
RURAL AND NORTHERN ADVISORY PANEL:

**FINAL REPORT SUBMITTED TO THE MINISTER OF
MUNICIPAL AFFAIRS AND HOUSING**

November, 2005

Executive Summary

Ontario's building regulatory systems is undergoing significant change as a result of the Building Code Statute Law Amendment Act, 2002 (Bill 124).

The Association of Municipalities of Ontario, and some individual municipalities and building officials, expressed concern about their readiness to implement these changes, by the original July 1, 2005 deadline, and about their future capacity to meet new service level requirements. Particular attention was focussed on the new requirement that municipal Chief Building Officials, plans reviewers and building inspectors meet provincial qualification standards.

Rural and northern municipalities also noted that some designers in their communities were not fully aware of, and were certainly not ready to meet, the Bill 124 requirement that design firms be registered with the Province, and that that individual designers meet provincial qualification requirements.

In response, the Government made changes that extended the implementation period to for certain key requirements, including building official and designer qualification requirements to January 1, 2006. The Building Code was also amended to allow building officials who have not meet provincial qualification requirements to undertake restricted duties provided they enrol in an internship program approved by the Minister of Municipal Affairs and Housing.

To further address concerns raised by rural and northern municipalities, the Minister of Municipal Affairs and Housing established a Rural and Northern Advisory Panel (RNAP) to provide advice on issues related to the implementation of recent changes to the building regulatory system in rural and northern areas of the Province.

In particular, RNAP's mandate was to provide advice on the following:

- . The qualification of building officials and the registration/qualification of designers;
- . The provision of training and other support for building practitioners;
- . Guidelines for the establishment of internship programs for building officials; and
- . Alternative methods of service delivery, including joint enforcement agreements and the use of private Building Code enforcement bodies known as Registered Code Agencies.

RNAP was chaired by Maria Van Bommel, Parliamentary Assistant to the Minister of Agriculture, Food and Rural Affairs. The Panel consisted of eight individuals from rural and northern areas of the Province, and consisted of municipal elected representatives, municipal officials, designers and builders.

The panel met four times in September and October 2005, and submits this report to the Minister for his consideration.

RNAP recommends to the Minister that:

1. MAH proceed to release a revised "Application and Approval Criteria for Organizations Seeking to Establish an Inspector Internship Program" as set out in Appendix F.
2. MAH release a "Guide to Building Code Service Delivery Options for Municipalities". This Guide would set out the options that municipalities have when considering how to deliver building enforcement in the community. An outline of the Guide is set out in Appendix F, and includes:
 - . "In house" delivery;
 - . Retention of a Registered Code Agency (RCA);
 - . Entering into a Joint Services Agreement with one or more other Municipalities;
 - . Entering into an agreement with an upper-tier municipalities;
 - . Appointing part time staff; and
 - . Engaging consultants for specific projects or building classes.
3. MAH work with delivery agents to increase the number and frequency of Building Code qualification courses delivered in rural and northern municipalities. To this end, the following options should be considered:
 - . Allow for reduced number of course participants from the 10 persons currently required;
 - . Encourage the Ontario Building Officials Association and other delivery agents to utilise their local chapter/affiliate networks to support the delivery of courses throughout the Province;
 - . MAH offset delivery agent costs such that the course costs incurred by participants are comparable to those of courses delivered in Southern Ontario; and
 - . MAH offset course participant costs for travel and/or accommodation for building officials employed in municipalities experiencing significant and demonstrated economic hardships.
4. MAH work with delivery agents to explore the effectiveness and cost of alternate methods to conventional classroom delivery including correspondence courses, videoconferencing and e-learning.

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5. MAH, in cooperation with building officials, designers and other stakeholders, encourage educational institutions across the province, to:
 - . Develop new programs to train new building officials;
 - . Provide new opportunities for the continuing education of building officials and other practitioners; and
 - . Offer Building Code technical/legal courses as part of existing programs (e.g., architectural technology, engineering technology).
 6. MAH work with stakeholder groups and educational institutions to encourage new entrants into the building official profession.
 7. MAH develop a presentation on municipal options for the delivery of building enforcement services. Further, that MAH work with organizations representing municipalities and municipal staff, including AMO, ROMA, NOMA, AMCTO and OBOA, to identify opportunities to deliver the presentation to their members.
 8. MAH, prior to January 1, 2006, prepare brochures and other communications material that will:
 - . Clarify the qualification requirements for building practitioners, including building officials, designers, homebuilders, renovators, contractors, and; homeowners.
 - . Assist persons who wish to complete the common provincial permit application form.
 9. That the following matters be referred to the Building Advisory Council for consideration:
 - . Responding to the unique challenges faced by rural and northern municipalities in complying with permit timeframes;
 - . Exploring further how small municipalities, especially in remote areas, can deliver building enforcement services;
 - . Achieving greater consistency among municipalities with respect to Building Code enforcement, including requiring the same information at the time of building permit application;
 - . Grandfathering experienced building officials;
 - . Allowing RCAs to "pre-register" with the province before having required insurance, and only requiring full registration when they have entered into an agreement with a municipality;
 - . Developing incentives that would encourage larger or upper tier municipalities to provide building enforcement services to smaller communities;

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- . Increasing the accountability of building contractors through mandatory insurance;
 - . Requiring that building contractors have key staff qualified for Building Code knowledge;
 - . Moving the construction sector away from a "joint and several" liability regime towards proportional liability;
 - . Allowing Joint Enforcement Agreements among municipalities and agreements between lower and upper tier municipalities to be limited to the enforcement of the Building Code with respect to a single project or class of buildings;
 - . Allowing the use of digital photographs submitted by the designer/builder as an alternative to on-site inspections, where distances make on-site inspections within the timeframes difficult;
 - . Clarifying Building Code requirements for farm buildings;
 - . Addressing concerns about the quality of designs submitted by non-qualified homeowner-designers, and extra work for municipalities to review these drawings;
 - . Charging higher building permit fees applied to homeowner designers; and
 - . Reducing the potential for house plans to be submitted under the owner-designer exemption, even though they are actually prepared by an outside designer.

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1. Introduction

1.1 Changes to Ontario's Building Regulatory System

Ontario's building regulatory system is undergoing significant change as a result of the *Building Code Statute Law Amendment Act, 2002* (Bill 124). This legislation, which amended the *Building Code Act, 1992*, was proclaimed in July 2003. Regulatory amendments required to implement Bill 124, in the form of changes to the Building Code, were filed at the same time.

Certain Bill 124 changes took effect September 1, 2003, Originally, the remaining changes were to take effect July 1, 2005, although an amendment to the Building Code filed in June 2005, extended the "in force" date for certain elements until January 1, 2006.

Under the *Building Code Act, 1992*, municipalities are primarily responsible for building regulatory enforcement. Bill 124 will have a significant impact on the delivery of enforcement services. For example, the legislation will require that municipalities:

- . Appoint Chief Building Officials (CBOs), plans reviewers and building inspectors (*to be referred to in this report, collectively, as "building officials"*) who meet the required provincial qualification requirements, which involves passing a legal examination and technical examinations related their area(s) of practice;
- . Institute a Code of Conduct for building officials;
- . Make decisions on a building permit application (i.e., issue the permit or give full reasons why the permit should not be issued) within a specified timeframe following the submission of a building permit application. The timeframes range from ten business days (e.g., for a house) to thirty business days for the most complex buildings;
- . Inspect buildings under construction at specified points, and do so within two days following the receipt of a notice from the building permit holder;
- . Limit building permit fees to the reasonable anticipated cost of enforcement;
- . Prepare annual reports explaining building permit fees; and
- . Hold a public meeting when changes to fees are proposed.

The Association of Municipalities of Ontario, along with many individual municipalities, expressed concern about the readiness of local jurisdictions to implement these changes by the original July 1, 2005 deadline, and about their ongoing capacity to deliver building enforcement services in a manner that meets the new Bill 124 requirements. In particular, rural and northern municipalities noted that:

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- . In smaller jurisdictions with one or two person building departments, building officials would need to pass a broad range of examinations, rather than specializing in a limited number of areas;
 - . The total cost of the voluntary training courses to help building officials prepare for the new qualification examinations is significant, especially in cases where staff must travel to major centres and stay there for the duration of the course;
 - . It is not practical for small municipalities to have their sole building official away on training courses for extended periods of time;
 - . Building officials with significant experience may be unwilling to sit for the qualification examinations, and may opt for early retirement;
 - . Smaller municipalities may decide not to have a building official qualified for specialized projects (e.g., those that fall into the “complex building” area of practice). However, the jurisdictions in question would not have the capacity to meet the time frames for building permit determinations or undertake inspections should such an application be received; and
 - . Limited building department staff and long travel distances may mean it is difficult to meet the short timeframes for inspections.

Rural and northern municipalities also expressed concern that many designers in their communities were not always aware of, nor ready to meet, the Bill 124 requirement that design firms be registered with the Province, and that that individual designers meet provincial qualification requirements.

These concerns were alleviated somewhat by the Government’s decision in June 2005 to extend the implementation date for certain Bill 124 requirements, including the qualification of building officials, the registration/qualification of designers, timeframes for building permit determinations and reporting requirements for building permit fees to January 1, 2006. The Building Code was also amended to allow building officials who have not met provincial qualification requirements to undertake restricted duties provided that they enrol in an internship program approved by the Minister.

