

Authority: Planning and Housing Committee Item PH8.4,
adopted as amended, by City of Toronto Council on
October 2 and 3, 2019

CITY OF TORONTO

Bill 1468

BY-LAW -2019

To repeal the current City of Toronto Municipal Code Chapter 363, Building Construction and Demolition, and replace it with a new City of Toronto Municipal Code Chapter 363, Building Construction and Demolition.

Whereas section 7 of the Building Code Act, 1992 (the "BCA") authorizes a municipal council to pass by-laws prescribing classes of permits under the BCA, providing for applications for permits and requiring the applications to be accompanied by such plans, specifications, documents and other information as is prescribed, requiring the payment of fees and prescribing the amounts of the fees, providing for refunds of fees under such circumstances as are prescribed, requiring a person specified in the building code to give notice to the chief building official of any of the stages of construction specified in the building code in addition to the stages of construction prescribed under subsection 10.2(1) of the BCA, prescribing forms respecting permits and applications for permits and providing for their use, providing for the transfer of permits when land changes ownership, requiring the person to whom a permit is issued to erect and maintain fences to enclose the site of the construction or demolition within such areas of the municipality as may be prescribed, prescribing the height and description of the fences, and other related matters; and

Whereas subsection 3(2) of the BCA provides that the council of a municipality shall appoint such inspectors as are necessary for the enforcement of the BCA in the areas for which the municipality has jurisdiction; and

Whereas under sections 7 and 8 of the City of Toronto Act, 2006 ("COTA"), the City may pass by-laws in respect of the health, safety and well-being of persons and the economic, social and environmental well-being of the City; and

Whereas under subsection 36(1) of the BCA, a person is guilty of an offence if the person contravenes a by-law passed under section 7 of the BCA; and

Whereas under subsection 36(3) of the BCA, a person who is convicted of an offence is liable to a fine of not more than \$50,000 for a first offence and to a fine of not more than \$100,000 for a subsequent offence; and

Whereas under subsection 36(4) of the BCA, if a corporation is convicted of an offence, the maximum penalty that may be imposed upon the corporation is \$500,000 for a first offence and \$1,500,000 for a subsequent offence and not as provided in subsection (3); and

Whereas under sections 386 of COTA, where the City has the authority under COTA or any other Act or under a by-law under COTA or any other Act to direct or require a person to do a matter or thing, the City may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and that the City may enter upon land at any reasonable time for this purpose; and

Whereas it is desirable to replace the existing City of Toronto Municipal Code, Chapter 363, Building Construction and Demolition with a revised, updated and more modern by-law that accords with legislative and regulatory amendments, that is sequenced in a manner consistent with the permit application process, that is easier to understand, that includes all application processes and their submission requirements, and that aligns with Toronto Building's Electronic Service Delivery Program;

The Council of the City of Toronto enacts:

1. The existing City of Toronto Municipal Code, Chapter 363, Building Construction and Demolition is repealed on January 1, 2020 at which time it shall be replaced with a new Chapter 363, Building Construction and Demolition, set out in Schedule 1.
2. By-law 1690-2013 is repealed on January 1, 2020.

Enacted and passed on October , 2019.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

SCHEDULE 1

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Article 1
General Provisions

§ 363-1.1. Definitions.

A. As used in this chapter, the following terms shall have the meanings indicated:

Act - The Building Code Act, 1992.

Applicant - The owner of a building or property who applies for a permit, any person authorized by the owner to apply for a permit on the owner's behalf, or any person or corporation who applies for a permit to carry out work at a property under the authority of a statute or court order and anyone acting under the authority of that person or corporation.

Architect - The holder of a licence, certificate of practice or a temporary licence issued under the Architects Act.

Building Code- The regulations made under section 34 of the Act.

Building Permit – A permit issued by the Chief Building Official pursuant to section 8 of the Act to perform work other than conditional permits issued pursuant to subsection 8(3) of the Act.

Certified Plans Application – An application to the Chief Building Official to certify plans showing a specific design intended for repeated construction and intended to be used as part of the submission to obtain a permit or permits under the Act wherein the plans are reviewed by the Chief Building Official for compliance with the Building Code.

Certified Plans – Plans certified by the Chief Building Official following the review of a certified plans application.

Chief Building Official - The Chief Building Official appointed by the Council of the City of Toronto pursuant to section 3 of the Building Code Act, 1992.

Drawing - A visual representation that communicates how something is intended to be constructed. It can be printed on paper or take the form of a digital file.

Inspector – A person appointed by the City of Toronto for the purposes of the enforcement of the Act.

Ontario Land Surveyor - A person who holds a licence under the Ontario Land Surveyors Act.

Owner - The registered owner of the land and shall also include a lessee and a mortgagee in possession.

Peer Review – The evaluation of an application for approval of an alternative solution filed with the Chief Building Official in accordance with Section 2.1 of Division C of the Building Code by an independent expert qualified to give an opinion regarding the proposed alternative solution who was not involved in the preparation of the application or its supporting documentation.

Peer Review Report – a report from the expert who carried out a Peer Review setting out the expert's opinion regarding the proposed alternative solution and the results of any testing, if any, done by the expert.

Permit – A building permit, a permit to change the use of a building or part of it, or a permit to occupy a building or part of it, as regulated by the Act and Building Code.

Permit Holder - The owner to whom a permit has been issued or, where a permit has been transferred, the new owner to whom the permit has been transferred.

Plans – A set of drawings or two-dimensional diagrams used to communicate building or fabrication instructions. Plans can be printed on paper or take the form of a digital file.

Preliminary Project Review – A one-time detailed review of a proposal to determine its compliance with the City's zoning by-laws and to indicate other approvals that would be required prior to the issuance of a building permit or sign permit.

Professional Engineer - A person who holds a licence or temporary licence under the Professional Engineers Act.

Proposal - A proposal to develop or redevelop land, to sever land or to construct, alter, add to, extend or materially alter buildings or structures.

Purpose-Built Rental Unit - A dwelling unit that is providing rental accommodation and that has been approved by the City's Affordable Housing Office.

Work - Construction or demolition or both of a building or part of it.

Zoning Certificate - A certificate issued by the Chief Building Official after a detailed preliminary review of a proposal specifically intended for application for a building permit confirming its compliance with zoning and identifying all applicable law related to the proposal as defined in sentence 1.4.1.3 of Division A of the Building Code.

§ 363-1.2. Interpretation.

- A. Any word or term not defined in this chapter that is defined in the Act or the Building Code shall have the meaning as ascribed to it in the Act or the Building Code.
- B. The term "Chief Building Official" as used in this chapter shall include the Deputy Chief Building Officials of the City of Toronto as appointed by the Council for the City of Toronto.

- C. In the event of amendments to the Act or the Building Code which result in changes to the provision numbers referenced in this chapter, references in this chapter to specific provisions of the Act or the Building Code shall be deemed to be references to the amended equivalents.
- D. In the event that any provision of this chapter is declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the remaining provisions of this chapter.

§ 363-1.3. Forms.

- A. Applications, other than applications for a building permit, shall be on a form prescribed by the Chief Building Official, and the Chief Building Official is authorized to approve forms as deemed necessary for the administration of this chapter and the Act.
- B. The Chief Building Official is authorized to approve forms for supporting information required in conjunction with an application for a building permit additional to the building permit application form prescribed by the Minister under the Act.

§ 363-1.4. Appointment of building inspectors.

- A. Authority is delegated to the Chief Building Official to appoint inspectors as necessary for the enforcement of the Act under section 3 of the Act, and this authority shall include the revocation of appointment.
- B. The total number of appointed inspectors must be within the number of inspectors identified in the Toronto Building budget, as approved by Council of the City of Toronto.
- C. The Chief Building Official shall at all times, with reasonable diligence, publish on the City of Toronto's website an up to date list of all inspectors appointed under section 3 of the Act for the purpose of enforcement of the Act in the City of Toronto.

Article 2
Preliminary Reviews

§ 363-2.1. Preliminary Project Review.

- A. An application for preliminary project review may be made to the Chief Building Official in respect of a proposal by:
 - (1) Filing an application form as prescribed by the Chief Building Official;
 - (2) Filing the plans, specifications and documents necessary for the review as may be required by the Chief Building Official; and
 - (3) Paying the applicable fee as set out in Chapter 441, Fees and Charges.

- B. Following a review of the preliminary project review application, the Chief Building Official shall issue a written notice identifying:
- (1) areas of non-compliance with the City's zoning by-laws; and
 - (2) laws relevant to the proposal from a subset of applicable law defined in sentence 1.4.1.3.(1) of Division A of the Building Code deemed to directly impact the City of Toronto as follows:
 - (a) Section 114 of the City of Toronto Act, 2006 with respect to the approval by the City of Toronto or the Ontario Local Planning Appeal Tribunal of plans and drawings;
 - (b) Subsections 27(3) and 30(2) and sections 33, 34, 42 of the Ontario Heritage Act and by-laws made under section 40.1 of the Ontario Heritage Act;
 - (c) Subsection 102 (3) of the City of Toronto Act, 2006;
 - (d) Section 33 of the Planning Act except where, in the case of the demolition of a residential property, a permit to demolish the property is obtained under that section;
 - (e) Development permit by-laws passed under the Planning Act or the City of Toronto Act, 2006;
 - (f) Section 46 of the Planning Act;
 - (g) Section 47.3 of the Environmental Protection Act with respect to the issuance of a renewable energy approval;
 - (h) Section 14 of Ontario Regulation 137/15 (General) made under the Child Care and Early Years Act, 2014 with respect to the approval of plans for a new building to be erected or an existing building to be used, altered or renovated for use as a child care centre or for alterations or renovations to be made to premises used by a child care centre;
 - (i) by-laws made under section 108 of the City of Toronto Act, 2006, but only with respect to the issuance of a permit for the construction of a green roof if the construction of the roof is prohibited unless a permit is obtained;
 - (j) Sections 28 and 53 of the Development Charges Act, 1997;
 - (k) Sections 257.83 and 257.93 of the Education Act; and

- (1) Section 42 of the Planning Act with respect to the payment of money or making arrangements satisfactory to Council for the City of Toronto for the payment of money, where the payment is required under subsection 42(6) of that Act.

§ 363-2.2. Zoning Certificate application.

