b) requiring a principal authority that has jurisdiction in the area affected by the program to administer the program for that area and to conduct inspections under the program;
- (c) governing the type and manner of inspections that are conducted under the program and the frequency of the inspections;
- (d) authorizing the principal authority that administers the program, as an alternative to conducting an inspection, to accept a certificate, in a form approved by the Minister, that is signed by a person who belongs to a class of persons specified by the regulations and that confirms that the person has conducted an inspection and is of the opinion that the sewage system that was inspected complies with the standards prescribed under clause (2) (b) that are enforced by the program. 2006, c. 22, s. 112 (11).

**Application**

(3) A regulation made under this section applies to buildings whether erected before or after the coming into force of this Act. 1992, c. 23, s. 34 (3).

**Limited application**

(4) Any regulation made under this section may be limited in its application territorially or to any class of activity, matter, person or thing. 1997, c. 30, Sched. B, s. 17 (6).

**Same**

(4.1) A class under this Act may be defined with respect to any attribute, quality or characteristic and may be defined to consist of, include or exclude any specified member whether or not with the same attributes, qualities or characteristics. 1997, c. 30, Sched. B, s. 17 (6).

**Retroactive**

(4.2) A regulation made under paragraph 37 of subsection (1) may be retroactive. 1997, c. 30, Sched. B, s. 17 (6).

**Purposes**

(5) The purposes of the regulations made under this section are,

- (a) to establish standards for public health and safety, fire protection, structural sufficiency, conservation, including, without limitation, energy and water conservation, and environmental integrity, and to establish barrier-free requirements, with respect to buildings; and
- (b) to establish processes for the enforcement of the standards and requirements. 2002, c. 9, s. 51 (15); 2009, c. 12, Sched. J, s. 1 (1).

**Review**

(6) The Minister shall initiate a review of the building code with reference to standards for energy conservation on or before the day that is six months after the day Schedule J of the *Green Energy and Green Economy Act, 2009* comes into force and thereafter within five years of the end of the previous review. 2009, c. 12, Sched. J, s. 1 (2).

**Review, standards for water conservation**

(7) The Minister shall initiate a review of the building code with reference to standards for water conservation on or before the day that is six months after the day section 1 of Schedule 2 to the *Water Opportunities and Water Conservation Act, 2010* comes into force and thereafter within five years of the end of the previous review. 2010, c. 19, Sched. 2, s. 1.

**Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 17 (1-6) - 06/04/1998; 1999, c. 12, Sched. M, s. 11 - 22/12/1999

2002, c. 9, s. 51 (1, 2, 4, 5, 7, 8, 10) - 01/07/2005; 2002, c. 9, s. 51 (3) - no effect - see 2009, c. 33, Sched. 21, s. 3 - 01/07/2010; 2002, c. 9, s. 51 (6, 9, 11-15) - 01/09/2003

2006, c. 19, Sched. O, s. 1 (12-17) - 22/06/2006; 2006, c. 22, s. 112 (10, 11) - 03/07/2007; 2006, c. 35, Sched. C, s. 8 (3) - 20/08/2007

2009, c. 12, Sched. J, s. 1 (1, 2) - 14/05/2009; 2009, c. 33, Sched. 21, s. 2 (5, 6) - 01/01/2011; 2009, c. 33, Sched. 21, s. 2 (7) - 01/07/2010

2010, c. 19, Sched. 2, s. 1 - 01/04/2011

2014, c. 7, Sched. 3, s. 3 - 24/07/2014

**Building Code Conservation Advisory Council**

34.1 (1) The Building Code Energy Advisory Council is continued under the name Building Code Conservation Advisory Council in English and Conseil consultatif des questions de conservation liées au code du bâtiment in French. 2010, c. 19, Sched. 2, s. 2 (1).

**Same**

(2) The Minister may appoint one or more persons to the Council and fix its terms of reference. 2009, c. 12, Sched. J, s. 2.

**Functions**

(3) The Council shall,

(a) advise the Minister on the building code with reference to standards for energy and water conservation; and

(b) perform such other functions as the Minister may specify. 2009, c. 12, Sched. J, s. 2; 2010, c. 19, Sched. 2, s. 2 (2).

**Section Amendments with date in force (d/m/y)**

2009, c. 12, Sched. J, s. 2 - 14/05/2009

2010, c. 19, Sched. 2, s. 2 (1, 2) - 01/04/2011

**Municipal by-laws**

35. (1) This Act and the building code supersede all municipal by-laws respecting the construction or demolition of buildings. 1992, c. 23, s. 35 (1).

