

# COMING SOON: ONTARIO'S NEW BUILDING CODE (JANUARY 1, 2025)

Posted on July 3, 2024

**Categories:** [Insights](#), [Publications](#)

Major revisions to the Ontario Building Code, referred to as the “largest ever provincial building code revision”, will come into effect on January 1, 2025.

The Ontario Building Code (“**OBC**”), as made under the [Building Code Act, 1992](#)<sup>[1]</sup> (the “**Building Code Act**”), is a technical, detailed, and comprehensive document that establishes requirements and minimum standards for building construction in the Province of Ontario. The purpose of the OBC is to promote public safety, resource conservation, environmental integrity, and accessibility objectives by applying uniform building standards, including in respect of<sup>[2]</sup>:

- Health and safety,
- Fire prevention,
- Structural sufficiency,
- Construction materials, and
- Plumbing and mechanical systems.

## NATIONAL HARMONIZED CONSTRUCTION CODES

In recent years, however, Canada has been moving to harmonize construction codes across the country, including as part of efforts to address climate change and the housing crisis. As part of this initiative, the [National Research Council of Canada](#) (“**NRC**”) has developed “National Model Codes” including the [National Building Code of Canada](#) (“**NBC**”), the [National Fire Code of Canada](#), the [National Plumbing Code of Canada](#) and the [National Energy Code of Canada for Buildings](#). The most recent versions of these codes prepared by the NRC are [available online](#).

In November 2022, the Federal Government [announced](#) a new governance model for the development of National Model Codes to better respond to code priorities across jurisdictions, to facilitate cooperation between the federal, provincial and territorial governments on such priorities, and to harmonize these codes across Canada. The [new governance model](#) establishes the Canadian Board for Harmonized Construction Codes (the “**CBHCC**”), which is made up of representatives from provincial, territorial, and federal public services, and

develops, approves, and maintains the National Model Codes based on the strategic priorities set by the Canadian Table for Harmonized Construction Codes Policy.

Following consultation with construction sector organizations, code users, interested organizations and the public, the CBHCC proposed changes to the National Model Codes, including an update to the current 2020 version of the NBC, to take effect in 2025. A list of proposed changes with details explaining each is available [here](#).

The Province of Ontario, together with the other Canadian provinces and territories, is a signatory to the “[Reconciliation Agreement on Construction Codes](#)” (the “**Agreement**”) for the Executive Summary posted by the Province to its [ERO Notice No. 019-4974](#)). The Agreement establishes the terms by which National Model Codes will be harmonized with those of each province and territory, and the parties have undertaken to reduce or eliminate existing variations between jurisdictional construction codes and the National Model Codes by 2025, and to minimize new variations in the future. Notwithstanding the goal of aligning codes nationally, the Agreement recognizes the reality of variation in construction markets and environments between jurisdictions, and so it permits the party provinces and territories to adopt variations or exceptions to the National Model Codes which are jurisdiction-specific.

**Public Consultation:** The CBHCC is running a public consultation until July 29, 2024, to provide users and the public with an opportunity to consider the proposed changes and provide comments on the technical changes. The [Ontario Government has encouraged input from stakeholders](#) via the national public review process on the proposed revisions to the current NBC and National Model Codes. For further details on how to submit comments, see [here](#), contact your applicable professional association, or feel free to reach out to our team.

## **THE NEW ONTARIO BUILDING CODE: ADOPTION IN ONTARIO**

As regulation of building construction in Canada is within the jurisdiction of each respective province or territory,<sup>[3]</sup> the Province of Ontario must specifically adopt the NBC and other National Model Codes in order for them to become law in Ontario. The Province agreed to do this by signing the Agreement discussed above and, on April 9, 2024, the Ministry of Municipal Housing and Affairs made O. Reg. 163/24, or the “**new OBC**” implementing this adoption.<sup>[4]</sup>

Effective **January 1, 2025**, the new OBC will replace the current OBC (being [O. Reg. 332/12](#), or the “**2012 OBC**”),<sup>[5]</sup> subject to certain transition provisions (effectively a “3-month grace period”).

On its webpage introducing this new OBC, the [Province sets out](#) that its goals in introducing the new OBC are: “to reduce regulatory burdens for the construction industry, increase the safety and quality of buildings, and

make it easier to build housing” and that the new OBC:

streamlines processes for the sector and increases harmonization with the National Construction Codes by eliminating at least 1,730 technical variations between the provincial and national requirements.