- A. A Zoning Certificate application may be made to the Chief Building Official in respect of a proposal prior to making an application for a building permit.
- B. Zoning Certificate applications may be made to the Chief Building Official in respect of a proposal by:
 - (1) Filing an application form as prescribed by the Chief Building Official; and
 - (2) Paying the applicable fee in accordance with § 363-4.2.
- C. Every Zoning Certificate application shall be accompanied by:
 - (1) Information identifying and describing in detail the work, use and occupancy for which the proposal is made;
 - (2) Information identifying and describing in detail the existing use and proposed use of the building; and
 - (3) Plans, specifications and documents in accordance with and that meet the requirements of § 363-3.5.
- D. Following a review of the Zoning Certificate application, the Chief Building Official shall issue:
 - (1) A Zoning Certificate where the proposal has been deemed to comply with the City's zoning by-laws and which identifies applicable law as per sentence 1.4.1.3.(1) of Division A of the Building Code relevant to the proposal; or
 - (2) a written notice identifying any one or more of the following:
 - (a) additional information that the Chief Building Official deems necessary to complete the review;
 - (b) areas of non-compliance with the City's zoning by-laws; and
 - (c) applicable law in accordance with sentence 1.4.1.3.(1) of Division A of the Building Code relevant to the proposal.
- E. Where additional information is provided to the Chief Building Official in response to a written notice provided under Subsection D(2) or at any time requiring additional review

or re-examination of the proposal by the Chief Building Official, the Zoning Certificate applicant shall be required to pay an additional fee equal to the greater of:

- (1) 10 percent of the original Zoning Certificate application fee charged as per § 363-4.3.A; or
 - (2) the hourly rate for examination set out in Chapter 441, Fees and Charges.
- F. If substantial changes are made to a proposal after the review of the Zoning Certificate application has been completed, a new Zoning Certificate application must be made accompanied by the full fees in accordance with § 363-4.2.
- G. A Zoning Certificate issued by the Chief Building Official pursuant to subsection D may only be filed with a building permit application pursuant to §§ 363-3.2A and 363-3.3A provided:
- (1) the building permit application is made within one year of the date of the issuance of the Zoning Certificate; and
 - (2) there have been no changes to the Building Code or to any applicable law as defined in sentence 1.4.1.3.(1) of Division A of the Building Code which apply to the proposal between the date the Zoning Certificate was issued and the date on which the building permit application is made.

Article 3 Permits

§ 363-3.1. Classes of permits.

- A. The classes of required permits and the corresponding permit fees for construction, demolition and change of use of buildings are set out in Chapter 441, Fees and Charges.

§ 363-3.2. Building permit applications with a Zoning Certificate.

- A. Where an application for a building permit is made with a Zoning Certificate along with all the required information set out in § 363-3.3A, the building permit application shall be deemed by the Chief Building Official to be complete such that the periods within which a building permit shall be issued or refused as prescribed in sentence 1.3.1.3 of Division A of the Building Code shall apply as at the date of the filing of the application.
- B. Where an application for a building permit is made to the Chief Building Official without a Zoning Certificate or where the drawings submitted with the building permit are not in accordance with the approved Zoning Certificate drawings, the building permit application shall be deemed by the Chief Building Official to be incomplete such that the periods within which a building permit shall be issued or refused as prescribed in sentence 1.3.1.3 of Division A of the Building Code will not apply.

§ 363-3.3. Building permit application requirements.

- A. Where an application for a building permit is made with a Zoning Certificate, it shall:
- (1) Identify and describe in detail the work, use and occupancy for which the building permit application is made;
 - (2) Identify and describe in detail the existing use and the proposed use for the premises;
 - (3) Identify the subject municipal address and legal description;
 - (4) Be accompanied by the plans, specifications, documents and other information necessary for the complete review of the building permit submission, as required by the Chief Building Official and in accordance with § 363-3.5 including all architectural, structural, mechanical, plumbing and electrical drawings and details, including shoring drawings and details, where the construction method will require such systems;
 - (5) Where required by the Chief Building Official, be accompanied by a code compliance report prepared by an architect or professional engineer;
 - (6) Where required by the Chief Building Official, be accompanied by a geotechnical report prepared by a professional engineer;
 - (7) Where required by the Chief Building Official, be accompanied by a report from a professional engineer with respect to the impact of vibration from the proposed construction methods and the measures to be employed to mitigate such impacts;
 - (8) Be accompanied by the full building permit fees required by this article;
 - (9) State the names, addresses, telephone numbers and email addresses of the owner, applicant, architect, engineer, or other designer for the work applied for;
 - (10) If Subsection 1.2.2 of Division C Part 1 of the Building Code applies, be accompanied by a signed acknowledgement of the owner on the form prescribed, that an architect or professional engineer or both have been retained;
 - (11) If Subsection 1.2.2 of Division C Part 1 of the Building Code applies, be accompanied by a signed statement from the architect or professional engineer or both on the form prescribed, undertaking to provide a general review;
 - (12) Include where applicable, the registration number of the builder or vendor as provided in the Ontario New Home Warranties Plan Act;
 - (13) State the estimated valuation of the proposed work, including material, labour and related direct cost associated with the work, exclusive of the cost of the land;
 - (14) State the erection and removal date for all temporary buildings; and

- (15) Be accompanied by documentation that confirms or demonstrates compliance with any required applicable law as set out in sentence 1.4.1.3 of Division A Part 1 of the Building Code.
- B. An application for a building permit without a Zoning Certificate will only be accepted by the Chief Building Official provided:
- (1) It meets the requirements of Subsections A(1), (2), (3), (4), (5), (6), (7), (9), (10), (11), (12), (13) and (14); and
 - (2) It is accompanied by a payment equal to the preliminary estimate of the fees required by this chapter, or if the preliminary estimate of the fees required is more than \$20,000, the payment shall be the greater of \$20,000 or an amount equal to 60 percent of the estimated full building permit fees required by this chapter.
- C. As part of the first building permit application on each lot within a newly created plan of subdivision, in addition to the requirements of Subsection A, the application shall include a lot grading and building siting control plan prepared by a professional engineer.
- D. As part of a building permit application to construct a new house, in addition to the requirements of Subsection A, the application shall include a lot grading plan prepared by:
- (1) An Ontario Land Surveyor;
 - (2) An engineer registered as a member of the Professional Engineers of Ontario;
 - (3) An architect registered as a member of the Ontario Association of Architects;
 - (4) A member of the Ontario Association of Landscape Architects;
 - (5) A certified member of Association of Architectural Technologists of Ontario;
 - (6) A certified member of Ontario Association of Certified Engineering Technicians and Technologists; or
 - (7) Any other professional deemed qualified by the Chief Building Official to prepare a lot grading plan.

§ 363-3.4. Demolition permit application requirements.

- A. Every building permit application that includes demolition shall:
- (1) Meet the requirements of § 363-3.3A or B as applicable;
 - (2) Be accompanied by plans, specifications, documents and other information necessary for the complete review of the demolition permit submission;
 - (3) Be accompanied by the information set out in Schedule A to this chapter unless the building to be demolished is a house;
 - (4) If Article 1.2.2 of Division C Part 1 of the Building Code applies, be accompanied by structural design characteristics of the building and the method and time schedule of demolition; and
 - (5) If Sentence 1.2.2.3 of Division C Part 1 of the Building Code applies, be accompanied by confirmation on a form prescribed by the Chief Building Official that a professional engineer has been retained to undertake the general review of the demolition.

§ 363-3.5. Plans and specifications general requirements.

- A. Every application for Preliminary Project Review, Zoning Certificate and permit shall include:
- (1) Sufficient plans, specifications and documents, as required by the Chief Building Official, to determine whether the proposed construction, demolition or change of use will conform to the Act, the Building Code, and any other applicable law;
 - (2) A site plan referenced to an up to date plan of survey certified by an Ontario Land Surveyor, and a copy of the survey shall be filed with the City unless this requirement is waived because the Chief Building Official is able, without having an up to date plan of survey, to determine whether the proposed work conforms to the Act, the Building Code or any other applicable law; and
 - (3) For the purpose of Subsection A(2), an up to date plan of survey means a survey that accurately reflects the property as at the time the application is submitted to the Chief Building Official regardless of when the survey was prepared.
- B. The site plan referred to in Subsection A(2) shall include:
- (1) Lot size and dimensions of the property and setbacks to any existing or proposed buildings;
 - (2) Existing and finished ground elevations of the property and the elevations of the streets abutting the property;
 - (3) Existing rights-of-way, easements and municipal services;
 - (4) Dimensions of setbacks of proposed buildings from buildings located on adjacent lots; and
 - (5) Dimensions of setbacks of buildings located on adjacent lots from their respective front property lines.

- C. Plans and forms submitted under Subsection A and as required by the Chief Building Official shall be legible and be drawn to scale, in an electronic format conforming to all applicable guidelines as prescribed by the Chief Building Official.
- D. Applications will not be accepted unless the requirements of Subsections A to C have been met and the applicable fees have been paid.
- E. The Chief Building Official may request the submission of one hard copy of the plans specifications, documents, or other information necessary for the complete review of the permit submission upon paper or other suitable or durable material.
- F. The original of any approval from another City Division, Board, Agency or other external agency shall be submitted together with an electronic version.
- G. The Chief Building Official may require additional information to be provided at any time prior to the completion of work.
- H. On completion of the construction of a building, the Chief Building Official may require a set of as-constructed plans, including a plan of survey showing the location of the building.
- I. On completion of the construction of a house in a new created plan of subdivision, a site certificate of conformance prepared by a professional engineer shall be provided to the Chief Building Official confirming that the building permit drawings conform to the subdivision grading and building siting control plan and the lot grading and building siting control plan submitted in accordance with § 363-3.3C.
- J. On completion of the construction of a new house, a lot grading certificate shall be provided to the Chief Building Official from one of the professionals listed in § 363-3.3D confirming that the grading was carried out in accordance with the lot grading plan submitted in accordance with § 363-3.3D.
- K. Plans and specifications furnished according to this chapter or otherwise required by the Act become the property of the municipality and will be disposed of or retained in accordance with relevant legislation.

§ 363-3.6. Partial permit.

- A. Where a building permit application for the construction of a building has been accepted by the Chief Building Official, a building permit application for part of the building may be made.
- B. The Chief Building Official's review of a building permit for part of a building shall be based on the plans and specifications submitted with the original building permit application for the building, and no further documentation need be submitted unless required by the Chief Building Official.

- C. Where a building permit is issued for part of a building, the partial permit does not authorize construction beyond the plans for which the approval is given, nor does it represent or imply that approval will be granted for the entire building.

§ 363-3.7. Conditional permit.

- A. Where an application for a conditional permit is made under subsection 8(3) of the Act, the application shall:
- (1) Meet the requirements of subsection 363-3.3.B as applicable;
 - (2) State the reasons why the owner believes that unreasonable delays in construction would occur if a conditional permit is not granted;
 - (3) Identify the necessary approvals which must be obtained in respect to the proposed building and the time in which such approvals will be obtained; and
 - (4) Be subject to the registered owner and such other person as the Chief Building Official determines entering into an agreement as provided in Subsection 8(3) of the Act.
- B. The Chief Building Official is authorized to take the following actions with respect to the processing of conditional permit agreements under section 8 of the Act:
- (1) Approve entering into a conditional permit agreement and executing the agreement on behalf of the City;
 - (2) Approve an assignment of a conditional permit agreement and execute the consent to the assignment of the agreement on behalf of the City; and
 - (3) Approve the release of a registered conditional permit agreement when the agreement is no longer necessary and execute the release of the agreement on behalf of the City.
- C. Where the conditions in subsections 8(3) to 8(5) of the Act and Subsection A have been satisfied, the Chief Building Official may issue a conditional permit for a building subject to compliance with the Act, the Building Code and any other applicable law.
- D. Where a conditional permit is issued for all or part of a building or project, the conditional permit does not authorize construction beyond the plans for which approval is given, nor does it represent or imply that approval will be granted for the entire building or project.