1.2 Establishment of RNAP

To further address concerns raised by rural and northern municipalities, the Minister announced his intention to establish a Rural and Northern Advisory Panel (RNAP). This Panel has been established to provide advice to the Minister on issues related to the implementation of recent changes to the building regulatory system in rural and northern areas of the Province.

In particular, RNAP’s mandate was to provide advice on the following:

- . The qualification of building officials and the registration/qualification of designers;

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- . The provision of training and other support for building practitioners;
 - . Guidelines for the establishment of internship programs for building officials; and
 - . Alternative methods of service delivery, including joint enforcement agreements and the use of private Building Code enforcement bodies known as Registered Code Agencies.

The Terms of Reference for RNAP are set out in Appendix A to this report.

RNAP was chaired by Maria Van Bommel, Parliamentary Assistant to the Minister of Agriculture, Food and Rural Affairs.

The Panel consisted of eight individuals from rural and northern areas of the Province, and consisted of municipal elected representatives, municipal officials, designers and builders. Panel membership is set out at the end of this report.

Staff from the Ministry of Municipal Affairs and Housing (“MAH”) provided research and administrative support to RNAP.

The Panel first met in Guelph on September 12, 2005, and subsequent meetings were held on September 26 and October 3 in Toronto. A draft report was circulated for review, and a final teleconference was held on October 17, 2005 to provide Panel members with an opportunity to bring forward concerns and comments and endorse the final report.

As set out in the Terms of Reference, RNAP was set up with a specific purpose, to submit a Final Report to the Minister with recommendations. The official work of the Panel, therefore, “sunsets” with the submission of this report.

1.3 Work of RNAP

In its four meetings, and in accordance with its mandate, the Panel explored a number of areas related to the implementation of Bill 124, including:

- . Building official internship;
- . Options for municipal service delivery;
- . Building practitioner training; and
- . Communications.

This report outlines the Panel’s work in each of these areas, and identifies recommendations for the Minister.

During its meetings, RNAP raised several issues that went beyond the mandate of the Panel, required input from a broader range of stakeholders, or

which required legislative/regulatory amendments for implementation. The Panel recommends that these issues be referred to the Building Advisory Council (BAC), which it encourages the Minister to establish in January 2006.

The meeting minutes set out in Appendices B, C, and D to this report provide a more detailed description of the work of RNAP.

2. Building Official Internship

In March 2005, the government amended the Building Code to permit building officials who have not met all provincial qualification requirements to undertake restricted duties provided they enrol in an internship program approved by the Minister. This internship option gives building officials the opportunity to become fully qualified in the appropriate classes while “on the job”, and was intended to address situations where building officials might not be fully ready by the full implementation date (originally July 1, 2005; now January 1, 2006). Internship will also provide more flexibility to municipalities in dealing with future staff turnover, recognizing that fully qualified candidates might not be readily available.

Interest in establishing internship programs has been expressed by organizations representing enforcement staff, including the Ontario Building Officials Association, and a number of large municipalities. In order to facilitate the development of internship proposals for consideration by the Minister, MAH developed draft Application and Approval Criteria for Organizations Seeking to Establish an Inspector Internship Program (*“The Application Criteria”*). This draft was circulated to a number of stakeholders for review, and was published on July 8, 2005. This document was presented to RNAP for discussion.

The Panel generally endorses the approach taken in the draft Application Criteria, but raised specific concerns in three areas: internship period, intern supervision, and information on interns available on public registries.

Under the direction of RNAP, MAH staff prepared a further draft of the Application Criteria, which was subsequently endorsed by the Panel. The endorsed version is set out in Appendix E to this report. This version reflects RNAP’s views on the three issues noted above.

Recommendation 1:

The Rural and Northern Advisory Panel Recommends to the Minister that MAH proceed to release the revised “Application and Approval Criteria for Organizations Seeking to Establish an Inspector Internship Program” included as Appendix E of this Report.

RNAP, however, expressed concern that the internship model may not be completely useful to the smallest municipalities, where there may not be a qualified person “in house” to provide intern supervision. Further challenges are encountered in the North, where significant distances between municipalities would frequently preclude a building official in a neighbouring municipality from serving as a supervisor. Questions were also raised about the lack of incentives for a building official in one jurisdiction to assume responsibility for an intern working elsewhere, owing to concerns about workload, travel distances and liability. RNAP suggests that BAC consider these issues.

3. Options for Municipal Service Delivery

In its discussions, RNAP examined the various options available to municipalities in meeting their new building enforcement responsibilities resulting from Bill 124. In particular, the Panel focussed on the alternatives to the traditional “in house” model of service delivery. The following alternatives were identified:

- . Retention of a Registered Code Agency (RCA);
- . Entering into a Joint Services Agreement with one or more other Municipalities;
- . Entering into an agreement with an upper-tier municipality
- . Appointing part time staff; and
- . Engaging consultants for specific projects or building classes.

MAH staff presented initial drafts of guidelines to support municipalities considering appointing an RCA, or entering into a joint services agreement. RNAP suggested, however, that municipalities needed a more comprehensive guide that covered the full range of available service delivery options. Under direction from the Panel, MAH staff prepared and presented a draft outline of a “Guide to Building Code Service Delivery Options for Municipalities”. The Panel endorsed this outline as the basis for a document that would cover the full range of municipal options. Panel members agreed that the internship option should be referenced in the provisions of the guide dealing with “in house” delivery and the appointment of part time staff. It was further agreed, however, that the Guide should indicate that internship may not be a viable option for small municipalities with one-person building departments, and that the municipalities in question should explore other options. The Panel also asserted that the issue of consultant liability and insurance coverage should be addressed in the section of the guide related to the retention of consultants.

Recommendation 2:

RNAP Recommends to the Minister that MAH release a “Guide to Building

Code Service Delivery Options for Municipalities”. This Guide would set out the options that municipalities have when considering how to deliver building enforcement in the community. An outline of the Guide is set out in Appendix F, and includes:

- . “In house” delivery;
- . Retention of a Registered Code Agency (RCA);
- . Entering into a Joint Services Agreement with one or more other Municipalities;
- . Entering into an agreement with an upper-tier municipality;
- . Appointing part time staff; and
- . Engaging consultants for specific projects or building classes.

RNAP members, however, expressed concern about whether some of these options would, in practice, be available to all small municipalities, especially those located in remote areas of the province. It was suggested that only a limited number of RCAs are likely to be established, and those would more likely be located in major urban centres. Panel members also suggested that there was a lack of incentives for municipalities with available building enforcement resources to enter into an agreement to share those resources. RNAP suggest that BAC consider this issue.

4. Building Practitioner Training

RNAP emphasized the need for further training opportunities for building officials from rural and northern municipalities, and for designers operating in these communities, to assist these building practitioners successfully complete the legal and technical examinations required to become qualified under Bill 124. The need is most acute in the period leading up to the January 1, 2006 implementation date, and the period immediately thereafter.

The Panel recognized that MAH has developed a suite of Building Code training courses specifically targeted at building practitioners who need to take the legal and technical examinations, and that MAH has developed an infrastructure for delivering these courses through licensed delivery agents. However, the Panel noted that availability and frequency of these courses through licensed delivery agents is inadequate in northern areas of the Province. This adds considerably to the time and cost that northern practitioners must allocate to the completion of courses. While MAH has offered to provide financial assistance to delivery agents who wish to offset some of the higher costs associated with delivering courses in more remote areas of the Province, the Panel noted that there was limited uptake from the organizations involved.

Recommendation 3:

RNAP Recommends to the Minister that MAH work with delivery agents to increase the number and frequency of Building Code qualification courses delivered in rural and northern municipalities. To this end, the following options should be considered:

- . Allow for reduced number of course participants from the 10 persons currently required;
- . Encourage the Ontario Building Officials Association and other delivery agents to utilise their local chapter/affiliate networks to support the delivery of courses throughout the Province;
- . MAH offset delivery agent costs such that the course costs incurred by participants are comparable to those of courses delivered in Southern Ontario; and
- . MAH offset course participant costs for travel and/or accommodation for building officials employed in municipalities experiencing significant and demonstrated economic hardships.

The Panel recognized the value of the “self-study” option for those building practitioners who are unable to allocate the time required to attend a course, but suggested that other alternatives should be explored that would provide for a more interactive learning environment.

Recommendation 4:

RNAP Recommends to the Minister that MAH work with delivery agents to explore the effectiveness and cost of alternate methods to conventional classroom delivery including correspondence courses, videoconferencing and e-learning.

RNAP also emphasized the need to ensure that there is an adequate supply of persons who have the requisite training to become a building official on an ongoing basis. The Panel believes it is preferable for municipalities to have the opportunity to hire “entry level” staff persons who have acquired this knowledge during their formal education or apprenticeship training, rather than relying on “in-house” training. This was seen to be a critical issue by RNAP, given that many current northern and rural building officials are approaching retirement. Further, as a result of Bill 124, there is a growing trend that experienced CBOs and inspectors are being “poached” by larger, urban municipalities that are able to pay more.

To this end, the Panel saw the need for an increased role to be played by the Province’s educational institutions, to ensure that appropriate programs are available in all regions.

