

Attachment 7: TRCA Submission on ORR_22MMAH002

March 12, 2022

BY E-MAIL ONLY

Minister of Municipal Affairs and Housing
Building and Development Branch
777 Bay Street, 16th floor
Toronto, ON
M7A 2J3

Re: Proposed Interim Changes to the 2012 Building Code to exempt sheds from Building Code requirements (ORR #22-MMAH002)

Thank you for the opportunity to comment on proposed changes to the 2012 Building Code to exempt sheds from Building Code requirements, as posted to the Ontario Regulatory Registry (ORR) by the Minister of Municipal Affairs and Housing.

Toronto and Region Conservation Authority (TRCA) conducts itself in accordance with the objects, powers, roles and responsibilities set out for conservation authorities (CA) under the *Conservation Authorities Act* (CA Act) and the Ministry of Natural Resources and Forestry's Procedural Manual chapter on CA policies and procedures for plan review and permitting activities. TRCA is:

- A public body under the *Planning Act* and *Environmental Assessment Act*;
- An agency delegated the responsibility to represent the provincial interest on natural hazards under Section 3.1 of the Provincial Policy Statement (PPS);
- A regulatory authority under Section 28 of the CA Act;
- A service provider to municipal partners and other public agencies;
- A Source Protection Authority under the *Clean Water Act*;
- A resource management agency; and
- A major landowner in the Greater Toronto Area.

In these roles, and as stated in the Ministry of Environment Conservation and Parks "A Made-In-Ontario Environment Plan," CAs work in collaboration with municipalities and stakeholders to protect people and property from flooding and other natural hazards, and to conserve natural resources. TRCA's participation in the review and approval of development applications under the *Planning Act* helps to ensure that development approved under the *Planning Act* can also meet the regulatory requirements governing the issuance of permits under the CA Act.

Government Proposal

We understand that the Ministry is seeking input on potential amendments that would exempt auxiliary structures (e.g. sheds) under 15 m² from Building Code requirements, where currently auxiliary structures 10 m² in area or smaller (without plumbing) are not considered “buildings” and thus need not require a building permit under section 8 of the Building Code Act. We note that this exemption would be based on size threshold alone and that other related technical requirements (i.e., no more than one storey, located a minimum of 3 m from buildings/structures/fences, does not contain plumbing, and is used only to store household/property-related items). We note that the expressed intent of this amendment is to, “provide more flexibility for property owners who want to store equipment and other belongings in sheds that are slightly larger than 10 m²”.

Lastly, we understand that, regardless of whether such an auxiliary structure is deemed to be a building, and therefore subject to Building Code requirements, that municipal zoning by-law (ZBL) requirements must still be met.

Comments

TRCA staff appreciate the intent of this proposal given the need to streamline development approvals. We recognize the importance of efficiency, certainty, transparency, and accountability in development review processes, so that projects can occur in a timely and environmentally sustainable manner. While we do not principally object to this proposal given it would streamline the approval of certain minor auxiliary structures, we note the following:

1. Pursuant to section 3.1 of the PPS, development and/or site alteration is generally to be directed outside natural hazards (e.g., flooding, erosion, dynamic beach).
2. While auxiliary structures of a certain size may be exempt from requiring a permit under the *Building Code Act*, some structures may still meet the definition of development under section 28 of the CA Act and a TRCA permit may still be required prior to construction.

In our experience in working with municipal partners to prevent or reduce risk to life and property from natural hazards, auxiliary structures are frequently proposed within or abutting hazardous lands traversing residential properties. In some instances, such structures are constructed without the appropriate municipal and CA permits and/or designed or converted to maintain a habitable use, thus increasing overall risk, as well as costs associated with enforcement activities. The respective permitting requirements of municipalities and CAs under the *Building Code Act* and CA Act, and subsequent enforcement activities, help to deter and remediate such occurrences. As such, we are concerned that the proposed amendments to expand exemptions for auxiliary structures under 15 m² could exacerbate these issues.

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TRCA Recommendation

We recommend that direction be provided to the bodies responsible for enforcing Ontario's Building Code to guide structures exempt from permits under the Building Code Act to areas outside natural hazards, in accordance with provincial policy, and to note that permits for such structures pursuant to CA's regulatory authority under the CA Act may still be required.

Thank you once again for the opportunity to provide comments on this proposal. Should you have any questions, require clarification on any of the above, or wish to meet to discuss our remarks, please contact the undersigned at 416.661.6600, Ext. 5281 or at laurie.nelson@trca.ca.

Sincerely,

< Original signed by >

Laurie Nelson, MCIP, RPP
Director, Policy Planning

BY E-MAIL

cc:

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