§ 363-3.8. Change of use permit.

- A. Where an application is made for a change of use permit under subsection 10(1) of the Act, the application shall:
- (1) Meet the requirements of 363-3.3B or C as applicable;
 - (2) Describe the building or part of it in which the occupancy is to be changed;
 - (3) Include plans and specifications which show the current and proposed occupancy of all parts of the building, and include sufficient information to establish compliance with the requirements of the Building Code including but not limited to floor plans, and details of wall, floor and roof assemblies identifying required fire-resistance ratings and load-bearing capacities; and
 - (4) Shall include any other information which may be required by the Chief Building Official.

§ 363-3.9. Certified plans application.

- A. A certified plans application may be made to the Chief Building Official by:
- (1) Filing an application form as prescribed by the Chief Building Official;
 - (2) Filing the plans proposed to be certified along with any other specifications, documents and information necessary for the review of the submission and as may be required by the Chief Building Official; and
 - (3) By paying the applicable fee as set out in Chapter 441, Fees and Charges.
- B. Plans and forms submitted under Subsection A(2) shall be legible and drawn to scale, in an electronic format conforming to all applicable guidelines as prescribed by the Chief Building Official, and if required by the Chief Building Official, upon paper or other suitable or durable material.
- C. All certified plans shall be assigned a certification number by the Chief Building Official.
- D. Where an application for permit is made to the Chief Building Official in reliance upon certified plans, the permit application shall not be accompanied by the certified plans provided the certification number for the certified plans is provided with the permit application, unless otherwise required by the Chief Building Official.

§ 363-3.10. Authority to approve and execute limiting distance agreements.

- A. The authority to approve entering into limiting distance agreements under the Building Code and to execute such agreements on behalf of the City is delegated to the Chief Building Official where the following conditions are met:
- (1) No land owned by the City is affected by the agreement;

- (2) The agreement does not impose any obligations on the City; and
- (3) The agreement is satisfactory to the City Solicitor.

§ 363-3.11. Alternative solutions.

- A. Where an alternative solution is being proposed pursuant to section 2.1 of Division C of the Building Code in connection with a building permit application or building permit issued, an application for approval of the alternative solution shall be made to the Chief Building Official by:
 - (1) Filing an application form as prescribed by the Chief Building Official;
 - (2) Filing the plans, specifications, tests and documents necessary for the review in accordance with sentences 2.1.1.1 and 2.1.1.2 of Division C of the Building Code as applicable and as may be required by the Chief Building Official; and
 - (3) Paying the applicable fee as set out in Chapter 441, Fees and Charges.
- B. After reviewing the documentation filed with the application for approval of an alternative solution, the Chief Building Official may require the applicant to obtain a Peer Review of the application if deemed necessary by the Chief Building Official to evaluate the proposed alternative solution.
- C. Where the Chief Building Official requires a Peer Review in accordance with Subsection B, the Chief Building official may identify specific questions required to be addressed and considered in the Peer Review.
- D. Where the Chief Building Official requires a Peer Review in accordance with Subsection B, the applicant shall file a Peer Review Report with the Chief Building Official.
- E. A Peer Review Report filed with the Chief Building Official in accordance with Subsection D shall:
 - (1) include a summary of the expert's qualifications, and a copy of the expert's curriculum vitae shall be attached;
 - (2) provide comments regarding all questions specifically identified by the Chief Building Official pursuant to Subsection C;
 - (3) clearly explain the basis for the expert's opinion and set out what documentation is relied upon by the expert in support of the opinion; and
 - (4) be accompanied by a certificate as prescribed by the Chief Building Official signed by the expert acknowledging:

- (a) the expert's duty to provide an independent opinion regarding the proposed alternative solution; and
 - (b) that the Chief Building Official may rely on the Peer Review Report in considering the proposed alternative solution.
- F. The cost of obtaining a Peer Review and a Peer Review Report shall be borne by the applicant and shall be paid by the applicant directly to the expert carrying out the Peer Review.
- G. Where the Chief Building Official requires a Peer Review in accordance with Subsection B, the Chief Building Official will not render a decision regarding the proposed alternative solution unless the requirements of Subsections D and E are met.

§ 363-3.12. Abandoned application.

- A. Where any application made under this chapter and/or the Act remains inactive or incomplete for six months after it is made, the application may be deemed by the Chief Building Official to have been abandoned without notice.

§ 363-3.13. Transfer of permit.

- A. Where a property which is the subject of a permit or permit application has been sold, the permit or permit application will be transferred by the Chief Building Official to the new registered owner of the property only upon receipt of:
 - (1) a declaration form, as prescribed by the Chief Building Official, executed by the new registered owner of the property declaring that the transfer of the permit or permit application has been authorized by the previous owner of the property;
 - (2) a copy of the transfer deed of land registered in accordance with the provisions of the Land Titles Act; and
 - (3) the applicable fee as set out in Chapter 441, Fees and Charges.
- B. Where the holder of a permit issued by the Chief Building Official is a tenant of the subject property or where a permit application has been made by or on behalf of a tenant of the subject property, and where the subject property is thereafter leased by a new tenant, the permit or permit application will be transferred by the Chief Building Official to the new tenant of the subject property only upon receipt of:
 - (1) a declaration form, as prescribed by the Chief Building Official, executed by the previous tenant declaring that the transfer of the permit or permit application has been authorized by the previous tenant; and

- (2) the applicable fee as set out in Chapter 441, Fees and Charges.

§ 363-3.14. Notice of readiness for inspection.

- A. In addition to the notices of readiness for inspection required pursuant to section 10.2 of the Act at each stage of construction set out in sentence 1.3.5.1 of Division C, Part 1, of the Building Code, notice of readiness for inspection shall be provided to the Chief Building Official at the stages of construction set out in sentence 1.3.5.2.(1)(a), (d), (g) and (j) of Division C, Part 1, of the Building Code.
- B. All notices of readiness for inspection shall be provided to the Chief Building Official by means specified by the Chief Building Official and posted on the City of Toronto website.

§ 363-3.15. Revocation of permit.

- A. As used in this section, the following terms shall have the meanings indicated:

Notice of intention to revoke – A written notice from the Chief Building Official advising of the Chief Building Official's intention to revoke a permit.

Notice of objection to revocation – A written notice from the permit holder or the authorized agent of the permit holder on a form prescribed by the Chief Building Official objecting to the revocation of a permit and setting out the reasons why the permit should not be revoked.

Notice of revocation – A written notice from the Chief Building Official advising that a permit was revoked on the date of this notice.

- B. Where a permit holder requests in writing that a permit be revoked pursuant to subsection 8(10)(e) of the Act, the Chief Building Official may revoke the permit by serving the permit holder with a notice of revocation.
- C. Prior to revoking a permit pursuant to subsections 8(10)(a), (b), (c), (d) and/or (f) of the Act, the Chief Building Official shall serve the permit holder with a notice of intention to revoke setting out the date upon which the permit will be revoked and the reasons for the revocation.
- D. Where a notice of intention to revoke has been served on a permit holder by the Chief Building Official in reliance upon subsection 8(10)(b) of the Act:
- (1) If no request for inspection has been made to the Chief Building Official by the date of intended revocation set out in the notice of intention to revoke, the Chief Building Official shall revoke the permit and serve the permit holder with a notice of revocation;

- (2) If a request for inspection is made to the Chief Building Official prior to the date of intended revocation set out in the notice of intention to revoke, and if the Chief Building Official is satisfied upon inspection that the construction or demolition in respect of which the permit was issued has been seriously commenced, the permit will not be revoked; and
 - (3) If a request for inspection is made to the Chief Building Official prior to the date of intended revocation set out in the notice of intention to revoke but the Chief Building Official is not satisfied upon inspection that the construction or demolition in respect of which the permit was issued has been seriously commenced, the Chief Building Official shall revoke the permit and serve the permit holder with a notice of revocation.
- E. Where a notice of intention to revoke has been served on a permit holder by the Chief Building Official in reliance upon subsection 8(10)(c) of the Act:
- (1) If no request for inspection has been made to the Chief Building Official by the date of intended revocation set out in the notice of intention to revoke, the Chief Building Official may revoke the permit and serve the permit holder with a notice of revocation;
 - (2) If a request for inspection is made to the Chief Building Official prior to the date of intended revocation set out in the notice of intention to revoke, and if the Chief Building Official is satisfied upon inspection that the construction or demolition in respect of which the permit was issued has seriously resumed, the permit will not be revoked; and
 - (3) If a request for inspection is made to the Chief Building Official prior to the date of intended revocation set out in the notice of intention to revoke but the Chief Building Official is not satisfied upon inspection that the construction or demolition in respect of which the permit was issued has seriously resumed, the Chief Building Official shall revoke the permit and serve the permit holder with a notice of revocation.
- F. Where a notice of intention to revoke has been served on a permit holder by the Chief Building Official in reliance upon subsection 8(10)(a), (d) and/or (f) of the Act:
- (1) If no notice of objection to revocation is served on the Chief Building Official within 20 days of the date of service of the notice of intention to revoke, the Chief Building Official shall revoke the permit and serve the permit holder with a notice of revocation;
 - (2) If a notice of objection to revocation is served on the Chief Building Official within 20 days of the date of service of the notice of intention to revoke, the Chief Building shall consider the reasons for objection and then may:
 - (a) determine that no grounds exist to revoke the permit in which case the Chief Building Official shall not revoke the permit;

- (b) determine that there are grounds to revoke the permit, revoke the permit and serve the permit holder with a notice of revocation; or
 - (c) determine that there are grounds to revoke the permit but may, where appropriate, provide the permit holder with an opportunity to take the necessary steps to eliminate the grounds of revocation in which case the Chief Building Official:
 - 1) shall not revoke the permit if the steps necessary to eliminate the grounds of revocation have been successfully taken by the permit holder;
 - 2) shall revoke the permit and serve a notice of revocation if the steps necessary to eliminate the grounds of revocation have not been taken by the permit holder within the time specified by the Chief Building Official or within a reasonable time if no time has been specified; or
 - 3) shall revoke the permit and serve a notice of revocation if steps taken by the permit holder have not been successful in eliminating the grounds of revocation.
- (3) Notwithstanding Subsections F(1) and (2), the Chief Building Official may revoke a permit at any time following the service of a notice of intention to revoke by serving a notice of revocation on the permit holder where:
- (a) the permit authorized the demolition or partial demolition of a building; or
 - (b) work pursuant to the permit has continued following the service of the notice of intention to revoke on the permit holder and prior to a final determination by the Chief Building Official regarding whether the permit will be revoked in accordance with Subsections F(1) and (2)
- G. Notices of intention to revoke and notices of revocation may be served by the Chief Building Official on the permit holder personally, by e-mail, by regular mail, or by registered mail to the permit holder's last known address. When served by e-mail, the notice shall be deemed to have been served on the date the e-mail is sent. When served by regular mail or registered mail, the notice shall be deemed to have been served on the third day after it is mailed.

