

Charles Hatt
1910-777 Bay Street, PO Box 106
Toronto, Ontario M5G 2C8
Tel: 416-368-7533

May 14, 2026

The Honourable Rob Flack
Ministry of Municipal Affairs and Housing
777 Bay Street, 17th Floor, Toronto, Ontario M7A 2J3

Attention: Minister Flack

Re: ERO 026-0300

Proposed Planning Act, City of Toronto Act, 2006, Building Code Act, 1992 and Municipal Act, 2001 Changes (Schedules 1, 2 and 7 of Bill 98, the Building Homes and Improving Transportation Infrastructure Act, 2026)

We write on behalf of Toronto Environmental Alliance and Stand.Earth.

[Toronto Environmental Alliance](#) is a non-profit organization advocating on behalf of all Torontonians for a green, healthy, and equitable city.

[Stand.Earth](#) is a national non-profit organization challenging corporations and governments to treat people and the environment with respect.

Recommendation

We recommend that:

- Amendments prohibiting mandatory municipal enhanced development standards and green building standards be removed from Bill 98;
- Ontario adopt the new tiered National Model Building Code and National Model Energy Code; and
- Ontario provide municipalities with strong legal authority to apply tiers above the provincial minimum, developed as supplementary standards reflective of local conditions and needs.

The proposed amendments

Bill 98 would amend the *Planning Act*, *Municipal Act, 2001*, *Building Code Act, 1992*, and *City of Toronto Act 2006*, with the intent, in part, of prohibiting mandatory municipal enhanced development standards, also known as green building standards. These amendments could set Ontario back by weakening municipalities' ability to respond to climate change, promoting uncertainty in the building sector, and exposing Ontarians to long-term affordability challenges.

The amendments seem to block municipalities from requiring energy efficiency in home heating. This would prevent municipalities from acting to drive down heating bills, conserve energy, and reduce greenhouse gas emissions (for example, by requiring a gradual and phased-in switch from fossil gas systems to highly efficient heat pump heating systems).

The amendments also affect local efforts to protect Ontario's biodiversity. They seem to block mandatory municipal standards for native plant landscaping, bird-safe glass, and aquifer-refilling porous pavement. Municipal mandates in these areas have helped cool down cities while acting as flood protection and wildlife habitat. The bird-safe glass mandate has protected thousands of beautiful migratory birds that transit through Ontario's cities every spring and fall. The proposed amendments may upend these benefits.

Importance of Green Standards

Green building standards across the province are effective tools for stewarding a thriving environment, protecting the climate, creating jobs, and building healthy communities. Rather than having a patchwork of voluntary measures, standards like the Toronto Green Standard (TGS) bring together dozens of requirements across planning, engineering, waste management, transportation, and sustainability into a single, predictable structure. Critically, they make use of tiered systems, which set expectations for both current and future development on a clear, pre-determined timeline.

Removing the TGS and other tiered green standards would inject uncertainty about how the building sector should respond to challenges associated with climate change. It is important that long-term built-environment developments integrate flood-prevention, extreme heat protections, and emissions reductions.

Failing to ensure the building sector properly adapts to the changing climate will only increase long-run cost and liability risk for municipalities and other public actors charged with providing local services. For example, if new developments are built in ways that fail to prevent increased storm water runoff, this could lead to more property damage through foreseeable and preventable flooding. This creates costs for homeowners, insurers, or municipalities as the "insurers of last resort". Increased litigation could be the mechanism to apportion these costs, all of which could simply be avoided in the first place through municipal green building standards.

The predictable, forward-looking TGS stands in stark contrast to volatile and reactive legislative changes which reshape market conditions in the building sector on short notice.

Ontario's Opportunity to Lead

Rather than disempowering municipalities, Ontario should take the lead on guiding predictable and sustainable development in the province. Ontario should adopt tiered building codes that accelerate the building sector's response to climate impacts on buildings while mandating stable, yet increasingly ambitious expectations into the future.

Building codes are within provincial jurisdiction and can be amended to provide certainty while pursuing multiple legislative goals as needs evolve, including goals that serve local needs and the environment which also both fall within provincial jurisdiction.

Codes like the [current Ontario Building Code](#) are composed of a single set of standard requirements that typically follow established industry practice. These 'static' building codes only provide a floor for the building industry, with no forward-looking guidance. Conversely, [tiered building codes are multi-step, direction-setting mechanisms](#) that provide predictable roadmaps for industry to follow. They allow governments to meet long-term policy objectives like building healthier, more affordable, and more efficient buildings that can withstand hotter summers and stronger storms.

In December 2025, the Canadian Board for Harmonized Construction Codes released the 2025 editions of the [National Model Codes](#). The codes are designed to harmonize standards and guide industry across the

country with a focus on health, safety, environmental sustainability, and protecting buildings from damage. They were written in response to the [2019 Reconciliation Agreement on Construction Codes](#) between federal, provincial, and territorial governments, including Ontario. The codes, like the [National Model Building Code](#) and the [National Model Energy Code](#), include tiered systems that are ready to be adopted into provincial codes. Their adoption would be in line with Ontario's commitment under the Reconciliation Agreement to bring a new code into force within 18 months following the date of publication of the 2025 National Codes.

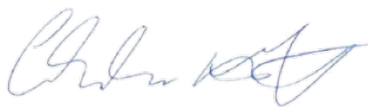
The last time that Ontario updated its building code, only one tier from each National Model Code was adopted. This approach denied Ontarians the direction-setting stability of a tiered system. And it reduced certainty about future updates, culminating in these proposed amendments in Bill 98.

Ontario now has an opportunity to move forward by adopting the tiered 2025 National Model Codes in earnest. This can be done using the *Building Code Act, 1992*. The current Ontario Building Code is [set by a regulation](#) under the *Act*, pointing directly to the "National Building Code of Canada 2020", as amended by a document issued by the Ministry of Municipal Affairs and Housing. We recommend that that Minister adopt the future tiers above those chosen for the single-tier approach. We further recommend that Ontario set clear timelines for the code to advance from tier to tier, in order to benefit from the certainty provided by a tiered system.

Beyond the provincial tiers, we recommend that municipalities are given the flexibility to select higher tiers and add additional requirements as befits their local conditions. This could be done by granting clear by-law making authority to municipalities under the *Planning Act*, *Municipal Act*, and *City of Toronto Act*. The authority should explicitly allow municipalities to adopt higher tiers of the National Model Building Code and National Model Energy Code. Cities could also develop their own standards like the TGS, as long as they are additive to the code tiers and meet any other provincial priorities, such as [long-term housing affordability](#) and [energy efficiency](#).

By taking this tiered approach, Ontario can become a leader in the construction of affordable, beautiful, and efficient buildings.

Sincerely,



Charles Hatt
Barrister & Solicitor