#### **Different treatments**

(2) In the event that this Act or the building code and a municipal by-law treat the same subject-matter in different ways in respect to standards for the use of a building described in section 10 or standards for the maintenance or operation of a sewage system, this Act or the building code prevails and the by-law is inoperative to the extent that it differs from this Act or the building code. 1992, c. 23, s. 35 (2); 1997, c. 30, Sched. B, s. 18 (1).

#### **Interpretation**

(3) For the purpose of this section, a municipal by-law includes a by-law of an upper-tier municipality and a local board as defined in the *Municipal Affairs Act*. 2002, c. 17, Sched. F, Table.

#### **Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 18 (1, 2) - 06/04/1998

2002, c. 17, Sched. F, Table - 01/01/2003

#### **Status of conservation authority regulations**

35.1 A regulation made by a conservation authority under this Act is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2002, c. 9, s. 52; 2006, c. 21, Sched. F, s. 136 (1).

#### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 52 - 01/07/2005

2006, c. 21, Sched. F, s. 136 (1) - 25/07/2007

#### **Offences**

36. (1) A person is guilty of an offence if the person,

- (a) knowingly furnishes false information in any application under this Act, in any certificate required to be issued or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with an order, direction or other requirement made under this Act; or
- (c) contravenes this Act, the regulations or a by-law passed under section 7. 1992, c. 23, s. 36 (1); 1997, c. 30, Sched. B, s. 19; 2002, c. 9, s. 53 (1); 2009, c. 33, Sched. 21, s. 2 (8).

#### **Idem**

(2) Every director or officer of a corporation who knowingly concurs in the furnishing of false information, the failure to comply or the contravention under subsection (1) is guilty of an offence. 1992, c. 23, s. 36 (2).

#### **Penalties**

(3) A person who is convicted of an offence is liable to a fine of not more than \$50,000 for a first offence and to a fine of not more than \$100,000 for a subsequent offence. 2005, c. 33, s. 1.

#### **Corporations**

(4) If a corporation is convicted of an offence, the maximum penalty that may be imposed upon the corporation is \$100,000 for a first offence and \$200,000 for a subsequent offence and not as provided in subsection (3). 2005, c. 33, s. 1.

#### **Subsequent offence**

(5) For the purposes of subsections (3) and (4), an offence is a subsequent offence if there has been a previous conviction under this Act. 1992, c. 23, s. 36 (5).

#### **Continuing offence**

(6) Every person who fails to comply with an order made by a chief building official under subsection 14 (1) or clause 15.9 (6) (a) is guilty of an offence and on conviction, in addition to the penalties mentioned in subsections (3) and (4), is liable to a fine of not more than \$10,000 per day for every day the offence continues after the time given for complying with the order has expired. 1992, c. 23, s. 36 (6); 2002, c. 9, s. 53 (2).

#### **Power to restrain**

(7) If this Act or the regulations are contravened and a conviction is entered, in addition to any other remedy and to any penalty imposed by this Act, the court in which the conviction is entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted. 1992, c. 23, s. 36 (7).

**Limitation period**

(8) No proceeding under this section shall be commenced more than one year after the facts on which the proceeding is based first came to the knowledge of,

- (a) an officer, where the proceeding is in respect of the enforcement of by-laws passed under section 15.1; or
- (b) the chief building official, in any other case. 2009, c. 33, Sched. 21, s. 2 (9).

**Same**

(8.1) Subsection (8), as it read immediately before the day subsection 2 (9) of Schedule 21 to the *Good Government Act, 2009* comes into force, continues to apply where the subject-matter of the proceeding arose more than one year before that day. 2009, c. 33, Sched. 21, s. 2 (9).

**Proceeds of fines**

(9) If an offence under this section has been committed within a municipality, the proceeds of a fine imposed under this section shall be paid to the treasurer of that municipality, and section 2 of the *Administration of Justice Act* and section 4 of the *Fines and Forfeitures Act* do not apply in respect of the fine. 1992, c. 23, s. 36 (9).

