

Authority: Planning and Growth Management Committee Item 33.10, adopted as amended,  
by City of Toronto Council on November 30, December 1, 2, 4 and 7, 2009  
Enacted by Council: February 23, 2010

**CITY OF TORONTO**

**BY-LAW No. 197-2010**

**To adopt a new City of Toronto Municipal Code Chapter 771, Taxation,  
Third Party Sign Tax.**

WHEREAS subsection 267(1) of the *City of Toronto Act, 2006* (the "Act") provides that the City may, by by-law, impose a tax in the City if the tax is a direct tax, if the by-law satisfies the criteria described in subsection 267(3) and if such other conditions as may be prescribed are also satisfied; and

WHEREAS subsection 267(3) of the Act provides that a by-law enacted pursuant to subsection 267(1) must satisfy the following criteria:

- (a) It must state the subject of the tax to be imposed;
- (b) It must state the tax rate or the amount of tax payable; and
- (c) It must state the manner in which the tax is to be collected, including the designation of any persons who are authorized to collect the tax as agents for the City; and

WHEREAS no additional conditions have been prescribed for the purpose of subsection 267(1); and

WHEREAS subsection 267(4) of the Act provides that a by-law enacted pursuant to subsection 267(1) may provide for the following:

- (a) exemptions from the tax;
- (b) rebates of tax;
- (c) penalties for failing to comply with the by-law;
- (d) interest on outstanding taxes or penalties;
- (e) the assessment of outstanding tax, penalties or interest;
- (f) audit and inspection powers;
- (g) the establishment and use of dispute resolution mechanisms;
- (h) the establishment and use of such enforcement measures as the Council considers appropriate if an amount assessed for outstanding tax, penalties or interest remains unpaid after it is due; and

WHEREAS section 366 of the Act provides that the City may pass by-laws providing that a person who contravenes a by-law of the City passed under the Act is guilty of an offence; and

WHEREAS subsection 366(3) of the Act provides that the City may pass a by-law providing that a director or officer of a corporation who knowingly concurs in the contravention of a by-law of the City passed under the Act by the corporation is guilty of an offence; and

WHEREAS section 370 of the Act provides that the City may establish a system of fines for offences under a by-law passed under the Act, including designating an offence as a continuing offence and providing for a minimum and maximum fine for each day or part of a day that the offence continues; and

WHEREAS section 376 provides that the City has the power to pass by-laws providing that the City may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law passed under this Act is being complied with; and

WHEREAS at its meetings of November 30, December 1, 2, 4 and 7, 2009, Council adopted a third party sign tax to be imposed on owners of third party signs located within the City of Toronto for the purpose of supplementing the revenue of the City, pursuant to its power to impose taxes as provided for in Part X under the Act, and adopted tax design features of the third party sign tax, including administration and collection procedures, an effective date for the third party sign tax of April 6, 2010, and the creation of various offences and a corresponding system of fines for the third party sign tax; and

WHEREAS subsection 267(2) of the Act provides that the City is not authorized to impose various taxes pursuant to subsection 267(1); and

WHEREAS the third party sign tax is not a tax prohibited by subsection 267(2);

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Schedule "A" to this By-law is enacted as Chapter 771, Taxation, Third Party Sign Tax, of The City of Toronto Municipal Code.

ENACTED AND PASSED this 23rd day of February, A.D. 2010.

SANDRA BUSSIN,  
Speaker

ULLI S. WATKISS  
City Clerk

(Corporate Seal)

**SCHEDULE "A" TO BY-LAW No. 197-2010**

Chapter 771  
**TAXATION, THIRD PARTY SIGN TAX**

ARTICLE I  
**General**

**§ 771-1. Interpretation.**

- A. For greater certainty, the Tax imposed by this Chapter is imposed as a Third Party Sign Tax on Owners in respect of Owned Third Party Signs, and no provision of this Chapter, including the manner of collection or payment or amount of Tax payable, shall be construed as imposing the Tax on any basis other than as a Third Party Sign Tax on Owners in respect of Owned Third Party Signs.
  