Recommendation 5:

RNAP Recommends to the Minister that MAH, in cooperation with building officials, designers and other stakeholders, encourage educational institutions across the province, to:

- . Develop new programs to train new building officials; Provide new opportunities for the continuing education of building officials and other practitioners; and
- . Offer Building Code technical/legal courses as part of existing programs (e.g., architectural technology, engineering technology).

The Panel noted that the building official career path has not been particularly appealing to students, especially at the community college level. This may change as a result of Bill 124, which RNAP expects will increase salary levels for building officials, and provide enhanced recognition of the special skills involved in being a building official. Nonetheless, the Panel took the view that there was a need to more effectively “market” the building official profession.

Recommendation 6:

RNAP Recommends to the Minister that MAH work with stakeholder groups and educational institutions to encourage new entrants into the building official profession.

5. Communications

During its meetings, the RNAP expressed concern that while a range of options were available to municipalities with respect to how they deliver building enforcement services, these were not well known. Furthermore, smaller municipalities without in-house legal resources may be discouraged from pursuing these options without external support.

Recommendation 7:

RNAP Recommends to the Minister that MAH develop a presentation on municipal options for the delivery of building enforcement services. Further, that MAH work with organizations representing municipalities and municipal staff, including AMO, ROMA, NOMA, AMCTO and OBOA, to identify opportunities to deliver the presentation to their members.

The Panel also noted the complexity of the new qualification requirements that will apply to building officials, and the registration/qualification requirements that will apply to designers. It was suggested that MAH develop

more effective communications materials that explain the new requirements in a manner that is understandable yet comprehensive.

The Panel recognised the streamlining of the common provincial building permit application form in the Spring of 2005, yet felt that it remained more complex than necessary. RNAP expressed the view that both building permit applicants and municipal building officials would benefit from a guide to the completion of the form.

Recommendation 8:

RNAP Recommends to the Minister of Municipal Affairs and Housing that MAH, prior to January 1, 2006, prepare brochures and other communications material that will:

- . Clarify the qualification requirements for building practitioners, including building officials, homebuilder/designers and renovators; and
- . Assist persons who wish to complete the common provincial permit application form.

6. Matters referred to the Building Advisory Committee

During its meetings, RNAP raised several issues that went beyond the mandate of the Panel, would benefit from input from a broader range of stakeholders, or required legislative/regulatory amendments for implementation.

The Panel concluded that these issues should be referred to the Building Advisory Council (BAC). RNAP strongly encourages the Minister to establish BAC in January 2006.

While the BAC terms of reference have not yet been drafted, RNAP was of the understanding that BAC would have a broad mandate, including the ongoing monitoring of the implementation of the recent building regulatory changes, and the examination of future technical, administrative and enforcement issues related to the *Building Code Act, 1992* and the Building Code.

Recommendation 9:

RNAP Recommends to the Minister that the following matters be referred to the Building Advisory Council for consideration:

- . Responding to the unique challenges faced by rural and northern municipalities in complying with permit timeframes;

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- . Exploring further how small municipalities, especially in remote areas, can deliver building enforcement services;
 - . Achieving greater consistency among municipalities with respect to Building Code enforcement, including requiring the same information at the time of building permit application;
 - . Grandfathering experienced building officials;
 - . Allowing RCAs to “pre-register” with the province before having required insurance, and only requiring full registration when they have entered into an agreement with a municipality;
 - . Developing incentives that would encourage larger or upper tier municipalities to provide building enforcement services to smaller communities;
 - . Increasing the accountability of building contractors through mandatory insurance;
 - . Requiring that building contractors have key staff qualified for Building Code knowledge;
 - . Moving the construction sector away from a “joint and several” liability regime towards proportional liability;
 - . Allowing Joint Enforcement Agreements among municipalities and agreements between lower and upper tier municipalities to be limited to the enforcement of the Building Code with respect to a single project or class of buildings;
 - . Allowing the use of digital photographs submitted by the designer/builder as an alternative to on-site inspections, where distances make on-site inspections within the timeframes difficult;
 - . Clarifying Building Code requirements for farm buildings;
 - . Addressing concerns about the quality of designs submitted by non-qualified homeowner-designers, and extra work for municipalities to review these drawings;
 - . Charging higher building permit fees applied to homeowner designers; and
 - . Reducing the potential for house plans to be submitted under the owner-designer exemption, even though they are actually prepared by an outside designer.

Composition of the Rural and Northern Advisory Panel

Position	Name	Affiliation
Chair	Maria Van Bommel	Parliamentary Assistant to the Minister of Agriculture, Food and Rural Affairs
Member	Syl Allard	Chief Building Official, City of Elliot Lake
	Leon Bach	Building Official, City of St. Thomas
	Bert Dykstra	Reeve, Municipality of Central Huron
	John McEwen	Building Contractor, Kingston
	Paul Mitchell	Architect, North Bay
	John Naccarato	Chief Building Official, Town of LaSalle
	Celia Teale	Planner, Sudbury
	Bill Vrebosch	Mayor, Canton-East Ferris Township

Appendix A

Terms of Reference: Rural and Northern Advisory Panel (RNAP)

September 12, 2005

A. Mandate of RNAP

- . The mandate of the Rural and Northern Advisory Panel (RNAP) is to provide advice to the Minister on specific matters related to the implementation of recent changes to the building regulatory system they as apply in rural and northern municipalities. These matters are:
 - . The qualification of building officials and the registration/qualification of designers;
 - . The provision of training and other support for building practitioners;
 - . Guidelines for the establishment of internship programs for building officials; and
 - . Alternative methods of service delivery, including joint enforcement agreements and the use of registered code agencies.

B. Timeframe

- . RNAP will be established to provide advice to the Minister well in advance of the new implementation date of January 1, 2006. Critical dates are as following:
 - . First meeting of RNAP to identify and prioritize key implementation issues and review potential solutions by the second week of September, 2005 (a second meeting is anticipated for later in September)
 - . Additional meetings will be held as necessary, at the call of the Chair
 - . RNAP will report to the Minister as solutions are identified
 - . Panel will sunset upon the submission of its final report.

C. Chair

- . RNAP will be chaired by Maria Van Bommel Parliamentary Assistant to the Minister of Agriculture, Food and Rural Affairs.

D. Membership

- . Members of RNAP will be selected by the Minister of Municipal Affairs and Housing from applicants who are required to apply through the public appointments process administered by the Public Appointments Secretariat (PAS).
- . The PAS requires applicants to use a prescribed application form, and requires those applicants short-listed for a specific position, to submit a “Personal and Conflict of Interest Disclosure Statement”. Applicants recommended for an appointment may also be selected to appear before the “Standing Committee on Government Agencies”.

E. Reports

- . RNAP will submit reports to the Minister as appropriate containing proposed solutions and approaches.
- . Reports will be signed by the Chair. Any significant dissenting views will be acknowledged and included in the report or provided in a separate report to the Minister.
- . It is expected that the Panel will submit reports to the Minister as appropriate, containing proposed solutions and approaches to:
 - . The qualification of building officials and the registration/qualification of designers;
 - . Guidelines for the establishment of internship programs for building officials; and
 - . Alternative methods of service delivery, including joint enforcement agreements among municipalities, and the use of registered code agencies.

F. MAH support

- . RNAP will receive staff support from MAH, through the Building and Development Branch. Ministry responsibilities will include:
 - . Recording minutes, arranging meetings and distributing agenda materials;
 - . Communicating and coordinating as necessary with other Ministries and other similar stakeholder committees;
 - . Preparing communications/consultation materials for review by RNAP; and
 - . If requested, assisting in the preparation of reports for review and approval by RNAP.
- . MAH will cover expenses of RNAP members incurred in attending meetings, including travel, accommodation and meal expenses. However no *per diems* will

be paid to Panel members.

G. Meeting Locations

- . Meetings and teleconferences will be arranged as determined by the RNAP chair.

H. Life-Span of RNAP and Sunset Provisions

- . RNAP has a defined life span, and will be complete its work upon the submission of it final report.

Appendix B

Rural and Northern Advisory Panel (RNAP) September 12, 2005 (Guelph)

Summary of First RNAP Meeting

In Attendance:

Ms. Maria Van Bommel - Chair of RNAP
Mr. Bert Dykstra -Panel Member
Mr. John McKewen -Panel Member
Mr. Syl Allard -Panel Member
Ms. Celia Teale -Panel Member (by speakerphone)
Mr. Bill Vrebosch -Panel Member
Mr. Leon Bach -Panel Member
Mr. John Naccarato -Panel Member
Mr. Paul Mitchell -Panel Member

Mr. Tim Shortill - Minister's Office
Mr. David Brezer - Building and Development Branch
Mr. James Douglas - Building and Development Branch
Mr. Michael de Lint -Building and Development Branch

Meeting Arrangements:

- . The first meeting of RNAP took place on September 12, 2005 at the Guelph offices of the Ministry of Agriculture, Food and Rural Affairs, from 10:00 a.m. to 4:00 p.m.

Introductions:

- . The Chair welcomed the group. Panel members and staff introduced themselves.
- . The Panel was reminded that its objective was to make recommendations to the Minister well in advance of the January 1, 2006 implementation date for key Bill 124 changes.
- . The Chair and Ministry staff also indicated that issues raised at RNAP meetings could be considered public and would be shared with outside stakeholders.
- . However, it was also noted that discussions of these issues by RNAP does not necessarily reflect the views of the Government, and may not necessarily be reflected in RNAP's recommendations to the Minister.