Article 4 Fees

§ 363-4.1. General.

- A. All fees required by this chapter shall be as set out in Chapter 441, Fees and Charges, subject to the provisions of this chapter.

§ 363-4.2. Zoning Certificate application fees.

- A. The fee for a Zoning Certificate application shall be:
- (1) 25 percent of the total building permit fees applicable to the proposal as calculated in accordance with Chapter 441, Fees and Charges, and this chapter; and
 - (2) an additional 10 percent of the amount calculated under (1) for each additional review required prior to the issuance of a Zoning Certificate.
- B. Notwithstanding Subsection A, the fee for a Zoning Certificate application shall not be less than the minimum hourly rate set out in Chapter 441, Fees and Charges.
- C. Provided the drawings submitted with a building permit application are in accordance with the approved Zoning Certificate drawings, the Zoning Certificate application fees paid in accordance with Subsection A(1) shall be credited in full to the subsequent building permit application such that the total building permit fees calculated under § 363-4.3B shall be reduced by these Zoning Certificate application fees.

§ 363-4.3. Permit fees.

- A. When an application for a permit is made, the permit fees as calculated by the Chief Building Official shall be paid.
- B. The Chief Building Official shall calculate the required permit fees using the formula below:

$$\text{Permit fee} = \text{SI} \times \text{A}$$

Where:

SI = Service Index classification of the work proposed. The Service Index is the fee set out in Chapter 441, Fees and Charges.

A = Floor area in square metres of the proposed work

- C. Notwithstanding subsection B, the total permit fees shall not be less than the minimum fee set out in Chapter 441, Fees and Charges.
- D. If new, additional or revised information is submitted in connection with a permit application which relates to or revises information which has already been reviewed, the

additional review time spent, measured to the nearest whole hour, multiplied by the Hourly Rate outlined in Chapter 441, Fees and Charges, shall be charged in order to compensate the City for the additional plan examination work and expense and shall be paid by the applicant or owner in addition to the fees calculated in Subsection B.

- E. Where construction has commenced prior to the issuance of a building permit authorizing the construction, in addition to the fees calculated under Subsection B, an additional fee totalling 50 percent of the total permit fees calculated under Subsection B to a maximum amount set out in Chapter 441, Fees and Charges, shall be charged and paid.
- F. In addition to the fees calculated in Subsection B, there shall be an additional fee for each newly proposed residential unit in accordance with Chapter 441, Fees and Charges.
- G. No permit shall be issued until the total amount of fees charged and owing has been paid.
- H. Notwithstanding Subsection G, where the total permit fees are greater than \$20,000, a part permit for excavation and shoring may be issued before the total amount of fees charged and owing has been paid provided the payment required by § 363-3.3B(2) has been paid.
- I. The following directions shall be followed by the Chief Building Official when calculating permit fees:
 - (1) The floor area of the proposed work shall be measured to the outer face of exterior walls and to the centre line of party walls or demising walls, including attached garages;
 - (2) For interior alterations or renovations, the calculated area of work shall be the total area affected by the proposal;
 - (3) Mechanical penthouses and floors, mezzanines, lofts, habitable attics, balconies, terraces, exterior amenity areas, porches, and decks shall be included in all floor area calculations;
 - (4) No deductions shall be made for openings within the floor area with the exception of interconnected floor spaces;
 - (5) Unfinished basements for new single detached, semi-detached, duplex and townhouse dwellings shall not be included in the floor area;
 - (6) No additional charge shall apply to proposed fireplaces in new single detached, semi-detached, duplex and townhouse dwellings;
 - (7) Where interior alterations and renovations require relocation of sprinkler heads or fire alarm components, no additional charge shall apply. Where interior alterations and renovations require replacement or extensive modification of sprinkler heads or fire alarm components, the applicable fee rate shall apply;

- (8) The Service Index for ceiling shall apply only when stand-alone ceiling alterations occur in existing applications. Minor alterations to existing ceilings to accommodate lighting or HVAC improvements shall not be chargeable;
- (9) The Service Index for structural floor replacement shall apply only when stand-alone structural floor replacement occurs;
- (10) Corridors, circulation space, lobbies, washrooms, and lounges and other such common areas shall be included and classified according to the major classification for the floor area on which they are located;
- (11) Where it is proposed to replace a pre-engineered fire suppression system, the minimum fee shall be charged;
- (12) Where a sales pavilion is proposed, the fee shall be the new Group D construction fee index;
- (13) Window replacements in single detached, semi-detached, duplex and townhouse dwellings shall not be charged;
- (14) No additional fee shall be charged if a green roof is part of permit application for a new building or where a green roof is included as part of an addition to an existing building; and
- (15) The occupancy categories in Chapter 441, Fees and Charges, correspond with the major occupancy classifications in the Building Code. For mixed occupancy floor areas, the Service Index for any of the applicable occupancy categories may be used except where an occupancy category makes up less than 10 percent of the floor area.

§ 363-4.4. Purpose built rental fee.

- A. Where an applicant or owner submits written authorization from Council of the City of Toronto exempting the charge of building permit fees given that the proposed building contains purpose-built rental units, the purpose built rental fee shall be charged in accordance with Chapter 441, Fees and Charges, instead of the permit fees calculated under § 363-4.3.

§ 363-4.5. Alternative solution request fee.

- A. The fee for an application to the Chief Building Official for approval of an alternative solution submission shall be as set out in Chapter 441, Fees and Charges.

§ 363-4.6. Energy devices and equipment fee.

- A. Notwithstanding § 363-4.5, where a fee for energy devices and equipment is charged and paid in accordance with Chapter 441, Fees and Charges, no additional fee shall be payable to evaluate such energy devices and equipment as an alternative solution submission.

§ 363-4.7. Marijuana grow operation assessment fee.

- A. Enforcement charges, as defined in Chapter 565, Marijuana Grow Operations, incurred by the Chief Building Official in respect of a property identified as a marijuana grow operation shall be as prescribed in Chapter 441, Fees and Charges.

§ 363-4.8. Records disclosure fee.

- A. Requests to the Chief Building Official for the disclosure of plans, files, drawings, or any other record shall be accompanied by the payment of a fee for each plan, file, drawing or record requested calculated in accordance with the fees prescribed in Chapter 441, Fees and Charges.

§ 363-4.9. Fees for other services

- A. Applicable fees for classes of permits or services not described or included in this article shall be calculated on the following basis:
- (1) A fee per \$1,000.00 of prescribed construction value set out in Chapter 441, Fees and Charges; or
 - (2) Where there is no prescribed construction value, the hourly rate shall be charged as set out in Chapter 441, Fees and Charges.
- B. For the purposes of Subsections A(1) and (2), prescribed construction value will be established by the Chief Building Official on an annual basis.

§ 363-4.10. Minimum fee exemptions.

- A. The minimum fee set out in Chapter 441, Fees and Charges, shall not apply to:
- (1) Preliminary Project Reviews;
 - (2) Zoning Certificate application resubmissions;
 - (3) Subscription for Building Permit Activity Reports;
 - (4) Inspection status reports;

- (5) Printing, scanning and copying; and
- (6) Routine disclosure.

§ 363-4.11. Refunds.

- A. A written request for the refund of fees may be made to the Chief Building Official in the case of and no later than one year after:
 - (1) The withdrawal or cancellation of an application made under this chapter;
 - (2) The abandonment of an application pursuant to § 363-3.12; and
 - (3) Revocation of a permit pursuant to subsections 8(10)(b), (d) and (e) of the Act.
- B. Any written request to the Chief Building Official to cancel or withdraw an application made under this chapter and any written request to the Chief Building Official to revoke a permit pursuant to Subsection 8(10)(e) of the Act shall be deemed to be a written request for the refund of fees for the purposes of Subsection A.
- C. Notwithstanding Subsection A, no written request for the refund of fees shall be made and no refund of fees is payable in respect of preliminary project reviews, certified plans applications, Subscription for Building Permit Activity Reports, Property Information Reports, Inspection Status Reports and Conditional Permit applications.
- D. Where a written request for the refund of fees is made to the Chief Building Official in accordance with Subsection A, the Chief Building Official shall determine the amount of fees, if any, that may be refunded in accordance with Chapter 441, Fees and Charges, and this chapter.
- E. The amount of fees refundable shall be calculated as follows:
 - (1) If an application is cancelled prior to carrying out any review, the refund shall be equal to 75 percent of the total required fees for the application;
 - (2) If an application is cancelled prior to issuance but the review had started, the refund shall be equal to 50 percent of the total required fees for the application;
 - (3) If a permit has been issued, the refund shall be equal to 40 percent of the total required permit fees minus the minimum permit fee for each field inspection carried out up to the date of revocation;
 - (4) Where the amount of the fees paid was less than the total required fees, the amount of the refund shall be reduced by the amount of fees owing;

- (5) Where the amount of the fees paid exceeded the total required fees, the amount of the refund shall equal the difference between the amount paid and total required fees;
 - (6) Where the amount of fees refundable as calculated under this section is less than the minimum fee applicable to the work, there shall be no refund; and
 - (7) Notwithstanding subsections (1) to (6), costs associated with printing, scanning and copying are not refundable.
- F. Refunds shall be made payable to the party who paid the fees or to other persons if so authorized in writing by the party who paid the fees.

Article 5
Construction Vibrations

§ 363-5.1. Definitions

- A. As used in this article, the following terms shall have the meanings indicated:

Construction Equipment - Any equipment or device designed for use in construction, or material handling including, but not limited to, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers or trucks, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment.

Construction Vibration - Vibration occurring as a result of the operation of construction equipment during construction.

Frequency of Vibration - The rate of oscillation that occurs in one second, measured in hertz where one hertz equals one cycle per second.

Peak Particle Velocity - The maximum rate of change with respect to time of the particle displacement, measured on the ground, and velocity amplitudes are given in units of millimetres per second from zero to peak amplitude.

Vibration Control Form - The form prescribed by the Chief Building Official to provide information regarding construction vibration to accompany an application for a permit.

Zone of Influence - The area of land within or adjacent to a construction site, including any buildings or structures, that potentially may be impacted by vibrations emanating from a construction activity where the peak particle velocity measured at the point of reception is equal to or greater than five mm/sec at any frequency or such greater area where specific site conditions are identified by the professional engineer in a study contemplated in § 363-5.3C(1).

§ 363-5.2. Prohibited construction vibrations.

- A. No person shall carry on a construction activity resulting in construction vibrations that exceed the levels set out in Table 1.0 "Prohibited Construction Vibrations":

Table 1.0
Prohibited Construction Vibrations

| Frequency of Vibration (hertz) | Vibration Peak Particle Velocity (mm/sec) |
|-----------------------------------|--|
| Less than 4 | 8 |
| 4 to 10 | 15 |
| More than 10 | 25 |

- B. Where the professional engineer has submitted a report under § 363-5.4 and identified lower levels than set out in Table 1.0 above, then levels exceeding those in the report shall be the prohibited construction vibrations.

§ 363-5.3. Vibration control form.