- B. The issuance of an assessment, the payment of tax, or the acceptance of a payment of tax pursuant to this Chapter shall not be used as or construed as an approval or permission for any matter not regulated by this Chapter or as a substitute for any approval, permit or permission required by law including a permit issued pursuant to Section 8 of the *Building Code Act* or a permit to erect or display a sign issued under the authority of the applicable sign by-law by the City of Toronto.

**§ 771-2. Definitions.**

As used in this Chapter, the following terms shall have the meanings indicated:

**AGGREGATE SIGN FACE AREA** — the total area, as measured in square metres, of all Sign Faces of a Third Party Sign

**ANNUAL INCREASE** — Equals the following:

$$\frac{\text{SUM for each property class of:}}{\text{Prior Year Rateable Assessment x Prior Year Ending Municipal Tax Rate (excluding Charity rebates)}} \quad -1$$
$$\frac{\text{SUM for each property class of:}}{\text{Prior Year Rateable Assessment x Prior Year Tax Rate for Base General Local Municipal Levy Before Graduated Tax Rate}}$$

**ASSESSMENT** — An assessment of Tax made pursuant to Article IV.

**CHIEF BUILDING OFFICIAL** — The Chief Building Official appointed by the Council of the City of Toronto pursuant to the *Building Code Act* and any person authorized by him or her to carry out the duties of the Chief Building Official under this Chapter.

**DESIGNATED COLLECTOR** — A person designated under Article IV.

**ELECTRONIC MOVING COPY** — Has the same meaning as in Chapter 694, Signs, General.

**ELECTRONIC STATIC COPY** — Has the same meaning as in Chapter 694, Signs, General.

**FUEL PUMP SIGN** — Has the same meaning as in Chapter 694, Signs, General.

**GOVERNMENT MANAGEMENT COMMITTEE** — At any time, the Government Management Committee of the City or the persons or entity performing the functions of the Government Management Committee of the City, including any successor committee.

**GROUND SIGN** — Has the same meaning as in Chapter 694, Signs, General.

**MECHANICAL COPY** — Has the same meaning as in Chapter 694, Signs, General.

**OVERHANGING STRUCTURE SIGN** — Has the same meaning as in Chapter 694, Signs, General.

**OWNED THIRD PARTY SIGN** — A Third Party Sign for which a person is an Owner.

**OWNER** — Any person who, in respect of a Third Party Sign, owns and controls the display of Sign Copy, and in the event the person who controls the display of Sign Copy on a Third Party Sign is not the same person as the person who owns the Third Party Sign, the Owner is the person who controls the display of Sign Copy on the Third Party Sign.

**PERMIT** — A permit to erect or display a Third Party Sign issued under the authority of the applicable sign by-law by the City of Toronto.

**PRIOR YEAR ENDING MUNICIPAL TAX RATE (EXCLUDING CHARITY REBATES)** — Shall have the same meaning as in the City's annual municipal property tax levy by-law.

**PRIOR YEAR RATEABLE ASSESSMENT** — Shall have the same meaning as in the City's annual municipal property tax levy by-law.

**PRIOR YEAR TAX RATE FOR BASE GENERAL LOCAL MUNICIPAL LEVY BEFORE GRADUATED TAX RATE** — Shall have the same meaning as in the City's annual municipal property tax levy by-law.

**PROJECTING SIGN** — Has the same meaning as in Chapter 694, Signs, General.

**PROPERTY CLASS** — Shall have the same meaning as in the City's annual municipal property tax levy by-law.

**ROOF SIGN** — Has the same meaning as in Chapter 694, Signs, General.

**SIGN** — Any device, fixture or medium that displays Sign Copy to attract attention or convey information of any kind and shall include its supporting structure, Sign Face, lighting fixtures and all other component parts.