RNAP Terms of Reference:

Staff provided an overview slide presentation on the RNAP terms of reference. It

was noted that key items to be addressed by RNAP are:

- Qualification of building officials and the registration/qualification of designers;
- The provision of training and support for building practitioners;
- Guidelines for the establishment of internship programs for building officials; and
- Alternative methods of service delivery including joint enforcement agreements and the use of registered code agencies (RCAs).

- . This presentation discussed the role of RNAP, and the future role to be played by the Building Advisory Council (BAC).

Bill 124:

- . Staff also provided an overview slide presentation of recent changes to the building regulatory system resulting from the *Building Code Statute Law Amendment Act, 2002* (Bill 124).
- . The Chair led a discussion of issues arising from the implementation of Bill 124. Staff recorded these issues, and categorized as to whether they fit within the RNAP Terms of Reference, or whether they might be referred to BAC (see below).

Internship:

- . MAH staff gave a further slide presentation on the draft application criteria for building official internship programs. Staff also reviewed comments received to date from stakeholders.
- . The Chair led a discussion of ways to improve the guidelines. RNAP suggestions for improving the internship guideline are included below in the list of "Action Items".

Next meeting:

- . The Chair led a discussion of proposed agenda items for the next meeting, and thanked RNAP members for their participation in a very productive day. The meeting was then adjourned.
- . The next meeting was tentatively set for September 28, 2005 in Toronto, although the date was subsequently shifted to September 26.

Issues raised that might be addressed by RNAP:

1. The need to have Northwest Ontario represented at RNAP.
2. Need to deal with inspectors near retirement who have extensive experience and may need to take 4-12 exams as single person staff.

3. Problem of municipalities training inspectors who are then poached by municipalities paying higher wages.
4. Difficulty attracting qualified persons to the North (building officials and designers).
5. A lack of clarity with respect to the requirements that apply to designers under Bill 124.
6. Low population densities and large distances as a major impediment to Joint Enforcement Agreements.
7. Union agreements as an impediment to Joint Enforcement Agreements.
8. Resistance to Joint Enforcement Agreements where municipalities do not benefit equally from such agreements (one larger municipality provides services to satellite municipalities).
9. Suggestion that municipalities be allowed to make a profit when providing services to satellite municipalities.
10. Availability of RCAs in the north.
11. Cost and availability of insurance for RCAs.

Issues raised that might be addressed by BAC:

1. Ability of rural and northern municipalities to comply with permit timeframes.
2. Variable municipal approaches in code enforcement, including differing permit requirements.
3. Grandfathering of experienced building officials.
4. Interest from the design community to see building contractors subject to qualification requirements, as proposed by the Building Regulatory Reform Advisory Group (BRRAG).
5. The use of digital photographs submitted by the designer/builder as an alternative to on-site inspections where distances make on-site inspections within the timeframes difficult.
6. The need to clarify Building Code requirements for farm buildings.
7. Concerns about the quality of designs submitted by non-qualified homeowner-designers and extra work for municipalities to review these drawings.

8. Possibility of higher permit fees applied for homeowner designers.
9. Problem of owner-designer exemption as loophole for non-qualified design firms.

Action Items Arising from 1st Meeting:

1. Ministry staff will examine any impediments to Joint Enforcement Agreements (JEA) where a larger municipality, which may provide services to other smaller municipalities, may not see any benefits to entering into a JEA.
2. Ministry staff will develop a new proposal for internship timeframes. RNAP suggests that the new time frames should be a maximum of 48 months with a 24 month limit for meeting basic requirements.
3. Ministry staff will provide more detail on Ministry expectations regarding internship supervision. In doing so Ministry staff will review OAA's intern supervision requirements.
4. MAH will consider providing a link from the Ministry's web-based Qualification and Registration Tracking system (QuARTS) to organizations hosting an approved internship program, so as to provide a registry of interns.
5. MAH staff will consider alternatives to provide greater clarity concerning the qualification requirements that apply to building officials and designers.

Appendix C

Rural and Northern Advisory Panel September 26, 2005 (Toronto)

Summary of Second RNAP Meeting

Attendees

Celia Teale, Panel Member
Bill Vrebosch, Panel Member
Leon Bach, Panel Member
John Naccarato, Panel Member
John Mcewan, Panel Member
Syl Allard, Panel Member
Bob Dykstra, Panel Member
Paul Mitchell, Panel Member
Maria Van Bommel, Chair
James Douglas, BDB staff
David Brezer, BDB staff
Tim Shortill, MO staff
Karen Garrett, BDB staff
Michael De Lint, BDB staff

Regrets

N/A

Meeting Arrangements

The second meeting of RNAP was held at the Delta Chelsea Hotel in Toronto on September 26, 2005 from 10AM to 2PM.

Introductions

Maria Van Bommel, RNAP Chair welcomed the panel members to the meeting.

Review of Topics Covered during the September 12 Meeting

MAH staff reviewed matters discussed at the previous RNAP meeting, including

- . Issues related to Bill 124 implementation raised by RNAP members;
- . Joint Enforcement Agreements;
- . Registered Code Agency Appointment Guidelines; and

. Building Official Internship Programs.

Staff also reviewed issues identified for future discussion by RNAP, as well as matters that should be referred to the Building Advisory Council (BAC).

Internship Program

MAH staff presented several proposed revisions to the draft Application and Approval Criteria for Organizations Seeking to Establish an Inspector Internship Program. Revisions involved: timeframes for internship programs; supervision of interns and the desire to establish a web-based link established between the MAH registry (QuARTS) and organizations that offer internship programs. The panel members approved the internship revisions presented.

Joint Enforcement Agreement Guideline

Panel members reviewed the revised draft guideline prepared by MAH staff.

The panel indicated that the scope of the Guideline should be expanded to cover the delivery of enforcement services by upper tiers, and the use of part time staff, outside consultants, and building officials cross-appointed with another municipality.

The panel also agreed that the Guideline should be presented at key municipal events and/or conferences, such as OGRA and ROMA, as part of a broader communications strategy to encourage municipalities to consider alternative methods of delivery building enforcement services.

Registered Code Agencies Appointment Guideline

Panel members reviewed the draft outline of this Guideline.

There was further discussion of the challenges faced by rural and northern municipalities in finding an RCA at an affordable price.

To encourage RCAs to become established, it was suggested that RCAs be allowed to “pre-register” with an insurance company, but only to start paying when they have entered into an agreement with a municipality. It was agreed that this matter should be referred to BAC, as it would involve a regulatory change.

Training and Qualification of Building Practitioners

MAH staff made a presentation on the Ministry’s examinations and the various training aid tools available for those building practitioners taking Building Code exams.

The panel noted that there is a need to:

- . Develop new programs to train new building officials;
- . Provide new opportunities for the continuing education of building officials and other practitioners;
- . Offer Building Code technical/legal courses as part of existing programs (e.g., architectural technology, engineering technology); and
- . Encourage new entrants into the building official profession.

There were also a number of suggestions for improving access to Ministry training courses, including:

- . Allowing for reduced number of course participants from the 10 persons currently required;
- . Encouraging the Ontario Building Officials Association and other delivery agents to utilise their local chapter/affiliate networks to support the delivery of courses throughout the Province;
- . Offsetting delivery agent costs such that the course costs incurred by participants are comparable to those of courses delivered in Southern Ontario; and/or
- . Offsetting course participant costs for travel and/or accommodation for building officials employed in municipalities experiencing significant and demonstrated economic hardships.

Next Steps/Meeting Logistics

In preparation for the next meeting to be held on October 3rd, 2005, MAH staff will:

- . Finalize the Joint Enforcement Agreement Guideline
- . Develop an outline of a broader guideline covering a number of municipal service delivery options;
- . Develop a framework for the final report to be submitted by RNAP to the Minister; and
- . Compile a draft list of recommendations to the Minister and compile a list of issues to be referred to BAC.

Appendix D

Rural and Northern Advisory Panel October 3, 2005 (Toronto)

Summary of Third RNAP Meeting

DRAFT

Attendees

Celia Teale, Panel Member (by teleconference)
Bill Vrebosch, Panel Member
Leon Bach, Panel Member
John Naccarato, Panel Member
John McEwen, Panel Member
Syl Allard, Panel Member
Bert Dykstra, Panel Member
Paul Mitchell, Panel Member
Maria Van Bommel, Chair
James Douglas, BDB staff
David Brezer, BDB staff
Tim Shortill, MO staff
Karen Garrett, BDB staff
Michael De Lint, BDB staff
Elizabeth McLaren, ADM - PDD

Regrets

N/A

Meeting Arrangements

The third meeting of RNAP was held at the offices of the Ministry of Municipal Affairs and Housing in Toronto on October 3, 2005 from 10AM to 1PM.

Introductions

Maria Van Bommel, RNAP Chair, welcomed the panel members to the meeting.

Internship Program

As directed by the RNAP, MAH staff presented a further version of the "Application and Approval Criteria for Organizations Seeking to Establish an

Inspector Internship Program”. The Panel endorsed this document. It responded to concerns raised previously by RNAP in three areas: internship period, intern supervision, and information on interns available on public registries.