The key areas of consideration for improvement are: (i) housing supply and innovation; (ii) health and safety; (iii) cost (affordability); (iv) reducing red tape; and (v) better buildings.<sup>[6]</sup>

For a limited time, the 2012 OBC will continue to apply to:<sup>[7]</sup> (i) projects for which a building permit has been issued on or before December 31, 2024, and (ii) projects which have working drawings, plans and specifications substantially completed on or before December 31, 2024, and which have made applications for building permits before March 31, 2025. However, for the current OBC to continue to apply in each case, construction must commence within six months after the building permit is issued. The Province summarizes this transition for applicants as follows:

- Until December 31, 2024, permit applications must be submitted using the 2012 OBC.
- From January 1, 2025 to March 31, 2025, Permit applications may be submitted using the new OBC, or may be submitted using the 2012 OBC if the applicant demonstrates that their working drawings were substantially complete by December 31, 2024
- As of April 1, 2025, Permit applications must be submitted using the 2024 Building Code

Unlike the 2012 OBC, the new OBC directly adopts the NBC, subject to Ontario-specific amendments set out in the “Ontario Amendments to the National Building Code of Canada 2020” dated May 15, 2024 and issued by the Ministry of Municipal Affairs and Housing<sup>[8]</sup>. This means that the new OBC will be made up of two separate documents – the NBC, and an Ontario-specific amendment. To assist users with reading the OBC, the Province will provide users a “Building Code Compendium” consolidating the two into one single, comprehensive document. Users may request a digital copy or print copy of the compendium from the Province [here](#).

Ontario is currently about 60% reconciled with the NBC; upon harmonization, the authors understand that reconciliation will be closer to 80%.<sup>[9]</sup>

Besides format, the main areas of proposed change to the 2012 OBC (including harmonization with the NBC's provisions) are:<sup>[10]</sup>

- farm buildings, including introducing a new Part to Division B for large farm buildings;
- septic systems (Ontario-only changes) including changes to tanks, filter beds, and dispersal beds;
- 2-unit houses / secondary suites (except with respect to NBC's limits to minimum suite size)
- large building accessibility;
- carbon monoxide alarm requirements;

- radon-related measures;
- large buildings – fire safety & exterior cladding;
- structural design – earthquake design, importance categories, solar panels, canopies & parapets, serviceability, and storage racks;
- plumbing (uniformity with the NBC, more flexibility and choices, improved health and safety);
- heating & ventilation; and
- administrative changes to Division A and C (mainly definitions).

Some revisions which were proposed by the NBC but that will likely not be proceeding in the new OBC include those relating to: (i) home-type care occupancy; (ii) guards; (iii) energy efficiency for houses / large buildings; (iv) tornado resiliency; and (v) septic systems (chambers systems, new leaching bed type).

The OBC has been in place for nearly 50 years, being first published in 1975. Since then, it has gone through 7 full new editions, and 120 interim amendments. As such, the concept of OBC amendments is not new to the industry, but this harmonization exercise is at a scale that is yet to be seen. Time will accordingly tell if these changes prove to be what is required for Canada and Ontario to stay current, responding to new technology, innovation, and design and building practices.<sup>[1]</sup>

If you wish to obtain further information on the OBC, the amendments and potential implications for your project, please do not hesitate to contact the authors, [Annik Forristal](#) or [Kailey Sutton](#).

[1] SO 1992, c.23.

[2] [Building Permit Regulations, City of Toronto](#).

[3] Property and civil rights are within provincial jurisdiction pursuant to s.92, *Constitution Act, 1867*, 30 & 31 Vict, c 3.

[4] Ontario Regulation 163/24, as made under the *Building Code Act* on April 9, 2024, and as amended by [O. Reg. 203/24](#) in May 2024.

[5] Ontario Regulation 332/12, as made under the *Building Code Act*.

[6] Pursuant to a presentation to the public on April 24, 2024 by the Ontario Home Builders' Association, Ontario Building Officials Association, Home Construction Regulatory Authority, and the Province of Ontario, as attended by author Kailey Sutton.

[7] *O. Reg. 163/24: BUILDING CODE*, [s. 2](#).

[8] *O. Reg. 163/24: BUILDING CODE*, [s. 1](#).

[9] [ERO Notice No. 019-8316](#), available online at: Environmental Registry of Ontario.

[10] Pursuant to a presentation to the public on April 24, 2024 by the Ontario Home Builders' Association, Ontario Building Officials Association, Home Construction Regulatory Authority, and the Province of Ontario, as

attended by author Kailey Sutton.

[11] Pursuant to a presentation to the public on April 24, 2024 by the Ontario Home Builders' Association, Ontario Building Officials Association, Home Construction Regulatory Authority, and the Province of Ontario, as attended by author Kailey Sutton.

by [Kailey Sutton](#), [Annik Forristal](#) and Claire La Mantia (Student-at-Law)

### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

© McMillan LLP 2024