**SIGN CLASS** — The following classes of Signs:

A. Class I:

- (a) Ground signs, Fuel pump signs, or Topiary signs only displaying static copy with an aggregate sign face area of less than or equal to 15 square metres; and
- (b) Wall signs, Overhanging structure signs, Window signs, or Projecting signs only displaying static copy with an aggregate sign face area of less than or equal to 25 square metres;

B. Class II:

- (a) Ground signs, Fuel pump signs, or Topiary signs only displaying static copy with an aggregate sign face area greater than 15 square metres and less than 45 square metres;
- (b) Wall signs, Overhanging structure signs, Window signs, or Projecting signs only displaying static copy with an aggregate sign face area greater than 25 square metres but less than 45 square metres; and
- (c) Wall signs, Overhanging structure signs, Window signs, or Projecting signs displaying mechanical copy, in whole or in part, with an aggregate sign face area of less than or equal to 25 square metres;

C. Class III:

- (a) Ground signs, Fuel pump signs, or Topiary signs displaying mechanical copy, in whole or in part, with an aggregate sign face area of less than or equal to 25 square metres; and
- (b) Roof signs displaying static or mechanical copy, in whole or in part, with an aggregate sign face area less than or equal to 45 square metres;

D. Class IV:

- (a) Ground signs, Fuel pump signs, or Topiary signs only displaying static copy with an aggregate sign face area greater than 45 square metres;
- (b) Ground signs, Fuel pump signs, or Topiary signs displaying mechanical copy, in whole or in part, with an aggregate sign face area greater than 25 square metres;

- (c) Wall signs, Overhanging structure signs, Window signs, or Projecting signs only displaying static copy with an aggregate sign face area greater than 45 square metres;
- (d) Wall signs, Overhanging structure signs, Window signs, or Projecting signs displaying mechanical copy, in whole or in part, with an aggregate sign face area greater than 25 square metres; and
- (e) Roof signs displaying static or mechanical copy, in whole or in part with an aggregate sign face area greater than 45 square metres; and

E. Class V:

- (a) All signs displaying or containing electronic static copy or electronic moving copy

**SIGN COPY** — Any colour graphic, logo, symbol, word, numeral, text, image, message, picture or combination thereof displayed on a Sign Face.

**SIGN COPY TYPES** — Types of Sign Copy, consisting of the following categories of Sign Copy Type:

- A. Mechanical Copy;
- B. Electronic Moving Copy;
- C. Electronic Static Copy; and
- D. Static Copy.

**SIGN FACE** — The opaque, transparent, or translucent surface of a Sign upon, against, or through which the Sign Copy is displayed including any frame or border, and shall also include the portion of any surface upon which a Sign is projected or painted

**STATIC COPY** — Has the same meaning as in Chapter 694, Signs, General.

**SIGN TYPE** — Types of Signs, consisting of the following categories of Sign Types:

- A. Fuel Pump Signs;
- B. Ground Signs;
- C. Overhanging structure signs;
- D. Projecting signs;
- E. Roof signs;
- F. Topiary signs;
- G. Wall signs; and
- H. Window signs;

**TAX** — The tax imposed by this Chapter including all penalties and interest that are or may be added to a tax under this Chapter.

**THIRD PARTY SIGN** — A Sign located within the City of Toronto which advertises, promotes, or directs attention to businesses, goods, services, matters or activities that are not available at or related to the premises where the Sign is located, which Sign has a Aggregate Sign Face Area of greater than 1.0 square metre.

**TOPIARY SIGN** — Has the same meaning as in Chapter 694, Signs, General.

**WALL SIGN** — Has the same meaning as in Chapter 694, Signs, General.

**WINDOW SIGN** — Has the same meaning as in Chapter 694, Signs, General.

**§ 771-3. Interpretation bulletins and guidelines.**

In administering this Chapter, the Chief Building Official may issue such interpretation bulletins and guidelines as he or she may, from time to time, determine necessary or advisable.

**§ 771-4. Forms.**

The Chief Building Official may approve the use and format of forms for any purpose of this Chapter and the forms may provide for such information to be furnished as the Chief Building Official may require for the enforcement and proper administration of this Chapter.

