

**Ministry of the Environment,
Conservation and Parks**

**Ministère de l'Environnement,
de la Protection de la nature et des
Parcs**

Office of the Minister

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357-2021-124

April 27, 2021

Fred Eisenberger
Mayor
City of Hamilton
Email: mayor@hamilton.ca

Dear Mayor Eisenberger:

Thank you for your letter of December 21, 2020 regarding the use of “advanced” private septic systems and the need for a review of the D-series guideline D-5-4. I understand your concerns of potential groundwater contamination from the use of advanced treatment units (ATUs) on undersized lots and I apologize for the delay in my response.

Septic systems with a design flow of less than 10,000 L/day are regulated by the Ministry of Municipal Affairs and Housing (MMAH) under Ontario’s *Building Code Act* and Building Code which establishes minimum requirements for the design, construction, renovation, operation and maintenance requirements of applicable septic systems. Principal authorities (i.e. municipalities, health units, conservation authorities and planning boards) are responsible for issuing permits and enforcement of septic system provisions, including conducting inspections and issuing orders for remedial actions where necessary to support the ongoing protection of groundwater quality.

Ontario’s Building Code is regularly reviewed and updated on a five-year cycle. The Ministry of the Environment, Conservation and Parks (MECP) works actively with MMAH to make and review proposed changes to the Ontario Building Code regarding septic systems and other matters.

In addition, mandatory maintenance inspections for septic systems are required under the Building Code where the Province has identified higher risk areas (i.e. vulnerable areas identified in source protection plans made under the *Clean Water Act, 2006*). Source protection authorities are required to report annually to the MECP on implementation of the policies in their source protection plans, including on any septic system maintenance inspection policies.

The Building Code provides principal authorities the discretion to establish maintenance inspection programs for septic systems outside of the higher-risk areas. Details of the discretionary maintenance inspection programs, including the scope of application or the frequency of inspections, are not prescribed in the regulation. Principal authorities have the flexibility to determine these aspects and the geographic extent of the program themselves. If a municipality chooses to establish a program, all residents and businesses in the discretionary areas will be required to have their septic systems inspected. These inspection programs would be enforced and funded by the principal authority responsible for the designated areas. Under the Building Code, enforcement bodies may charge fees to recover the costs of the inspection programs.

Mayor Fred Eisenberger
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If you have questions about the Building Code's septic system provisions, I invite you to contact Mansoor Mahmood, Director of the Building and Development Branch at MMAH. He can be reached by email at mansoor.mahmood@ontario.ca.

The ministry has heard from a few municipalities of the potential need to update the D-series guideline D-5-4. While we are assessing the need to review that guideline, I would like to assure you that the MECP has and continues to take actions to improve how septic systems are managed to protect the environment and human health, including:

- reviewing the effectiveness of mandatory maintenance inspection programs through source protection plan reviews and annual reporting;
- working with partner ministries to develop and publish guidance materials, tools and best practices for proper operation and maintenance of septic systems; and
- funding and participating in research projects related to septic systems and their impacts.

Thank you again for writing.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Yurek', is written over a faint, circular official stamp.

Jeff Yurek
Minister of the Environment, Conservation and Parks

c: The Honourable Steve Clark, Minister of Municipal Affairs and Housing
The Honourable Ernie Hardeman, Minister of Agriculture, Food and Rural Affairs
Donna Skelly, MPP, Flamborough—Glanbrook
Mansoor Mahmood, Director, Building and Development Branch, MMAH