**Same, sewage system offences**

(10) Despite subsection (9), if an offence under this section concerns the provisions of this Act and the building code related to sewage systems and if it is committed in a municipality or territory without municipal organization that is prescribed under subsection 3.1 (1), the proceeds of a fine imposed under this section shall be paid to the applicable board of health, planning board or conservation authority prescribed under subsection 3.1 (1), and section 2 of the *Administration of Justice Act* and section 4 of the *Fines and Forfeitures Act* do not apply in respect of the fine. 2002, c. 9, s. 53 (3).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (17) - no effect - see 2000, c. 26, Sched. K, s. 6 (34) - 06/12/2000; 1997, c. 30, Sched. B, s. 19 - 06/04/1998

2002, c. 9, s. 53 (1, 2) - 01/07/2005; 2002, c. 9, s. 53 (3) - 01/09/2003

2005, c. 33, s. 1 - 15/12/2005

2009, c. 33, Sched. 21, s. 2 (8, 9) - 01/07/2010

**Proof of directions, orders, etc.**

37. (1) In any prosecution for an offence under this Act, a copy of a direction or order purporting to have been made under this Act or the regulations and purporting to have been signed by the person authorized by this Act to make the direction or order is, in the absence of evidence to the contrary, proof of the direction or order without proof of the signature or authority. 1992, c. 23, s. 37 (1).

**Same**

(2) A statement as to any matter of record in an office of the chief building official or an officer purporting to be certified by the chief building official or the officer is, without proof of the office or signature of the chief building official or officer, receivable in evidence as proof, in the absence of evidence to the contrary, of the facts stated therein in any civil proceeding or proceeding under the *Provincial Offences Act*. 1997, c. 24, s. 224 (18).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (18) - 17/06/1998

**Restraining order**

38. (1) Where it appears to a chief building official that a person does not comply with this Act, the regulations or an order made under this Act, despite the imposition of any penalty in respect of the non-compliance and in addition to any other rights he or she may have, the chief building official may apply to the Superior Court of Justice for an order directing that person to comply with the provision. 1992, c. 23, s. 38 (1); 2002, c. 9, s. 54.

**Idem**



(2) Upon the application under subsection (1), the judge may make the order or such other order as the judge thinks fit. 1992, c. 23, s. 38 (2).

#### **Appeal**

(3) An appeal lies to the Divisional Court from an order made under subsection (1). 1992, c. 23, s. 38 (3).

#### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 54 - 01/09/2003

#### **Suspension of licence**

38.1 (1) If a person is in default of payment of a fine imposed upon conviction for an offence under this Act or the regulations, on the application of a prescribed person, an order may be made under subsection 69 (2) of the *Provincial Offences Act* directing that one or more of the licences of the person who is in default be suspended and no licence be issued to that person until the fine is paid. 1997, c. 30, Sched. B, s. 20.

#### **Duty of prescribed person**

(2) A prescribed person shall,

- (a) on being informed of an order referred to in subsection (1), suspend the licence in accordance with the order; and
- (b) on being informed that the fine and any applicable prescribed administrative fee for the reinstatement of the licence are paid, reinstate the licence. 1997, c. 30, Sched. B, s. 20.

#### **No reinstatement**

- (3) The prescribed person shall not reinstate a licence under clause (2) (b) if he or she is informed that,
- (a) there is another outstanding order referred to in subsection (1) directing that the licence be suspended; or
  - (b) the licence is suspended under any other order or under another statute. 1997, c. 30, Sched. B, s. 20.

#### **Definition**

(4) In this section,

“licence” means a licence, certification or registration under the building code. 2002, c. 9, s. 55.

**Note: Despite the repeal of the *Building Code Act* (R.S.O. 1990, c. B.13) by the Statutes of Ontario, 1992, chapter 23, subsection 42 (1),**

- (a) a permit issued under subsection 5 (1) of that Act is continued as a permit issued under subsection 8 (1) of this Act;**
- (b) an order made under that Act is continued as an order made under the corresponding provision of this Act;**
- (c) an agreement under section 3 of that Act is continued as an agreement under section 3 of this Act.**

See: 1992, c. 23, s. 42.

#### **Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 20 - 06/04/1998

2002, c. 9, s. 55 - 01/09/2003

39. OMITTED (AMENDS OR REPEALS OTHER ACTS). 1992, c. 23, s. 39.

#### **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (19) - 17/06/1998

40.-42. OMITTED (AMENDS OR REPEALS OTHER ACTS). 1992, c. 23, ss. 40-42.

43. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 1992, c. 23, s. 43.

44. OMITTED (ENACTS SHORT TITLE OF THIS ACT). 1992, c. 23, s. 44.

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