RNAP discussed concerns that the internship model may not be completely in municipalities where there may not be a qualified person “in house” to provide intern supervision. Northern challenges include distances between municipalities which preclude a building official in a neighbouring municipality from serving as a supervisor. Incentives were discussed to encourage a building official in one jurisdiction to assume responsibility for an intern working elsewhere. RNAP suggests that BAC consider these issues.

Alternative Service Delivery Options for Municipalities

As directed by the Panel, MAH staff presented a draft outline of a “Guide to Building Code Service Delivery Options for Municipalities”. The Panel endorsed this outline as the basis for a document that would cover the full range of municipal options.

Panel members agreed that the internship option should be referenced in the provisions of the guide dealing with “in house” delivery and the appointment of part time staff. The issue of consultant liability and insurance coverage should be addressed in the section of the guide related to the retention of consultants.

RNAP members, discussed concerns about whether many of the service delivery options would, in practice, be available to small and remote municipalities. It was suggested that few RCAs are likely to be established, and they would likely be located in major urban centres. Panel members also suggested that BAC consider there was a lack of incentives for to enter into agreements to share those resources.

Structure of the Final Report

MAH staff presented a proposed framework for RNAP’s Final Report to the Minister and the Panel endorsed it. The report is to consist of an executive summary, an introduction, recommendations (grouped under the headings internship, municipal service delivery options, training and communications), matters to be referred to BAC and appendices, including terms of reference, meeting summaries, “Application and Approval Criteria for Organizations Seeking to Establish an Inspector Internship Program”, and an outline of a “Guide to Building Code Service Delivery Options for Municipalities”.

Recommendations

MAH staff presented a draft of RNAP’s recommendations, for inclusion in the Final Report to the Minister. These were endorsed by the Panel.

Building Advisory Council Issues

Based on input from previous meetings, MAH staff presented a revised list of ideas to be referred to BAC, for inclusion in RNAP's Final Report to the Minister. The Panel made additions, including: the ability of RCAs to specialize in a certain class of buildings; insurance for contractors; qualification for construction supervisors; moving to proportional liability instead of joint and several liability; and ways to encourage larger municipalities to provide enforcement services to smaller municipalities.

Next Steps/Meeting Logistics

MAH will prepare a draft of the Final Report, and submit this to the Chair. The draft will then be circulated to Panel members for review and comment.

The Panel will then determine, based upon the scope of comments, whether it is necessary to meet again in person or be teleconference.

Appendix E

Application and Approval Criteria for Organizations Seeking to Establish an Inspector Internship Program

November, 2005

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Introduction

Effective July 1, 2005, Section 15.11 of the *Building Code Act, 1992* (“the Act”), requires that inspectors meet certain qualifications as set out in the Building Code (Ontario Regulation 403/97 as amended) in order to be appointed and to remain appointed under the Act as an inspector.

Article 2.16.4.2. of the Building Code exempts inspectors from meeting these qualifications, if the inspector is enrolled in an Internship Program approved by the Minister of Municipal Affairs and Housing, and is supervised by an qualified inspector or chief building official.

This document describes the application process through which an association or Principal Authority would seek approval to establish an Internship Program, and sets out the information that must be provided to the Ministry of Municipal Affairs and Housing (“the Ministry”) at the time of application.

Authority

Ontario Regulation 146/05 was filed on March 29, 2005 to amend the Building Code, and introduces an internship option for inspectors appointed under the Act. Specifically:

2.16.4.2. Qualifications for Intern Inspectors

(1) A person appointed under the Act as an intern inspector whose duties include supervised plans review or inspection under the Act is exempt from the requirements in Article 2.16.4.1. if

(a) the person is enrolled in an Internship Program approved by the Minister, and

(b) the person is supervised by an inspector or chief building official who meets the category of qualification in respect of which the person will exercise the powers or perform the duties.

(2) An intern inspector described in Clause (1)(a) shall not issue orders under the Act except orders under Subsections 12 (2) or 13 (1) of the Act.

(3) An intern inspector described in Clause (1)(a) shall not undertake a site inspection of a building related to a notice in respect of

(a) substantial completion of footings and foundations prior to commencement of backfilling, or

(b) completion of construction and installation of components required to permit the issuance of an occupancy permit under Sentence 2.4.3.1.(2) or to permit occupancy under Sentence 2.4.3.2.(1), if the building or part of the building to be occupied is not fully completed.

Application Process

Associations and Principal Authorities seeking approval to establish an inspector Internship Program under Clause 2.16.4.2.(1)(a) of the Building Code are invited to submit applications to the Ministry.

Approval of an internship program is provided at the discretion of the Minister. However, applicants wishing to establish an Internship Program are encouraged to submit applications that reference and address each of the topics outlined below under “Contents of Application for an Internship Program”. These topics are minimum criteria and are not intended to limit the scope or creativity of an Internship Program. To be considered for acceptance, applications must also include the “Essential Elements of an Internship Program”, also described below.

The Ministry may request additional information or documentation at any time during the review process.

Applicants will be advised in writing of the Minister’s decision regarding the approval of their program application. All Internship Programs are approved at the discretion of the Minister.

Approval will be conditional upon the execution of a Memorandum of Understanding (“MOU”) between the Minister of Municipal Affairs and Housing and the association or Principal Authority proposing to be responsible for an Internship Program. This MOU would include:

- . Details of the Internship Program
- . Provision for reports to be submitted to the Ministry on a semi-annual basis
- . Provision for the Ministry to monitor, review and audit records and procedures related to the ongoing operation of the Internship Program
- . Commitment to participate in any internship advisory Panel established by the Ministry
- . Provision for not less than six-month prior notification in the event of program termination by the association or Principal Authority
- . Provision for termination by the ministry at any time.

The confidentiality of applicant information and documentation will be respected, however any final MOU and Internship Program will be considered public

information. Further, a listing of approved Internship Programs will be posted on the Ministry's Building Code website at www.obc.mah.gov.on.ca.

Applications must include the following declaration:

The statements and information contained in this application are, to the best of my knowledge, truthful and accurate.

The undersigned acknowledges that program approval is subject to the right of review and revocation by the Ministry at any time, and commits to providing any and all documentation and information as determined by the Ministry.

Name of Association or Principal Authority: _____

Name and Title of Official: _____

I have authority to bind the Corporation

Signature: _____ Date: _____

Completed applications should be sent to:

Director
Building and Development Branch
Ministry of Municipal Affairs and Housing
2nd Floor, 777 Bay Street
Toronto, ON M5G 2E5

Contents of Application for an Internship Program

1. *Entity responsible for Internship Program*

This section describes the entity (association or Principal Authority) seeking to establish an inspector Internship Program. Applicants should include:

- . Full corporate name, status, address
- . Background, mission, purpose, governance
- . Key contacts (with contact information) and their roles
- . Membership/enrolment profile including numbers; both total and expected interns

- . Statement/documentation of corporate viability, including financial and structure

2. *Internship overview*

Applicants should provide a detailed description of their proposed Internship Program including:

Program

- . Program goals, purpose and intent
- . Program scope (i.e., number of inspectors anticipated to enrol in the program as interns, and their geographic distribution)
- . Degree (if any) of overlap with other, Ministry-approved Internship Programs
- . Support from other building industry entities for the establishment of the proposed Internship Program
- . Establishment of categories of internship, if any, based on categories for inspector qualification
- . Establishment of an internship period(s)

Enrolment

- . Process for enrolment as an intern
- . Conditions of enrolment, including prior knowledge, examination completion, applicable experience, employment by a particular principal authority and/or membership in a particular association
- . Process by which enrolment conditions are verified
- . Criteria for successful completion of the Internship Program
- . Methodology for evaluating whether intern has met these criteria. For example, where a proposed program includes an experience component, the means by which the experience is verified
- . Methodology for monitoring whether internship period has expired
- . Process to issue an Internship Certificate to successful candidates, including sample certificate
- . Circumstances for terminating an intern's enrolment prior to the successful completion of the program
- . Circumstances for allowing readmission to the Internship Program
- . Appeal process for persons refused enrolment or having their enrolment terminated.

Intern Support

- . Activities to be undertaken by interns, including training, professional development, learning plans, mentorship, experience logs, etc.

- . Conditions applied to interns seeking to transfer internship status from another approved internship program to the proposed Internship Program (transfer-in)
- . Activities in support of enrolment, including liaison with principle authorities, linkages with educational institutions and encouragement for foreign-trained building practitioners to become qualified as a building official in Ontario

Intern Supervision and Enrolment Verification

- . Details on the method of verifying the supervision of interns. Note: Interns are able to undertake “supervised plans review or inspection under the Act” subject to certain restrictions as outlined in the Building Code. The supervisor should have sufficient personal knowledge of, and involvement in, the project to be satisfied that the appropriate level of skill and judgement is being exercised by the intern in fulfilling plans review or inspection duties. The internship program would include details on the method of verifying the supervision of interns.
- . Enforcement against individuals that misrepresent themselves as being enrolled in the proposed Internship Program.
- . Means to ensure interns are aware of, and adhere to, the limitations/conditions placed upon their practice by the Building Code, the MOU and organization policies/procedures.
- . Means to ensure that interns carry appropriate identification to identify them as interns to the public and others.

