

Discussion Paper – Proposed Changes to the Building Code for Tiny Homes and Remote Inspections

August 2021

Introduction

A “tiny home” is a small private, compact, self-contained dwelling unit with kitchen and bathroom facilities and sleeping areas intended for year-round use.

A guide titled “Build or Buy a Tiny Home” was published in response to growing interest in this form of housing. The guide provides information on what to look for when building or buying a tiny home for your property.

The Ministry of Municipal Affairs and Housing is seeking input on proposed amendments to the Building Code (Ontario Regulation 332/12) related to building permits and inspections for Tiny Homes. The ministry is also seeking input on proposed amendments to the Building Code related to remote inspections.

Tiny Homes – Off Site Inspections

The Guide outlines circumstances related to tiny homes that are built both on site and those that are factory built. Since the Guide was published, builders, building officials and future purchasers of tiny homes have raised issues with getting building permits and inspections for a tiny home built in one jurisdiction that is to be located in a different jurisdiction (known as “off-site” construction and inspections).

This Discussion Paper outlines potential amendments to the Building Code to address off-site construction and inspections of tiny homes.

Background – Tiny Homes / Building Permits & Prescribed Inspections

In Ontario a building permit is generally required to,

- construct a new building over ten square meters in area
- place a structure, such as a mobile home, that is constructed elsewhere on your property
- make renovations or repairs or add to a building
- change the use of a building
- excavate or construct a foundation
- construct a seasonal building
- undertake work regarding the installation, alteration, extension, or repair of an on-site sewage system

A building permit application generally must include,

- A complete application form and any other forms and supporting documents required by the municipality,
- Confirmation the builder or vendor is licensed under the New Home Construction Licensing Act, 2017, if applicable,
- Construction drawings (most municipalities require at least two sets of drawings),
- Demonstration the construction project meets other “applicable law” listed in the Building Code, and
- Payment of the building permit fee, if applicable.

The Building Code sets out timelines that must be met by Chief Building Officials and building inspectors with respect to making decisions to approve or refuse building permit applications and carry out construction inspections. The Building Code requires that a Chief Building Official decide to issue/refuse a building permit within 10 to 30 days of receipt of the complete building permit application, depending on the type of building.

The Building Code also requires that municipal building inspectors carry out inspections of prescribed stages of construction within two to five days of receiving notice from the builder, depending on the type of buildings. Construction cannot proceed until a required construction inspection has been conducted.

Proposed amendment to the Building Code to enable “off-site” construction and inspections

Proposed amendments would, if made, generally enable the following:

- A. Allow a building permit applicant to apply for and obtain a building permit for a Tiny Home from the building officials in the municipality where the Tiny Home is being constructed and require that prescribed inspections be undertaken by a building official in that municipality.
- B. Require a second building permit be obtained from the municipality where the Tiny Home is to be located. The second building permit would be limited to matters related to the final location of the Tiny Home, such as the foundation, anchorage, grading, zoning by-law and other applicable law matters, and other requirements related to the moving of the Tiny Home. The second permit would not duplicate the matters reviewed, inspected, and approved through the first building permit (i.e. the permit / inspections for the Tiny Home that were issued / undertaken by the building officials in the municipality in which the Tiny Home was built would need to be accepted by the building officials in the municipality where the Tiny Home is to be located).

C. Limit the proposed amendments to Tiny Homes (i.e. homes that are 400 ft² (37 m²) or less). This size aligns with provisions related to Tiny Homes constructed in other parts of Canada such as Nova Scotia.

Remote Inspections

During the COVID-19 pandemic response, the Ministry of Municipal Affairs and Housing received comments and requests that the Building Code be revised to clearly provide building officials with the authority to rely on alternative inspection methods.

While the Building Code does not prohibit remote inspections, building officials advised that changes to the Code that clearly state that building inspectors and building departments can carry out remote inspections would be beneficial. The proposed amendment to the Building Code clarify that enable building officials can use alternative inspection methods (e.g. video, photos) at their discretion.

Background – Remote Inspections

The Building Code establishes time periods in which municipalities are to make decisions on permit applications and to carry out prescribed construction inspections.

Time periods range from two to five days for inspections depending on the type of construction. During the COVID-19 outbreak municipal building officials continued to review permit applications and conduct construction inspections. During the COVID-19 outbreak ensuring the health and safety of inspectors while they conducted inspections resulted in some building departments carrying out remote inspections and developing policies related to when remote inspections would be used. In addition, some municipalities and inspectors raised questions regarding the authority to conduct remote inspections.