- A. In addition to the requirements of Article 3, an applicant for a building permit for shall submit as part of the permit application a vibration control form accompanied by plans and other documents as set out below.
- B. The vibration control form shall identify whether the construction activity will include blasting, deep foundations, drilled caisson, large-scale soil compaction or construction within the water table, or any other construction activity or method that has the potential to cause vibrations which may impact on buildings or structures outside of the construction site that is the subject of the building permit application.
- C. If construction activities as described in Subsection B are identified, the vibration control form shall also include the following:
- (1) A preliminary study, including a plan showing the construction site and adjacent land and buildings, prepared by a professional engineer that identifies the zone of influence of vibrations and whether the zone of influence will extend beyond the legal boundaries of the construction site that is the subject of the building permit application;
 - (2) The existence within the zone of influence of any buildings that have been designated under the Ontario Heritage Act; and
 - (3) A general review commitment certificate and letter of undertaking in a form prescribed by the Chief Building Official.
- D. In determining the zone of influence for the construction, the professional engineer shall consider the following:
- (1) Soil conditions of the construction site and adjacent land;

- (2) Weather conditions that will exist at the time of construction that may result in construction vibrations;
 - (3) Whether the proposed construction will be above or below the water table;
 - (4) The presence of heritage designated or listed properties and sensitive structures or buildings or infrastructure;
 - (5) The precise location of the source of vibration;
 - (6) Any unique site conditions;
 - (7) Whether it would be prudent, in the circumstances, to have a zone of influence that is larger than would result if the analysis had only been restricted to the predicted peak particle velocity values set out in Column 1 of the table in § 363-5.2A; and
 - (8) Such further matters identified by the professional engineer which may be relevant to identifying the zone of influence in a specific situation.
- E. After the issuance of a building permit, if a construction activity that was not identified in a vibration control form is proposed or commenced, the applicant shall comply with the requirements of this section where, in the opinion of the Chief Building Official, the construction activity may contribute to vibrations.

§ 363-5.4. Pre-construction consultation and monitoring program.

- A. If a zone of influence will extend beyond the legal boundaries of the construction site that is the subject of the building permit application, the applicant shall:
- (1) Carry out a public pre-construction consultation with all property owners and occupants within the zone of influence advising of the possibility of construction vibrations and the provisions of this article.
 - (2) As part of an application for a building permit provide a report from a professional engineer addressing the following matters:
 - (a) A summary of the pre-construction consultations between the applicant and the owners and occupants of properties within the zone of influence, including comments provided to the applicant by the owners and occupants during the consultations;
 - (b) Pre-construction measurements of background vibrations within the zone of influence;
 - (c) Pre-construction inspection of adjacent buildings and structures within the zone of influence to identify existing cracks in walls, floors and exterior cladding of the first two storeys above grade and interior finishes of all storeys below grade in sufficient detail to facilitate comparison of pre-construction and post-construction condition;

- (d) Where it is not possible to gain access for a pre-construction inspection, statements of the efforts made to gain access;
 - (e) Identification of mitigation measures to reduce the impacts of construction-related vibrations within the zone of influence; and
 - (f) A monitoring program to measure variances in the vibration levels before and during construction activities which shall be verified by a professional engineer, and shall include:
 - [1] The number and location of seismographs to be used;
 - [2] The sampling frequency;
 - [3] The result transmittal protocol;
 - [4] Ambient vibration levels;
 - [5] A public communications protocol;
 - [6] A complaints protocol during construction; and
 - [7] Procedures for construction method alteration to address the occurrence of excessive vibrations.
- (3) The mitigation measures and monitoring program required under Subsections (2)(e) and (f) shall be implemented so that construction activities do not exceed maximum frequency-based limits for peak particle velocity as set out in § 363-5.2 or such lower levels as may be identified by the professional engineer as being prudent taking into consideration site-specific conditions.
- (4) The monitoring program shall include no less than one on-site seismograph that is to be operated continuously to record the vibration frequency and peak particle velocity for construction vibrations at all times during construction activities identified in § 363-5.3B.

§ 363-5.5. Monitoring of vibrations during construction.

- A. The applicant shall monitor the vibration levels and report on the monitoring as follows:
- (1) The applicant shall monitor vibration levels during construction in accordance with the monitoring program submitted with the application for a building permit under § 363-5.4A(2)(f).
 - (2) Where in the opinion of the professional engineer it is prudent to do so, monitoring shall be based to detect levels below those set out in the table in § 363-5.2A.
 - (3) The applicant shall submit a copy in writing of all vibration measurements recorded as part of the monitoring program to the building inspector assigned to the project at the end of each workday, or as requested by the building inspector.

- (4) Construction activity shall not be carried on when it will result in vibration measurements that exceed the prohibited construction vibration levels set out in § 363-5.2.

§ 363-5.6. Public communications and complaint protocol.

- A. The applicant shall, in addition to the pre-construction survey required in § 363-5.3 provide for the following public communication and complaints protocols:
- (1) At least one week before the commencement of construction activity that may cause vibrations, the applicant shall notify the ward Councillor and owners and occupants of properties within the zone of influence of the scheduled construction activity;
 - (2) The notice required under Subsection (1) shall include the following:
 - (a) An explanation of the proposed construction activity and its potential to produce vibrations;
 - (b) A statement of the levels of construction vibration that are prohibited in this article;
 - (c) The address of the construction site where the construction activity will occur;
 - (d) The date and time that the work will occur;
 - (e) The name, address, telephone number, and other contact information through which a person affected by vibrations may contact the applicant and the person carrying out the construction activity for the applicant; and
 - (f) Contact information for Toronto Building staff assigned to the project.
 - (3) In the event that the applicant receives a complaint or is otherwise notified of a complaint about vibrations from the construction activity, the applicant shall cause the professional engineer monitoring the project to immediately perform vibration measurement at the complainant's location during activities representative of the offending operation and to provide to the complainant and to the building inspector assigned to the project a copy of the measurement results including an interpretation by the professional engineer of the possible impacts such construction vibrations might have on the building or structure of the complainant; and
 - (4) In the event that the measurements at the complainant's location exceed the limits set out in § 363-5.2, all construction activity generating the vibrations shall immediately cease and not resume until mitigation measures are implemented to reduce the vibration levels so that they are below the limits set out § 363-5.2.

§ 363-6.1. Designation of area of demolition control.

- A. The geographic area of the City of Toronto is designated as an area of demolition control.

§ 363-6.2. Co-ordination with Chapter 667, Residential Rental Property Demolition and Conversion Control.

- A. The Chief Building Official shall make a preliminary assessment to determine if Chapter 667, Residential Rental Property Demolition and Conversion Control, applies to the proposed demolition, except that the Chief Planner shall make all assessments on the application of § 667-2B of Chapter 667.
- B. If the Chief Building Official is of the opinion that Chapter 667 may apply, the application shall be forwarded to the Chief Planner to make a final determination on the application of Chapter 667.
- C. Despite § 363-12, if the Chief Planner has determined that approval is also required under Chapter 667, the Chief Building Official may only issue a demolition permit under this article after preliminary approval is granted under Chapter 667, unless Council provides otherwise.
- D. Despite Subsection C and § 363-6.3, if the proposed demolition application is delegated to the Chief Building Official under this article but not delegated to the Chief Planner under § 667-11 of Chapter 667, the Chief Planner in consultation with the Chief Building Official may report on the two applications to the community council or standing committee for Council's approval.
- E. The Chief Building Official may issue one demolition permit for the purposes of this article and Chapter 667.

§ 363-6.3. Authority to issue demolition permits.

- A. Incidental demolition.

The Chief Building Official is authorized to issue demolition permits for parts of residential properties where the application to demolish falls within the following categories:

- (1) Demolition incidental to interior or exterior alterations, or both, or additions to portions of a residential property, if the residential property contains less than six dwelling units and, after alteration, will continue to be used for the same use; or
 - (2) Demolition incidental to alterations or additions, or both, to existing commercial portions of a residential property.
- B. Demolition of property not located in the former City of Toronto; less than six dwelling units and issued building permit.

- (1) Subsection B applies to an application for a demolition permit for all or part of a residential property, if the residential property: contains less than six dwelling units, a building permit has been issued to erect a new building on the site of the residential property sought to be demolished, and the residential property is not located within the geographic area of the former City of Toronto.
 - (2) To obtain a demolition permit under this subsection, an applicant shall file an application in writing on forms prescribed by and available from the Chief Building Official and shall supply any other information relating to the application as required by the Chief Building Official.
 - (3) The Chief Building Official shall issue the demolition permit subject to the following conditions:
 - (a) That the applicant for the demolition permit construct and substantially complete the new building to be erected on the site of the residential property to be demolished not later than two years from the day demolition of the existing residential property is commenced.
 - (b) That on failure to complete the new building within the time specified in Subsection B(3)(a), the City Clerk shall be entitled to enter on the collector's roll, to be collected in like manner as municipal taxes, the sum of \$20,000 for each dwelling unit contained in the residential property in respect of which the demolition permit is issued and that such sum shall, until payment, be a lien or charge upon the land in respect of which the permit to demolish the residential property is issued.
 - (4) Where the Chief Building Official refuses to issue a demolition permit under Subsection B(3) because the provisions of Subsection B have not been met, an applicant may appeal to the community council in writing setting out the reasons why the application should be approved or why the conditions in Subsection B(3) should be varied or waived, and the Chief Building Official shall forward a report to the community council.
 - (5) The community council shall recommend to Council whether to issue or refuse to issue the demolition permit, including conditions, if any, to be attached to the demolition permit, or the community council under delegated authority, shall issue, with or without attaching conditions, or refuse to issue the demolition permit.
- C. Demolition of property located in the former City of Toronto; less than six dwelling units and issued building permit.
- (1) Subsection C applies to an application for a demolition permit for all or part of a residential property, if the residential property: contains less than six dwelling units, a building permit has been issued to erect a new building on the site of the residential property sought to be demolished, and the residential property is located within the geographic area of jurisdiction of the former City of Toronto.

- (2) To obtain a demolition permit under this subsection, an applicant shall file an application in writing on forms prescribed by and available from the Chief Building Official and shall supply any other information relating to the application as required by the Chief Building Official.
- (3) The applicant shall prepare a notice advising of the application, in the form required by the Chief Building Official, and shall immediately post the notice on the property in a manner so that the notice is visible to passers-by, for a period of not less than 14 days.
- (4) The Chief Building Official shall consider the application not earlier than 14 days after the notice is posted and, where the provisions of this section have been met, the Chief Building Official shall issue the demolition permit unless he or she receives one of the following, in which case the Chief Building Official shall refer the application to the community council for consideration:
 - (a) A written notice of an objection to the issuance of the demolition permit;
 - (b) A request from the Councillor for a ward in which the property is located that the application be referred to the community council; or
 - (c) A written objection from the applicant respecting the conditions in Subsection C(5).
- (5) A demolition permit issued under Subsection C(4) shall be issued subject to the following conditions:
 - (a) That the applicant for the demolition permit construct and substantially complete the new building to be erected on the site of the residential property to be demolished not later than two years from the day demolition of the existing residential property is commenced.
 - (b) That on failure to complete the new building within the time specified in Subsection C(5)(a), the City Clerk shall be entitled to enter on the collector's roll, to be collected in like manner as municipal taxes, the sum of \$20,000 for each dwelling unit contained in the residential property in respect of which the demolition permit is issued and that such sum shall, until payment, be a lien or charge upon the land in respect of which the permit to demolish the residential property is issued.
- (6) Where the Chief Building Official refuses to issue a demolition permit under Subsection C(4) because the provisions of Subsection C have not been met, an applicant may appeal to the community council in writing setting out the reasons why the application should be approved or why the conditions in Subsection C(5) should be varied or waived, and the Chief Building Official shall forward a report to the community council.