3. *Governance of the Internship Program*

Applicants should describe the governance model for their proposed Internship Program including:

- . Overall governance model of the organization.
- . Governance structure, employees and responsible parties, structure for overseeing administration of the Internship Program.
- . Representation by other building sector organizations and other interested parties in the oversight of the Internship Program.
- . Relationship between the organization administering the Internship Program and the principal authorities employing inspectors (if different).
- . Reciprocity between proposed and approved Internship Programs.
- . Mechanisms for ensuring compliance with the MOU with the Ministry and Internship Program policies/procedures.
- . Mechanisms for internal program reviews.
- . Composition and structure of an appeal body.

- . Measures to ensure transparency of the operation of the Internship Program.
- . Criteria and mechanism for program termination.

4. Program administration

Describe the administrative aspects of the Internship Program including:

- . Staffing
- . Maintenance of an office
- . Information technology plan
- . Record keeping and documentation, including proof of enrolment
- . Maintenance of a public registry, including procedures for retrieving the names and status of applicants for internship, and interns enrolled in the program for an indefinite period, and ensuring the protection of private information
- . Consent to include an interns' status information on the organization's registry and consent to disclose that information to the public, upon request
- . Application and enrolment fees, payment methodology and accounting
- . Preparation of reports to be submitted to the Ministry

Essential Elements of an Internship Program

The following essential elements are required of every Internship Program as part of the content described above:

- . **Enrolment criteria.** Prior to enrolment in an Internship Program, an intern must have completed a) one of the Ministry's Legal/Process examinations (General, CBO, RCA or Designer); b) possess not less than five (5) years verified experience as a building official or building practitioner or c) an equivalent combination of post-secondary education and experience in the area of practice. Internship programs may impose additional qualifications and credentials for persons entering an internship program.
- . **Internship period.** Under a two-tier internship system each tier would be limited to 24 months for a maximum total internship period not exceeding 48 months. In tier 1, interns would work toward becoming qualified in the categories of "house", "HVAC-house", and "plumbing-house". In tier 2, interns would work toward becoming qualified in all other building qualification categories including "small buildings", "structural", "building services", "complex buildings", "plumbing-all

buildings". An intern may be enrolled in tier 2 without first completing tier 1. An intern may also be enrolled in tier 1 and tier 2 at the same time. Individuals who are qualified in one or more categories may also be enrolled as interns in either tier.

- . **Reciprocity between programs.** Interns have the right to transfer between approved Internship Programs, subject to paying fees and meeting enrolment conditions of new program. Transfer to another internship program will not normally extend the total internship period.
- . **Communication with Ministry.** Internship Programs must submit reports to the Ministry every six months, beginning no later than six months following the execution of the MOU outlining:
 - o The number of interns entering, within, and leaving the program;
 - o Number of offshore-trained professionals progressing through the program; and
 - o Summary of appeals for refused enrolment or terminated enrolment
- . **Public register.** Each program will provide the following information about an intern enrolled in the program, to any member of the public, upon request, and at no charge:
 - o The name of the person
 - o Any identifying number assigned by the organization to the intern
 - o Internship status
 - o The internship level (tier 1 or tier 2) of the intern.Information related to the individual or individuals who are responsible for the supervision of interns will be provided and updated by the internship program in accordance with the system of supervision for that program as approved under the MOU with the Minister. Further, the Ministry's registry (QUARTS) and the intern registry should reference each other, and if the intern registry is web-enabled, each should include a link to the other.
- . **Program operation.** The association or Principal Authority responsible for the Internship Program will commit to operating the Program in accordance with the application for approval, including the essential elements and the MOU.

Appendix F

Guide to Alternative Service Delivery Options for Municipalities

Please note that this Guide is for information only. Municipalities should consult the relevant legislative and regulatory provisions, and their legal counsel.

Under the *Building Code Act, 1992*, responsibility for the enforcement of the Act and the Building Code is generally assigned to municipalities. The only exception is that in certain areas of the province responsibility for enforcement related to small on-site sewage systems is the responsibility of health units or conservation authorities.

Municipal councils are responsible for appointing a chief building official (CBOs) and as many inspectors as are necessary.

Effective January 1, 2006, building code enforcement must be provided by provincially qualified staff. Municipalities have several service delivery options for meeting the Ministry's qualification and service level requirements.

These service delivery options include:

1. "In-house" delivery

Municipalities can rely on their own qualified staff to provide plans review and inspection services for all classes of buildings ("house", "small buildings", "large buildings", and "complex buildings").

Or municipalities can rely on their in-house staff to provide plans review and/or inspection services for only certain classes of buildings or exam classes while relying on other delivery options for other building classes.

In-house delivery can be achieved through appointing staff on a full-time basis or on a part-time or contract basis (as under option 5 of this guide).

In addition to relying on their own qualified staff, municipalities can establish an “inspector internship program” as described in Appendix 5, for all or some building classes.

2. Retain a Registered Code Agency or “RCA”

The Municipality could appoint one or more RCAs to provide code enforcement services for one or more classes of buildings.

An RCA could provide plans review and/or inspection services for the following classes of building:

- “House”
- “Small buildings”
- “Large buildings”
- “Complex buildings”
- “on-site sewage systems”

An RCA can provide all plans review and/or all inspection services for a class of building but cannot provide just plans review or inspection services in relation to specific building components such as “structural” or “HVAC” systems.

Municipalities can appoint one RCA or several RCAs to provide these services.

RCAs are subject to conflict of interest provisions in the *Building Code Act, 1992*, and must have a Ministry-approved quality management plan.

Municipalities may impose conditions of appointment that exceed but do not conflict with, provisions under the Building Code.

3. Enter into a Joint Enforcement Agreement

Under section 3(3) and 3(4) of the *Building Code Act, 1992*, a municipality may enter into a joint enforcement agreement (JEA) with one or more other municipalities under which they would share a Chief Building Official and inspectors.

The JEA would apply to all classes of building and not just certain classes of buildings.

The JEA would address a range of issues including those related to the appointment of a Chief Building Official and inspectors, liability,

cost sharing, decision-making protocols, and termination provisions.

Within the framework of a joint services agreement the parties could include provisions for internship programs, the appointment of RCAs for one or more classes of building, the appointment of part time and contract staff, and the appointment of expert consultants to assist in code enforcement.

4. Enter into agreement with upper-tier municipality

Under sections 3(5) and 3(6) of the Act a municipality can enter into an agreement with an upper-tier municipality to provide building code enforcement in the municipalities who are party to the agreement.

As in the case of a JEA, the agreement would apply to all classes of building and not just certain classes of buildings.

The agreement would address issues such as the appointment of a chief building officials and inspectors, processing of building permit applications, building code enforcement costs and permit revenues, reporting requirements, effective and sunset dates and termination provisions.

Within the framework of such an agreement the parties could include provisions for internship programs, the appointment of RCAs for one or more classes of building, the appointment of part time and contract staff, and the appointment of expert consultants to assist in code enforcement.

5. Appoint part-time or contract staff

To meet service level obligations municipalities can appoint provincially qualified staff on a part-time or contract basis.

Part-time or contract staff could be appointed for a specific period of time and for a specific class of building. For example, municipalities who do not have full-time qualified building officials in-house to provide code enforcement services for large or complex buildings, could engage staff on a part time or contract basis for those classes of buildings.

Part time staff could be code-qualified individuals already appointed by another municipality adjacent the municipality or from elsewhere in the Province.

If code-qualified staff from the private sector (e.g. designers) are engaged as part-time building officials, they must be appointed in accordance with municipal conflict of interest rules. For example, under municipal conflict of interest provisions it might be expected that part-time building officials could not be persons undertaking design work in the same municipality.

Where part-time or contract staff are engaged this could be done through an agreement among several municipalities sharing staff or by individual municipalities acting independently.

In addition to relying on their own qualified staff, along with part-time or contract staff, municipalities can establish an “inspector internship program” as described in Appendix 5, for all or some building classes.

6. Engage consultants for specific projects or building classes

Municipalities can engage consultants to assist them in reviewing plans or undertaking inspections.

The use of expert consultants may be useful for larger or more complex building projects, or where the building official is unfamiliar with a particular building class, systems or technologies used in a building project.

However municipalities must have qualified staff engaged by the municipality either on a full time, part time or contract basis. Qualified building officials appointed by the municipality would still be responsible for plans review and inspection functions. The role of the expert consultant would be to assist and advise the municipal building official with respect to his or her duties.

Where a municipality wishes the consultant to take responsibility for plans review and/or inspection work, rather than providing advice to a qualified building official, then the municipality would appoint a registered and insured RCA instead of a consultant.

Unlike an RCA, which is liable, under the *Building Code Act, 1992* as amended, for any acts and omissions while performing plans review and/or inspection services for a municipality, there is no statutory provision exempting municipalities from liability when engaging the services of a consultant. Municipalities may nonetheless wish to consult with their legal counsel and consider

whether as a matter of policy, they would require consultants providing advice to code qualified municipal staff, would be required to carry professional liability insurance to respond to any errors and omissions for which a consultant may be liable under such an arrangement.

Appendix F (1)

Guide to Registered Code Agency Agreements and Appointments

Draft Outline

Disclaimer: Please note that this Guide is for information only.
Municipalities should consult the regulation and their legal
counsel.