An amendment to the Building Code is being proposed that would provide greater certainty that inspectors can conduct inspections remotely should they choose to do so. These means may include the use of drones, photos, video, live feed (Zoom, Skype, Facetime, etc.), telephone discussions with on-site constructors or design professionals, reports from constructors or design professionals, or written statements from constructors and design professionals.

Building departments may choose to develop policies for when it is appropriate to use remote inspections to ensure that compliance with the Building Code Act and Building Code are achieved. Consideration should be given to whether remote inspections are appropriate in the circumstances (for example, how complex/critical are the building elements being inspected, limitations of communication via the alternative means of inspection, can the inspector be satisfied that the construction complies with the Building Code and permits, the qualifications and experience of the person who is providing the information, report or statement). Regardless of the methods chosen by building departments and inspectors regarding inspection of construction, it is key that

they are satisfied that compliance with the Building Code Act, Building Code and permit has been achieved.

Existing Building Code Prescribed Inspection provisions

1.3.5.3. Prescribed Inspections

(1) Except as provided in Sentence (2), an *inspector* or *registered code agency*, as the case may be, shall, not later than two days after receipt of a notice given under Sentence 1.3.5.1.(2), undertake a site inspection of the *building* to which the notice relates.

(2) Where a notice given under Sentence 1.3.5.1.(2) relates to matters described in Clause 1.3.5.1.(2)(l) or (m), an *inspector* or *registered code agency*, as the case may be, shall, not later than five days after receipt of the notice, undertake a site inspection of the *sewage system* to which the notice relates.

(3) When undertaking an inspection required under Sentence (1) or (2), the *inspector* or *registered code agency*, as the case may be, may consider reports concerning whether the *building* or a part of the *building* complies with the Act or this Code.

(4) The time periods referred to in Sentences (1) and (2) shall begin on the day following the day on which the notice is given.

(5) The time periods referred to in Sentences (1) and (2) shall not include Saturdays, holidays, and all other days when the offices of the *principal authority* are not open for the transaction of business with the public.

(6) Despite Sentence (5), the time periods referred to in Sentences (1) and (2) include days when the offices of the *principal authority* are not open for the transaction of business with the public if the reason given by the *principal authority* for the offices not being open is related to coronavirus (COVID-19).

Proposed Amendment

The following is a potential draft of a proposed amendment to Article 1.3.5.3. of Division C (Prescribed Inspections) of the Building Code. The proposed Sentence (3.1) below could be added to the existing Article.

(3.1) For greater certainty, when undertaking an inspection required under Sentence (1) or (2), the *inspector* or *registered code agency*, as the case may be, may choose to not attend at the physical site of the *building* and may instead undertake the inspection using alternate means, including live video, photographs, etc.

Consultation Discussion Items

1. Can you suggest other options/alternatives that ensure that prescribed construction inspections can occur in a timely fashion while also ensuring inspections continue to safeguard public health and safety?
2. Should applications for building permits using the dual permit system be required to be made sequentially or simultaneously?
3. Should a building permit application to construct a Tiny Home be required to include information about where the Tiny Home is to be located?
4. Should the Chief Building Official where the Tiny Home is to be located receive notification of the building permit for the Tiny Home?

SEEKING YOUR INPUT

Public consultation is an important part of developing legislation and regulations in Ontario. By providing your feedback on this consultation paper, you can help the Ministry of Municipal Affairs and Housing develop a robust regulation.

If made the proposed amendments to the Building Code are intended to come in effect on January 1, 2022, at 12:01 am.

The proposed amendment is posted on the Regulatory Registry for a 45 days consultation period. Comments on the proposed amendments can be made through the Regulatory Registry posting.

In addition,

You can send comments in writing to:
Ministry of Municipal Affairs and Housing
Building and Development Branch
Attn: Building Code Consultation
777 Bay St., 16th Floor
Toronto, Ontario
M5G 2E5

Or by email:

buildingcode.consultation@ontario.ca

The ministry requests your feedback by October 22, 2021.

Personal information provided in responses to Building Code consultations is collected under the authority of the Ministry of Municipal Affairs and Housing Act for consultative purposes and for contacting you should we need to clarify your response to this consultation. Responses to consultations (minus addresses, where provided) may be shared with provincial and national building and fire code development committees.