- (7) Where the Chief Building Official has referred the application to the community council for consideration under Subsection C(4), the Chief Building Official shall forward a report to the community council.
 - (8) The community council shall recommend to Council whether to issue or refuse to issue the demolition permit, including conditions, if any, to be attached to the demolition permit, or the community council under delegated authority, shall issue, with or without attaching conditions, or refuse to issue the demolition permit.
- D. Demolition of property with less than six dwelling units and no building permit issued, or six or more dwelling units.
- (1) Subsection D applies to an application for a demolition permit for all or part of a residential property, if the residential property contains:
 - (a) Less than six dwelling units and no building permit has been issued to erect a new building on the site of the residential property sought to be demolished; or
 - (b) Six or more dwelling units (whether or not a building permit has been issued to erect a new building on the site of the residential property sought to be demolished).
 - (2) To obtain a demolition permit under Subsection D, an applicant shall file an application in writing on forms prescribed by and available from the Chief Building Official and shall supply any other information relating to the application as required by the Chief Building Official.
 - (3) The Chief Building Official and the Chief Planner shall forward a report respecting the application to the community council.
 - (4) The community council shall recommend to Council whether to issue or refuse to issue the demolition permit, including conditions, if any, to be attached to the demolition permit, or the community council under delegated authority, shall issue, with or without attaching conditions, or refuse to issue the demolition permit.
- E. The community council in Subsections B, C and D shall be the community council for the geographic area in which the property is located.
- F. If the property is located in the geographic area of more than one community council, the Chief Building Official and, under Subsection D, the Chief Planner shall report to a community council responsible for one of the geographic areas in which the property is located, and notice of the report will be given to the councillor of any ward in which the property is located.

§ 363-6.4. Fees.

- A. Despite the issuance of a demolition permit under section 33 of the Planning Act instead of subsection 8(1) of the Act, as permitted by subsection 33(8) of the Planning Act, the fees payable shall be calculated in accordance with Article 4, with necessary changes.

Article 7

Fencing of Construction and Demolition Sites

§ 363-7.1. Definitions.

- A. As used in this article, the following terms shall have the meaning indicated:

Chief Building Official – the Chief Building Official appointed by the Council of the City of Toronto pursuant to the Building Code Act, 1992, and any person authorized by the Chief Building Official to carry out the duties of the Chief Building Official under this article.

Construction Fence – A fence required to be erected on a construction site under the provisions of this article.

Construction Property – A property or properties containing a construction site.

Construction Site – A property or portion of a property where construction work is proceeding in accordance with a construction or demolition permit issued by the Chief Building Official pursuant to the Building Code Act, 1992 and includes any areas on the property where equipment is operated and where equipment and/or construction materials are stored.

Construction Work – Work carried out pursuant to a construction or demolition permit issued by the Chief Building Official pursuant to the Building Code Act, 1992 other than work which is fully contained within the interior of an existing building which has no exposed openings at grade level.

Residential Construction Site – A construction site where the use of the property containing the construction site, following the completion of the construction work, will be solely residential.

§ 363-7.2. Construction fence required.

- A. All construction sites shall be enclosed by a construction fence in accordance with the provisions of this article.
- B. The construction fence required by Subsection A shall be erected and in place on the construction property prior to the commencement of construction work.
- C. The construction fence required by Subsection A shall be removed from the construction property no later than 30 days after the completion of the construction work or as otherwise directed by the Chief Building Official.

§ 363-7.3. General requirements.

- A. Every construction fence shall:
- (1) Be erected on the construction property around the perimeter of the construction site so as to fully enclose the construction site;
 - (2) Be built to deter entry to the construction site by unauthorized persons;
 - (3) Have no rails, other horizontal or diagonal bracing, attachment or patterns of openings on the outside that would facilitate climbing;
 - (4) Contain no opening that would permit the passage of a spherical object having a diameter of 100 millimetres;
 - (5) At any access opening, be equipped with gates that shall:
 - (a) Contain wire mesh or similar material sufficient to provide visibility for traffic entering or exiting the construction site;
 - (b) Be built to specifications that provide performance and safety at least equivalent to the construction fence; and
 - (c) Deter entry by unauthorized persons to the construction site; and
 - (6) Be maintained:
 - (a) Free from health, fire and accident hazards;
 - (b) In a sturdy and upright position and shall at all times be well anchored and secure;
 - (c) In good condition and, without limiting the foregoing, shall not become unsafe, damaged, structurally unsound or dangerous; and
 - (d) So that any access opening is closed and locked or securely sealed when the construction site is unattended.

§ 363-7.4. Construction fence height.

- A. Every construction fence erected around a residential construction site shall have a height not less than 1.2 metres above the grade immediately outside the construction fence.
- B. Notwithstanding Subsection A, every construction fence erected around a residential construction site between an excavation on the construction site and a lane or public sidewalk that is within 3.0 metres of the excavation shall have a height not less than 1.8 metres above the grade immediately outside the construction fence.

- C. Every construction fence erected around a construction site other than the residential construction sites referred to in Subsections A and B shall have a height not less than 1.8 metres above the grade immediately outside the construction fence.

§ 363-7.5. Construction fence standards.

- A. Every construction fence shall be built to the following minimum standards:
- (1) If erected between an excavation and a lane or public sidewalk that is within 3.0 metres of the excavation, the construction fence shall be built of wood, chain link or welded-wire panels.
 - (2) If built of wood,
 - (a) the outside face shall be smooth exterior grade plywood or wafer board 12.5 millimetres thick that is close-boarded;
 - (b) the outside face shall be securely nailed or screwed to 89 millimetre by 89 millimetre vertical posts spaced at 2.4 metre centres and embedded sufficiently deep into the ground to provide a rigid support; and
 - (c) the outside face shall be securely nailed or screwed to 38 millimetre by 89 millimetre horizontal rails secured to the vertical posts at the top, bottom and intermediate locations at 600 millimetre centres.
 - (3) If built with plastic mesh,
 - (a) the fencing shall be fastened securely at 200 millimetre centres to steel T or a minimum 50 millimetre wide U posts;
 - (b) the U posts and steel T shall be spaced at not more than 1.2 metre centres and embedded at least 600 millimetres into the ground; and
 - (c) the top and bottom of the plastic mesh shall be secured horizontally by an 11-gauge lacing cable threaded through the mesh and looped and fastened to each post.
 - (4) If built with chain link,
 - (a) the mesh shall have openings no larger than 50 millimetres;
 - (b) the mesh shall be fastened securely both to vertical steel posts and to top and bottom horizontal steel rails or 9-gauge steel wire; and
 - (c) the vertical steel posts shall be spaced at not more than 3.6 metre centres and either embedded at least 600 millimetres into the ground or secured with ground stands.
 - (5) If built with welded-wire panels,
 - (a) the mesh shall have openings no wider than 50 millimetres;
 - (b) the mesh shall be welded to vertical steel tubing and to top and bottom horizontal steel tubing; and

- (c) the vertical steel tubing shall be spaced at not more than 3.0 metre centres and secured with ground stands.
- (6) Any hoarding, canopy or similar protective barrier required under provincial law may form part of the construction fence.
- (7) The construction fence may be a combination of the fence types specified in this article or may be built of other materials if the construction fence can be shown to provide performance and safety equivalent to fence types specified and the Chief Building Official authorizes its use.

§ 363-7.6. Modifications

- A. The Chief Building Official may authorize modifications to the requirements of this article where satisfied that the proposed modifications meet the intentions of this article and do not compromise public safety.

§ 363-7.7. Power of entry.

- A. The Chief Building Official may enter upon the construction property or upon any other property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
 - (1) The provisions of this article;
 - (2) A notice of violation issued under § 363-7.8; and/or
 - (3) An order made by a court pursuant to section 372 of the City of Toronto Act, 2006.

§ 363-7.8. Enforcement.

- A. Where the Chief Building Official finds a contravention of this article, the Chief Building Official may issue a notice of violation requiring compliance with this article within a specified time period.
- B. A notice of violation issued pursuant to Subsection A shall be served on the registered owner of the construction property and/or to any party whom the Chief Building Official deems is responsible for, is in possession of or has care and control over the construction site.
- C. The notice of violation issued pursuant to Subsection A may be served personally, by e-mail, or by registered mail to the recipient's last known address. Where the notice of violation is served by e-mail, it shall be deemed to have been served on the date the e-mail is sent. Where the notice of violation is served by registered mail, it shall be deemed to have been served on the third day after it is mailed.

- D. Notwithstanding Subsection C, where the Chief Building Official is for any reason unable to effect service of the notice of violation by the methods of service set out in Subsection C, the Chief Building Official may serve the notice of violation by posting it in a conspicuous place on the construction property in which case the notice of violation shall be deemed to have been served immediately after it is posted.
- E. Notwithstanding Subsection C, if the delay necessary to serve the notice of violation would, in the opinion of the Chief Building Official, result in an immediate danger to the health or safety of any person, the Chief Building Official may serve the notice of violation by posting it in a conspicuous place on the construction property in which case the notice of violation shall be deemed to have been served immediately after it is posted.
- F. Where a notice of violation is served by posting it in a conspicuous place on the construction property pursuant to Subsection E, the Chief Building Official shall thereafter provide a copy of the notice of violation to the recipients by one of the methods of service set out in Subsection C as soon as is practicable.
- G. Where a notice of violation has been issued under Subsection A and the contravention has not been brought into compliance within the time period set out therein, the Chief Building Official may take any action deemed necessary to achieve compliance and to make the construction property safe including but not limited to erecting the required construction fence, and the City may recover the costs incurred by action or by adding the costs to the tax roll for the construction property and collecting them in the same manner as property taxes.
- H. The Chief Building Official may enter onto any property for the purpose of actions taken under Subsection G.

§ 363-7.9. Offences and penalties.