1. Introduction

The *Building Code Act, 1992* was amended through the *Building Code Statute Law Amendment Act, 2002 (Bill 124)*. As a result of the changes to the building regulatory system, as of July 1st, 2005, principal authorities have the service delivery option of authorizing the use of private Building Code inspection firms, known as registered code agencies (RCA).

2. Legislative Authority

Legislative authority to establish RCAs is in the Building Code (Ontario Regulation 403/97 as amended) section 2.19 - Qualification for Registered Code Agencies and under section 4.1 of the *Building Code Act, 1992*.

PART A: ENTER IN AN AGREEMENT WITH A RCA

1. Preamble

- . Outline of the objectives that have lead to the parties entering into an agreement with a RCA

2. Content of Agreement

Parties

- . Name of principal authority (or principal authorities subject to a Joint Enforcement Agreement)
- . Name of Registered Code Agency (RCA)
- . Building Code Identification Number (BCIN) of RCA

Definitions

- . Key terms relevant to this agreement

Responsibilities

- . Responsibilities of principal authority
 - o As stated in section 2.22.1.1(1)(a)-(e) of the Code, the principal authority must enter into an agreement with the RCA that contains specifications in respect to RCA functions and construction activities, establish procedures to appoint RCAs, require and provide the documents required by the RCA to carry out its specified duties.
- . Responsibilities of Chief Building Official (CBO)
 - o Retained responsibilities include the issuance or refusal of permits (Sections 8. (2), 8. (3) and 10.(2) of the Act), unsafe work orders (subsection 15.9(4) of the Act), determining applicable law as defined by Article 1.1.3.3 of the Code, and prosecuting those not in compliance with the Code and/or Act (Section 8.(9) of the Act)
- . Responsibilities of RCA:
 - o Carry out functions in accordance with the Act, the Code and the RCA's quality management plan as required in Section 2.22.1.1(1)(d) of the Code.

Scope

- . Scope of work (RCA functions before a permit is issued, after a permit is issued, or both as per subsection 4.1(4) of the Act.
- . Class(es) of building to which the agreement applies as required under section 2.22.1.1(1)(b) of the Code.

Confidentiality

- . Commitment to keep specified information shared among parties confidential, subject to legislation such as MFIPPA.

Registration status of the RCA

- . RCA to be registered in the applicable classes upon the commencement of the agreement as required in section 2.19.3.3(3)(a) of the Code.
- . RCA to maintain its registration in the applicable classes during the term of the agreement as required in section 15.11(4).
- . RCA to notify principal authority of:
 - o Any proposal by the Director of the Building and Development Branch to suspend, revoke, or refuse to register, or refusal to renew a registration
 - o The RCA's response to the proposal (e.g., decision to appeal to the License Appeal Tribunal (LAT))
 - o The results of hearings before LAT
 - o The cancellation of its registration

- . RCA to maintain the insurance required by the Act and the Code, and to provide proof of this insurance at the request of the principal authority as required in subsection 2.21.2 of the Code
- . RCA to retain officers, directors, partners or employees with the qualifications required under the Act and the Code, as required in section 2.19.3.7(b) of the Code.
- . RCA to give prompt notice to the principal authority of any material change in its registration status as required
- . RCA to update qualifications of qualified staff. As required in section 2.19.3.8 of the Code, if an exam in the Ministry's examination program is replaced, the RCA will be notified of its obligation to update its qualifications, if appropriate.
- . RCA to provide the principal authority with a copy of its current quality management plan, and;
- . RCA to acknowledge that it understands that the municipality is indemnified from liability associated with the work of the RCA under an appointment.

Conflict of interest

- . RCAs not to be in a conflict of interest with respect to the building(s) or class(es) of building covered by an appointment. Section 2.22.3.1(4)(a)-(d) states the following areas of conflict of interest for RCA employee(s) that:
 - o Has participated or participates in any capacity, in design activities or construction relating to any part of the building in the appointment;
 - o Is or has been employed within the previous 180 days by a person who carried out design activities or construction relating to any part of the building;
 - o Has a professional or financial interest 1) in the construction of the building, 2) the building or 3) the person responsible for the design of the building; and
 - o Is an elected official, officer or employee of a principal authority.

Extra insurance

- . Additional insurance requirements to be met by RCA at the request of the principal authority.
- . RCA to provide proof of additional insurance at the request of the principal authority.

Role of architects and engineers

- ? Circumstances where architects and engineers are to be involved in a project such as:
 - o Issuance of certificates in regards the construction of a building that requires to be designed by and under the review of an architect or professional engineer, as required in section 2.22.5.3(2)

Procedures related to the work of the RCA

- . As required in Sentence 2.19.3.3 (3)(a)-(k) of the Code, the Quality Management Plan must already establish the following procedures and qualifications to carry out said procedures:
 - o Procedures for plans review
 - o Procedures for inspection activities
 - o Qualifications of persons carrying out plans review and inspection activities
 - o Procedures for issuance of certificates.
 - o Qualifications of persons signing certificates
 - o Procedures for issuance of orders
- . Procedures for referral of stop work orders
- . Notices that a building is unsafe is outlined under provision 2.22.7.5(5)-(7) which includes content of notice and provision of notice to the CBO
- . Provision of additional information to the CBO

Prosecutions

- . RCA and RCA staff to provide documentation and appear as witnesses in the event the principal authority initiates a prosecution

Non-performance of duties

- . The RCA to notify the CBO as soon as possible if it becomes or expects to become unable to carry out its functions during the term of an appointment as required in Sentence 2.22.7.5(1) in the Code and subsection 15.14(1) of the Act.

Documentation

- . Section 2.22.5.7(1) of the Code, the RCA is required to maintain records of all plans review and inspection activity, of the following:
 - o Plans review and inspection activity
 - o Certificates
 - o Orders
 - o Any other activity specified under the QMP
- . Information collected by the RCA may be used and disclosed as outlined in section 2.22.5.7(2).
- . Review/auditing of RCA's records by the principal authority:
 - o Which documents
 - o Review/audit procedures and notification
- . Records to be provided by the RCA to the CBO as outlined in section 2.22.7.5(2)
- . The above records must be given to the CBO within whichever time ends earlier from:

- The time specified in the agreement
- The time specified in the appointment
- Following the expiry or termination of the appointment
- After the notice of request by the CBO is received
- . Documentation to be provided by the principal authority to the RCA, including plans, specifications and applications for permits, during the course of an appointment, as required under section 2.22.1.1(1)(e) of the Code
- . Timing of the provision of this documentation

Fees

- . Fees for building(s) or class(es) of building covered by appointment.
- . Schedule for payment of fees
- . Treatment of travel expenses and other disbursements.
- . Submission of invoices

Length of Agreement

- . Term of Agreement
- . Conditions under which the principal authority or the RCA may terminate the agreement
- . Notification of termination

Arbitration

- . Arbitration of disputes between the principal authority and the RCA

PART B – APPOINTMENT OF RCA

1. Appointment procedure

- . Specify the appointment procedure as required under section 2.22.1.2 in the Code.

2. Content of Appointment

Identification of parties:

- . Name of principal authority (or principal authorities subject to a Joint Enforcement Agreement) making appointment
- . Name of RCA receiving appointment
- . Building Code Identification Number (BCIN) of RCA

Contacts during course of appointment

- . Principal authority contact
- . RCA contact

Relationship to agreement (if applicable)

- . Appointment may be made under a specified agreement.

Scope of appointment

- . Scope of work (RCA functions before a permit is issued, after a permit is issued, or both as per subsection 4.1(4) of the Act)
- . Building(s) or class(es) of building to which the appointment applies as required under section 2.22.1.2(1)(a) of the Code
- . Address of building (if applicable)

Project responsibilities

- . RCA to carry out its functions in accordance with the Act, the Code and the RCA's quality management plan as required under section 2.22.1.1(1)(d) of the Code
- . Persons who will undertake plans review and inspection functions (subject to scope of work)

Project administration

- . Notification of commencement of work
- . Conditions for termination of appointment as outlined in section 2.22.3.1 and any additional conditions as necessary.

Appendix F (2)

Guide to Joint Enforcement Agreements

Draft Outline

Disclaimer: Please note that this Guide is for information only. Municipalities should consult the relevant legislative and regulatory provisions, and their legal counsel.

1. Introduction

The purpose of this guide is to provide information that might be of use to municipalities who wish to enforce the building code through a Joint Enforcement Agreement or JEA.

It is anticipated that the JEA model would be of most interest to smaller jurisdictions, especially in light of recent changes to Ontario's building regulatory system resulting from the *Building Code Statute Law Amendment Act, 2002* that require CBO's and inspectors to be qualified in accordance with provincial standards.

However, larger jurisdictions may also benefit from the JEA model. By providing enforcement services to neighbouring municipalities, they could retain inspectors who specialize in inspections that might not otherwise represent a full workload (e.g., large buildings, complex building, building structural),

2. Legislative Authority

Authority for joint services agreements is set out in subsections 3 (3) and 3 (4) of the *Building Code Act, 1992*:

Joint enforcement

Under subsection 3 (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 with their respective municipalities; and
- c) providing for the appointment of a chief building official and inspectors 1992, c.23, s3(3).

Joint jurisdiction

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

3. Typical Elements of a Joint Enforcement Agreement

Preamble

- . The JEA would typically include a preamble outlining the objectives that have lead to the parties entering into a JEA.

Parties

- . The parties to the JEA would be identified.

Definitions

- . The Agreement could include key definitions relevant to the Agreement.

Scope of the JEA

- . The JEA would need to apply to all classes of buildings.

Appointment of Chief Building Official and Inspectors

- . The JEA would need to address the appointment of inspectors and a CBO.
- . One alternative is for each of the participating municipalities in the JEA to appoint the Chief Building Official (CBO) who has been recommended by the decision-making body outlined below (e.g. , “Joint Management Committee”). The CBO would have jurisdiction in all municipalities participating in the JEA. In addition, all participating municipalities would each appoint those inspectors who have been recommended by the joint decision-making body.
- . Municipalities participating in the JEA may also want to name the CBO and inspectors appointed in their municipality, in their respective Errors and Omissions Policies to ensure that the CBO and inspectors providing services in participating municipalities are covered by the insurance policies of those municipalities.

Decision making body and decision-making protocols

- . The JEA would typically address the decision making protocol and process for decisions made under a JEA, including: 1) appointment of the CBO and inspectors; 2) setting a budget for building enforcement functions; and 3) setting of building permit fees.
- . One approach for addressing decision making within the context of a JEA is to establish a “Joint Management Committee” composed of representatives from constituent municipalities.
- . In establishing joint management committee or other similar decision-making structure, it would be necessary to consider issues such as the responsibilities of the decision-making body, decision-making protocols and the relationship with the councils of the municipalities involved.

Cost and revenue sharing arrangements and protocols

- . The JEA could also address cost sharing arrangements among participating municipalities, recognizing that many rural and northern municipalities often incur deficits for their building code enforcement functions.
- . Such cost-sharing arrangements could be based on a range of factors including those related to a participating municipality’s “consumption” of inspection services and those factors related to a municipality’s “ability to pay”. The formula could be based on factors such as: share of building permits issued; share of construction value subject to building permits; share of taxable assessment; and share of population.

Designated municipality

- . The JEA may designate a lead municipality, if any, to provide administrative support for all member municipalities.

Allocation of liability

- . The JEA would likely need to establish a protocol for allocating liability among municipalities related to enforcement activities undertaken under the joint enforcement agreement. The JEA could also include any indemnification arrangements among municipalities.
- . An approach used in some municipalities is that any liability accruing from the provision of plans review or inspection services would be applicable to the individual municipality in which the error or omission may have occurred. The insurance policy for that municipality therefore would respond to the claim.

- . The liability protocol may also wish to clarify that the joint decision-making body (e.g., the joint management committee) could be saved harmless from any liability arising from the errors and omissions arising from the performance or non-performance of the CBO or inspectors appointed by municipalities. The indemnification could extend to any other functions of the joint decision-making body.

Administration of internship programs

- . If municipalities participating in a JEA wish to establish an internship program under the Building Code, then the JEA could address the administration of the internship program.
- . The JEA could address issues such as supervision requirements in accordance with criteria established by the Ministry, particularly where distances create challenges with respect to supervision.

Appointment of RCAs for certain classes of buildings

- . Where municipalities are unable to provide services for a class of buildings under a JEA, the agreement such as for example large or complex buildings, the JEA could include provisions related to the appointment of RCAs for that class of buildings.
- . Provisions in the agreement addressing RCAs would could include provisions related to RCA insurance, time-frames, fees, etc.

Addressing disputes among member municipalities

- . Where there is a dispute and participating municipalities are unable to resolve the issue, it may be prudent for the JEA to establish a protocol and method for dealing with disputes among member municipalities. This could include an arbitration process protocols outlined in the JEA.

Effective and sunset date

- . The JEA would need to include start up and sunset dates.
- . The JEA could also include protocols for continuing or modifying the agreement past the sunset date.

Termination

- . A JEA could be dissolved under circumstances and in accordance with protocols established in advance in the JEA.

Arbitration

- . Disputes among member municipalities would be addressed through the decision-making protocol established under the JEA (such as the Joint Management Committee, if such a body is established).
- . The JEA could establish an arbitration process to deal with disputes which cannot be resolved through the JEA's own decision-making system.

Appendix F (3)

Guide to an Upper Tier Municipality Enforcement Agreement:

Draft Outline

Disclaimer: Please note that this Guide is for information only. Municipalities should consult the relevant legislative and regulatory provisions, and their legal counsel.

1. Introduction

The purpose of this guide is to provide information that might be of use to municipalities who wish to consider entering into an enforcement agreement with an upper tier municipality.

An enforcement agreement with an upper-tier municipality is of course possible only for municipalities where an upper tier municipality exists.

2. Legislative Authority

Authority for enforcement agreements with upper tier municipalities is set out in subsections 3(5) and 3(6) of the *Building Code Act, 1992*:

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 charging the municipalities in whole or in part of the cost.

(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.

3. Typical Elements of an Upper Tier Municipality Enforcement Agreement

Preamble

- . An Upper Municipality Enforcement Agreement could include a preamble outlining the objectives that have lead to Agreement.

Parties

- . The parties to the Agreement would be identified including the upper tier municipality and lower tier municipality (or municipalities) who are party to the agreement.

Definitions

- . The Agreement could include key definitions.
- . Examples of definitions could include the “Chief Building Official” who under the agreement shall be appointed by the upper tier municipality to enforce provisions of the *Building Code Act, 1992*, the Building Code and the Building By-Law of the lower tier municipality.
- . Definitions could be provided for inspectors who under the agreement would provide be appointed by the upper tier municipality to assist the Chief Building Official in enforcing *Building Code Act, 1992*, the Building Code and the Building By-Law of the lower tier municipality.

Scope of the Agreement

- . The Agreement would apply to all classes of buildings. There does not appear to be authority in the *Building Code Act, 1992*, for an upper tier enforcement agreement to apply only to certain classes of buildings and not to other classes (which would then be subject to lower tier enforcement).

Appointment of Chief Building Official and Inspectors

- . The upper tier municipality could through a by-law, appoint a Chief Building Official for the upper tier municipality, to enable the upper tier municipality to enforce provisions of the *Building Code Act, 1992*, the Building Code and the building by-law of the upper tier municipality.
- . Similarly, the upper tier municipality may by by- aw appoint inspectors to assist the chief building official in enforcing the *Building Code Act, 1992*, the Building Code and the building by-law of the upper tier municipality.

Powers of Chief Building Official, inspectors for Upper Tier Municipality

- . The agreement could clarify that the Chief Building Official for the upper tier municipality may within the boundaries of the upper tier municipalities exercise all powers conferred on the CBO pursuant to the *Building Code Act, 1992*, the Building Code and bylaws of the upper tier municipality.
- . The agreement could clarify that inspectors for the upper tier municipality may within the boundaries of the upper tier municipality exercise all the powers conferred upon an inspectors pursuant to the *Building Code Act, 1992*, the Building Code, and by-laws of municipality.

Building permit applications and building permit fees

- . The agreement could provide that the upper tier municipality has the authority to collect building permit applications and building permit fees, or it could require that the lower tier municipality agrees to receive all building permit applications and fees for building permits, and would forward building permit applications to the Chief Building Official for plans review and permit issuance.

Building code enforcement costs and building code permit revenues

- . The agreement could require that the lower tier municipality agrees to reimburse the upper tier municipality for costs incurred by the Chief Building Official and the inspectors, in the performance of their duties within the geographical boundaries of the lower tier municipality.
- . The agreement could require that revenues derived from the issuance of building permits within the geographical boundaries of the lower tier municipality would be deemed a credit against the costs to be reimbursed by the lower tier municipality.
- . The agreement could require, in accordance with provisions in the *Building Code Act, 1992*, and the Building Code, that any surplus revenues derived from the issuance of permits after all costs of inspections have been deducted, be allocated to a reserve fund to cover enforcement costs in future years when permit revenues may not be sufficient to cover enforcement costs.

Reports from the Upper Tier municipality to lower tier municipalities

- . The agreement could require, that the Chief Building Official for the upper tier municipality submit reports to the lower tier municipalities participating in an agreement.
- . Such reports could include information on the number of permits issued, the lower tier municipality where the construction is located, and the number, cost and location of inspections.

Administration of internship programs

- . The agreement could address the establishment an internship program authorized under the Building Code.
- . The agreement could address issues such as supervision requirements in accordance with criteria established by the Ministry, particularly where distances create challenges with respect to supervision.

Appointment of RCAs for certain classes of buildings

- . Where municipalities are unable to provide services for a class of buildings under an agreement such as for example, for large or complex buildings, the agreement could include provisions related to the appointment of RCAs for that class of buildings.
- . Provisions in the agreement addressing RCAs would could include provisions related to RCA insurance, timeframes, fees, etc.

Addressing disputes among member municipalities and arbitration

- . Where there is a dispute between the upper tier municipality and those lower tier municipalities participating in an agreement, and the parties are unable to resolve the issue, it may be prudent for the agreement to establish a protocol and method for dealing with disputes among member the parties.
- . This process could include an arbitration protocol outlined in the agreement.

Effective and sunset date

- . The agreement would need to include a start-up or effective date and possibly a sunset date.
- . The agreement could also include protocols for continuing or modifying the agreement past any sunset date.

Termination

- . An agreement could be dissolved under circumstances and in accordance with protocols established in advance through the agreement.