- A. Every person who contravenes any provision of this article is guilty of an offence and on conviction is liable to a fine not less than \$250 and no more than \$10,000.
- B. In addition to the offences referred to in Subsection A, every person is guilty of an offence who:
 - (1) Fails to erect a construction fence as required;
 - (2) Fails to erect the construction fence prior to the commencement of construction work;
 - (3) Fails to erect the construction fence around the perimeter of the construction site as required;
 - (4) Fails to erect the construction fence in accordance with the general standards set out in § 363-7.3;
 - (5) Erects a construction fence that does not comply with the height requirements set out in § 363-7.4;

- (6) Fails to erect the construction fence in accordance with the construction fence standards set out in § 363-7.5;
 - (7) Fails to maintain a construction fence as required pursuant to § 363-7.3A(6);
 - (8) Fails to remove the construction fence as required under § 363-7.2C;
 - (9) Fails to comply with a notice of violation issued by the Chief Building Official pursuant to § 363-7.8; and
 - (10) Is a director or officer of a corporation and knowingly concurs with the actions taken by or on behalf of the corporation in relation to an offence described in Subsections B(1) to (9).
- C. Each offence in Subsection B with the exception of the offence in Subsection B(10) is designated as a continuing offence.
- D. Each offence in Subsection B is subject to, for each day or part of a day that the offence continues as applicable, a minimum fine of no less than \$250 and a maximum fine of no more than \$10,000. The total of all the daily fines imposed for each offence in Subsection C may exceed \$100,000.

§ 363-7.10. Conflicting provisions.

- A. Where this article conflicts with any other City of Toronto by-law, the more restrictive by-law applies.

Article 8
Right of Entry

§ 363-8.1. Definitions.

- A. As used in this article, the following terms shall have the meanings indicated:

Alteration- Includes, for example, but is not limited to, a structural change to the exterior or interior of an existing building, fence or other structure, but does not include a total replacement of an existing building, fence or other structure.

Applicant - The owner or occupant of a building or property who applies for a permit, or any person authorized by the owner or occupant to apply for a permit on the owner's or occupant's behalf.

Building - The same meaning as in section 1 of the Building Code Act, 1992. [This meaning is noted as follows for reference purposes only:

- (1) A structure occupying an area greater than 10 square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto;

- (2) A structure occupying an area of 10 square metres or less that contains plumbing, including the plumbing appurtenant thereto;
- (3) Plumbing not located in a structure;
- (4) A sewage system; or
- (5) Structures designated in the building code.

Business Day - A day when City offices are open during its regular hours of business, other than a Saturday or a Sunday or other holiday.

Executive Director -The Executive Director, Municipal Licensing and Standards or his or her designate for the purposes of this article.

High-Impact Work - A repair or alteration that requires entry on the adjoining land for the erection of temporary structures, such as scaffolding; the placement of, or access for, any type of heavy equipment; or the distressing of the adjoining land, including the removal of a structure or fence, or the excavation or removal of any landscaping or paving.

Low-Impact Work - A repair or alteration that requires entry on the adjoining land to carry out work that does not include the erection of temporary structures, such as scaffolding; the placement of, or access for, any type of heavy equipment; and the distressing of the adjoining land, including the removal of a structure or fence, or the excavation or removal of any landscaping or paving.

Officer - A City employee whose duties include the enforcement of this article.

Permit - A permit issued under this article that authorizes right of entry on adjoining lands for the purposes set out in § 363-23A.

Permit Holder - The owner or occupant to whom a permit has been issued.

Repair - Includes:

- (1) Maintenance and upkeep; and
- (2) The provision of facilities, the making of additions or alterations or the taking of any other action that may be required to ensure that a building, fence or other structure conforms with the standards established in a by-law or Act.

B. As used in this article, the terms OCCUPANT, OWNER, and PROPERTY shall have the same meaning as in subsection 15.1(1) of the Building Code Act, 1992. [These meanings are noted as follows for reference purposes only:

- (1) Occupant - Any person or persons over the age of 18 years in possession of the property.
- (2) Owner - Includes:
 - (a) The person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the person's own

account or as agent or trustee of any other person, or who would receive the rent if the land and premises were let; and

- (b) A lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property.
- (3) Property - A building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property.]

§ 363-8.2. Right of entry on consent or by permit.

- A. The owner or occupant of land may enter adjoining land, at any reasonable time, for the purpose of making repairs or alterations to any building, fence or other structures on the land of the owner or occupant but only to the extent necessary to carry out the repairs or alterations:
 - (1) If the owner of the adjoining land has given prior consent to this entry; or
 - (2) If the Executive Director has issued a permit for this entry and the entry occurs during the period specified in the permit.
- B. The power of entry under Subsection A(2) is subject to compliance with the following conditions:
 - (1) The power of entry may only be exercised by a permit holder or his or her employees or agents and only if they comply with all of the conditions of the permit and the provisions of this article.
 - (2) A person exercising the power of entry must display or, on request, produce proper identification.
 - (3) The permit holder shall provide reasonable notice of the proposed entry to the occupant of the adjoining land, as described in § 363-24B(10)(d).
 - (4) The permit holder, his or her employees or agents, shall not create any hazards or allow any hazards to exist on the adjoining land.
 - (5) The permit holder shall, in so far as is practicable, restore the adjoining land to its original condition and shall provide compensation for any damages caused by the entry or by anything done on the adjoining land.
 - (6) Without limiting the generality of Subsection B(5), restoring the adjoining land to its original condition includes removing any equipment or materials left on the adjoining land as a result of the entry.
- C. The power of entry under Subsection A(2) does not authorize:

- (1) Entry into a building on the adjoining land;
 - (2) The use of the adjoining land for any other work or activity other than that described on the permit;
 - (3) The storage of materials or equipment, or the parking of vehicles, on the adjoining land; and
 - (4) An exemption to any person from complying with other City by-laws.
- D. In the case of entry under the consent of the owner of the adjoining land under Subsection A(1), the conditions and limitations in Subsections B and C apply to the power of entry, with necessary modifications, unless the owner granting the consent and the owner or occupant exercising the right of entry agree otherwise.

§ 363-8.3. Permit application.

- A. To obtain a permit, the owner shall file a complete application with the Executive Director on a form prescribed by the Executive Director.
- B. An application for a permit must include the following:
- (1) The name, address, and telephone number of all contractors that will carry out the proposed work for which entry is required on the adjoining land;
 - (2) The municipal business licence number of every contractor or trade that is required to be licensed by the City;
 - (3) (Reserved)1
 - (4) The nature of the proposed work that requires use of the adjoining land and the proposed use of the adjoining land, including what equipment will be used, if and how the adjoining land will be distressed, and whether any nuisances will result from the proposed use of the adjoining land (for example, dust, fumes, noise, or restricted access);
 - (5) The proposed attenuating measures to control each of the nuisances identified under Subsection B(4);
 - (6) An estimate of the time that the proposed work will require use of the adjoining land, as described in Subsection B(4);
 - (7) The days and times that entry will be required;
 - (8) The proposed remediation measures required to bring the adjoining land, in so far as is practicable, to its original condition;
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- (9) An estimate of the time required to do the remediation work described in Subsection B(8) (which estimate will be considered for purposes of enforcement);
- (10) A signed form acknowledging the permit holder's obligation to:
 - (a) Use the adjoining land only to the extent necessary to carry out the work on the adjoining land as outlined in the permit;
 - (b) Not use the adjoining land for any other purpose, including for the storage of materials or equipment and the parking of vehicles;
 - (c) Provide a security deposit and agree to its forfeiture if deemed necessary by the Executive Director to comply with the owner's obligations to restore the adjoining land and provide compensation for damages;
 - (d) Provide at least 24 hours' notice in writing to the occupant of the adjoining land before any contractor enters the adjoining land;
 - (e) Systematically mitigate all nuisances with respect to the use of the adjoining land to the extent practicable;
 - (f) Restore the adjoining land to its original condition and provide compensation for any damages caused by the entry or by anything done on the adjoining land to the satisfaction of the Executive Director;
 - (g) Without limiting Subsection B(10)(f), to hold both the City and the owner of the adjoining land harmless in the event of any damages to people or property as a result of anything done on the adjoining land to the extent allowable by law; and [Amended 2009-08-06 by By-law No. 663-2009]
 - (h) Maintain, and, if applicable, in the case of a non-commercial permit holder require a contractor to maintain, third party bodily injury and property damage insurance, as described in Subsection B(11);
- (11) A certificate of insurance, satisfactory to the Executive Director in consultation with the Manager of Insurance and Risk Management, for the third party bodily injury and property damage insurance with a limit of not less than \$1,000,000, or as increased under Subsection B(11)(d), that is applicable throughout the term of the permit; as follows:
 - (a) From the permit holder;
 - (b) From a contractor retained by a non-commercial permit holder, where the permit holder's interest in the property is insured under a personal liability insurance policy, to carry out all or part of the proposed work on the adjoining land;
 - (c) In the case of a commercial permit holder, where the permit holder's interest in the property cannot be insured under a personal liability insurance policy, and in the case of a contractor as described in Subsection B(11)(b):

- [1] The insurance policy shall be a commercial general liability insurance policy with a limit of not less than \$1,000,000, per occurrence, or as increased under Subsection B(11)(d), of third party bodily injury and property damage coverage; and
- [2] The insurance policy shall include both the City of Toronto and the owner of the adjoining land, as an additional insured and include a cross liability clause; and
- (d) In all cases, the minimum limit of \$1,000,000 may be increased for a specific permit, by the Executive Director in consultation with the Manager of Insurance and Risk Management, as an additional condition under § 363-26C; and
- (12) The permit application fee set out in Appendix C, Schedule 8, of Municipal Code Chapter 441, Fees and Charges.
- C. The notice required under Subsection B(10)(d) may be served personally on the person to whom it is directed or by registered mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed.
- D. The permit application fee is non-refundable.

§ 363-8.4. Notice to adjoining-land owner.

- A. After receiving a completed application, the Executive Director shall notify the owner of the adjoining land in writing that a permit has been requested to enter the adjoining land, and the notice shall provide all of the relevant information, set out in § 363-24B, as determined by the Executive Director.
- B. The owner of the adjoining land may, within 10 business days of the date specified in the notice, make a submission to the Executive Director to provide details of any circumstances that may be considered by the Executive Director in establishing the conditions of the permit.
- C. The Executive Director may extend the submission time under Subsection B for not more than 10 business days.
- D. The Executive Director shall provide the owner of the adjoining land with a copy of any permit or renewal of a permit that applies to the adjoining land.

§ 363-8.5. Permit issuance; renewal; revocation.

- A. The security deposit, required under § 363-27, shall be submitted before a permit is issued.

- B. A permit issued under this article shall indicate the period and times during which the right of entry may be exercised, and this period shall not commence earlier than five business days from the date of issuance.
- C. The permit shall also set out any additional conditions, as determined by the Executive Director that reasonably relate to the right of entry (for example the protection of a particular plant).
- D. The permit holder or owner, if not the permit holder, may apply to the Executive Director for a renewal of the permit before the expiry date of the right of entry under the current permit.
- E. A permit-renewal application shall include all the information and other documents required under § 363-24B.
- F. After a complete permit-renewal application is received, the Executive Director shall notify the owner of the adjoining land in writing that a permit-renewal application has been requested by the applicant.
- G. The owner of the adjoining land may, within 10 business days from the date specified in the notice, make a submission to the Executive Director providing details of any circumstances that may be considered by the Executive Director in reviewing the permit-renewal application.
- H. If a renewal is granted, it shall deem the existing permit to continue for the period specified in the approval and may provide that the right of entry is subject to any existing conditions or additional conditions as established by the Executive Director.
- I. The Executive Director may revoke a permit or deny the renewal of a permit if there is non-compliance with the permit conditions.
- J. If a permit is revoked or is not renewed, the permit holder shall, in so far as is practicable, restore the adjoining land to its original condition and provide compensation for any damages caused by the entry or by anything done on the adjoining land, to the satisfaction of the Executive Director.

§ 363-8.6. Security deposit.

- A. The security deposit for a permit for low-impact work is \$500.
- B. The minimum security deposit for a permit for high-impact work is \$2,000.
- C. The Executive Director shall determine the amount of the security deposit required for a permit for high-impact work above the minimum amount set out in Subsection B and shall base this amount on the information in the permit application, the inspection by officers, any submissions by the owner of the adjoining land, and any other information deemed reasonable by the Executive Director for this purpose.

- D. If in his or her submission, under § 363-25B, the owner of the adjoining land requests a review of the amount of the security deposit established by the Executive Director, the submission shall include a detailed estimate in a form acceptable to the Executive Director.
- E. The security deposit amount established by the Executive Director after any review of a submission under § 363-25B shall be deemed final.
- F. The security deposit for a permit shall be in the form of a certified cheque made out to the City Treasurer.
- G. In the case of low-impact work, the City may hold the security deposit for no more than 60 days after the completion of the work requiring entry on the adjoining land, the completion of any remediation work on the adjoining land, the expiry of the right of entry under the permit, and the completion of any action by the City, whichever is later, to ensure compliance with the permit holder's obligations under § 363-23B(5).
- H. Despite Subsection G and to ensure compliance with the permit holder's obligations under § 363-23B(5), including unseen damages, in the case of high-impact work, the security deposit shall be held for the later of:
- (1) One year after the completion of the work requiring entry on the adjoining land and the completion of any remediation work on the adjoining land, whichever is later; and
 - (2) Sixty days after the completion of any action by the City.
- I. If within the period in Subsection G or after the period in Subsection H the Executive Director determines that the permit holder has not complied with the requirements to restore the land and pay compensation for damages as required under § 363-23B(5), the City may provide the owner of the adjoining land with all or part of the security deposit and return any remainder to the permit holder.
- J. The owner of the adjoining land and the permit holder may on consent authorize the City to provide the owner of the adjoining land with all or part of the security deposit at a date earlier than that provided under Subsection I.

§ 363-8.7. Emergency exception.

- A. If a building, fence or other structure on the land poses an immediate danger to the health or safety of any person, the owner or occupant of the building, fence or other structure or his or her employee or agent may enter the adjoining land without a permit or prior consent, but only to the extent necessary to terminate the emergency.
- B. The owner shall, to the extent possible, notify the occupant of the adjoining land of the emergency and the need to enter the adjoining land before entering the adjoining land.
- C. All work necessary to terminate the emergency and that requires entry on the adjoining land shall be carried out as if a permit had been granted under this article and is subject to

compliance with the conditions in § 363-23B, other than notice, and to any other permit conditions retroactively imposed by the Executive Director.

- D. Unless the owner of the adjoining land waives this requirement, the owner undertaking the work on the adjoining land shall apply for a permit retroactively for the work performed to terminate the emergency as well as for any other work that will require entry on the adjoining land.

§ 363-8.8. Inspection.

- A. An officer, other employee, or agent of the City may enter on lands at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (1) This article;
 - (2) A condition of a permit issued under this article;
 - (3) A direction or order of the City made under this article or the City of Toronto Act, 2006; or
 - (4) An order made by a court under section 372 of the City of Toronto Act, 2006.
- B. A person carrying out an inspection under Subsection A may:
- (1) Require the production for inspection of documents or things relevant to the inspection;
 - (2) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (3) Require information from any person concerning a matter related to the inspection; and
 - (4) Alone, or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.

§ 363-8.9. Orders to comply.

- A. An officer who finds a contravention of this article may make one or more orders requiring discontinuance of the contravening activity or to do work to correct the contravention under section 384 or 385 of the City of Toronto Act, 2006.
- B. The order may be served personally on the person to whom it is directed or by registered mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed.
- C. If there is evidence that the occupant of the land is not the registered property owner, the notice shall be served on both the registered property owner and the occupant of the land.

- D. If the address of the owner is unknown or the City is unable to effect service on the owner or occupant under Subsection B, a placard stating the terms of the order and placed in a conspicuous place upon land on or near the property shall be deemed to be sufficient notice to the owner. [Amended 2009-08-06 by By-law No. 663-2009]
- E. If the delay necessary to give an order under the preceding subsections would result in an immediate danger to the health or safety of any person, the order may be served personally on the person to whom it is directed or by a placard stating the terms of the order and placed in a conspicuous place upon land on or near the property.

§ 363-8.10. Remedial action.

- A. If a person fails to comply with an order to do work to correct a contravention of this article, the Executive Director, or persons acting upon his or her instructions, may enter the lands at any reasonable time for the purposes of doing the things described in the order at the person's expense.
- B. If the security deposit is not sufficient to cover the City's costs, under section 386 of the City of Toronto Act, 2006, the City may recover the costs of doing it by action, or the costs may be added to the tax roll and collected in the same manner as property taxes.

§ 363-8.11. Offences.

- A. Every person who contravenes a provision of this article is guilty of an offence.
- B. Every person who fails to comply with a term or condition of a permit under this article is guilty of an offence.
- C. Every person who contravenes an order under subsection 384(1) or 385(1) of the City of Toronto Act, 2006, is guilty of an offence.
- D. Any person who does not permit entry by a person under the authority of a permit issued under this article, except in the case of non-compliance with the conditions in § 363-23B and C or the permit, is guilty of an offence under section 367 of the City of Toronto Act, 2006.

SCHEDULE A

DEMOLITION PERMIT APPLICATION INFORMATION

1. **Environmental Information:**

Details and particulars in respect of the proposed demolition which state:

- (a) Whether there is compliance with Regulation 347 made under the *Environmental Protection Act*, R.S.O. 1990, c. E.19.
- (b) Whether the present owner has or any past owners had generators or a waste generator number.
- (c) Whether there are hazardous or controlled products, as defined in the Workplace Hazardous Materials Information System (WHMIS).
- (d) Whether there is a list of designated substances, including asbestos, as required under section 30 of the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1.
- (e) Whether there are any fluid storage tanks, above or below grade, on site.
- (f) Whether the structure to be demolished is insulated with urea formaldehyde.
- (g) Whether the structure contains polychlorinated biphenyls (PCBs) as defined under the *Environmental Protection Act*, R.S.O. 1990, c. E.19, Regulation 362.
- (h) Whether the structure contains chlorofluorocarbon (CFC) bearing refrigerant equipment which requires proper handling in accordance with any applicable City by-law respecting CFC's, including the following:
 - (i) Article I, Ozone-Depleting Substances, of Municipal Code Chapter 127, Air Pollution, of the former City of Toronto; and
 - (ii) By-laws respecting CFC of the former Cities of Etobicoke, North York, Scarborough and York and the former Borough of East York.
- (i) The nature of the past and present uses of the premises.

- (j) The precise nature of the waste, as defined under the *Environmental Protection Act*, R.S.O. 1990, c. E.19, and regulations made under that Act that will be generated by the demolition of the structure and the method of waste disposal.
- (k) The method of demolition and whether the method for handling air and dust emissions, recognizing on-site sources, complies with sections 6 and 11 of Regulation 346 made under the *Environmental Protection Act*, R.S.O. 1990, c. E.19.
- (l) What the final grading will be.
- (m) The post-closure plans.
- (n) The proposed enclosure of the land.
- (o) The size of the property on which the structure to be demolished is located.
- (p) Whether there will be discharge of contaminated waters resulting from either a dewatering process, storm runoff or other discharge contrary to any applicable City by-law respecting sewers, including: Chapter 681, Sewers, of the Municipal Code.

2. Use of Explosives Information:

- (a) Evidence that the building is not on a lot in or adjacent to a residential area designated as an "R district" under the applicable zoning by-law.
- (b) A declaration that the contractor shall comply with all applicable law respecting the transportation, storage, handling and use of explosives, including, but not limited to, the *Explosives Act*, R.S.C. 1985, c. E-17, the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, and the Fire Code, and that, in the absence of legislative requirements, the demolition shall be conducted in accordance with CSA (Canadian Standards Association) standard S350-M1980, Code of Practices for Safety in Demolition of Structures.
- (c) A copy of the letter of retention of a professional engineer experienced in the use of explosives during the course of the demolition that has been retained to undertake the design and general review of all components of the demolition.
- (d) A report on the demolition plan, prepared by the professional engineer described in clause 2(c) of this schedule that includes the following:
 - (i) Structural design characteristics of the building sought to be demolished;
 - (ii) Particulars of the method of demolition describing in detail the dates, times, duties, procedures, safety precautions, explosives, vibrations, noise and dust effect of the method on:
 1. The building sought to be demolished;
 2. Buildings in the area of influence;
 3. Public and private utilities and infrastructures in the vicinity, for example: electricity, sewer, water, telephone, gas, cable, district heating and cooling, streetcar and similar services, and
 4. Residents in the area of influence.

- (e) The measures employed to isolate the building sought to be demolished from its surroundings, and the proposal to inform residents in the area of influence of the demolition.
- (f) A precondition survey with pictures prepared by the professional engineer depicting interior and exterior conditions of all buildings, public and private utilities, bridges, underground structures and structural improvements, streets and any similar thing, within the area of influence of the demolition.
- (g) Where, in the opinion of the professional engineer, buildings in the area of influence of the demolition may suffer damage as a result of the use of explosives during the course of the demolition, written consent of the owners of the buildings concerned, giving permission for an in-depth inspection of their structures by the professional engineer prior to demolition, and the results of this inspection shall be included in the demolition plan required under clause 2(d) of this schedule.
- (h) A letter from the Ministry of Labour confirming that a notice of the project has been filed and that the demolition procedures have been reviewed for compliance with the *Occupational Health and Safety Act*.
- (i) Where considered appropriate by the Chief Building Official, written approval from any of the following:
 - (i) The City Manager, the Fire Chief, the Medical Officer of Health or any other City official responsible for public works, fire matters, health matters, parks or recreational matters.
 - (ii)
 - 1. Enwave District Energy Limited.
 - 2. Toronto Economic Development Corporation.
 - 3. City Planning division, Heritage Preservation Services.
 - 4. Toronto Hydro Corporation.
 - 5. Toronto Police Services Board.
 - 6. Toronto Transit Commission.
 - (iii) Ontario Ministry of the Environment.
 - (iv)
 - 1. Natural Resources Canada.
 - 2. The Toronto Port Authority.
 - (v)
 - 1. Bell Canada.
 - 2. Enbridge Consumers Gas.
 - 3. Rogers Cable Inc.
- (j) Evidence of the execution of any agreements or undertakings required as part of the written approval required under clause 2(h) of this schedule.

- (k) Evidence of compliance with any other reasonable criteria the Chief Building Official determines to be necessary in respect to the specific property for which the demolition permit is requested.