**ARTICLE II**  
**Tax**

**§ 771-5. Liability to tax.**

Every Owner is liable to tax as required by this Article.

**§ 771-6. Payment of tax.**

Tax shall be payable annually every calendar year in respect of each Owned Third Party Sign on the earlier of:

- A. September 1, 2010, for the year 2010, and July 1st of each subsequent years; and
- B. Prior to the issuance of a Permit for the Third Party Sign.

**§ 771-7. Amount of tax.**

A. Tax is payable at the following annual rates:

	Class I Signs	Class II Signs	Class III Signs	Class IV Signs	Class V Signs
<b>2010</b>	\$850.68	\$2108.22	\$3661.64	\$8,136.99	\$17,753.42
<b>2011</b>	\$1,150.00	\$2,850.00	\$4,950.00	\$11,000.00	\$24,000.00
<b>Each Subsequent Year</b>	Previous year's tax rate + Annual Increase	Previous year's tax rate + Annual Increase	Previous year's tax rate + Annual Increase	Previous year's tax rate + Annual Increase	Previous year's tax rate + Annual Increase

- B. The annual tax payable in respect of a Permit issued during a calendar year shall be reduced to reflect the portion of the calendar year remaining from the date the Permit is issued.
- C. The Chief Building Official shall refund tax paid in respect of a portion of a calendar year remaining from the date of revocation or expiration of a Permit or from the date of removal of a Third Party Sign in accordance with a Notice of Violation issued by the City of Toronto under the authority of the applicable sign by-law.
- D. In the case of joint Owners of a single Third Party Sign, the amount of tax payable under §§ 771-7A and 771-7B in respect of that Third Party Sign shall be imposed jointly on both Owners and each Owner is jointly and severally liable for the amount of tax payable.

**§ 771-8. Exemptions.**

No tax is payable by an Owner who is one of the following persons or entities:

- A. The Crown or a Crown agency within the meaning of the *Crown Agency Act*, R.S.O. 1990, c. C.48;
- B. An authority, board, commission, corporation, office or organization of person a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council of Ontario or a member of the Executive Council of Ontario;
- C. A board as defined in subsection 1(1) of the *Education Act*, R.S.O. 1990, c. E.2;
- D. A university in Ontario or a college of applied arts and technology and post-secondary institution in Ontario whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating annual operating grants entitlements from the Crown;



- E. A hospital referred to in the list of hospitals and their grades and classifications maintained by the Minister of Health under the *Public Hospitals Act*, R.S.O. 1990, c. P.40, every private hospital operated under the authority of a licence issued under the *Public Hospitals Act*, R.S.O. 1990, c. P.40, and every hospital established or approved by the Lieutenant Governor in Council as a community psychiatric hospital under the *Community Psychiatric Hospitals Act*, R.S.O. 1990, c. C.21;
- F. A nursing home as defined in subsection 1(1) of the *Nursing Homes Act*, R.S.O. 1990, c. N.7, every approved charitable home for the aged as defined in section 1 of the *Charitable Institutions Act*, R.S.O. 1990, c. C.9, every home as defined in section 1 of the *Homes for the Aged and Rest Homes Act*, R.S.O. 1990, c. H.13, and a long-term care home as defined in subsection 2(1) of the *Long-Term Care Homes Act, 2007*, S.O. 2007, c.8, ss. 198(4), 232(2);<sup>1</sup>
- G. The Toronto Community Housing Corporation;
- H. The Toronto Economic Development Corporation;
- I. The City of Toronto;
- J. A local board as defined in the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Sched. A;
- K. During the term of a revenue sharing agreement with the City of Toronto, an Owner who has entered into a revenue sharing agreement with the City of Toronto;
- L. Such other persons and entities as may be prescribed by the Lieutenant Governor in Council pursuant to subsection 272(b) of the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Sched. A; and
- M. Such other persons and entities as may be exempted by by-law of the City.

#### **§ 771-9. Refunds of the tax.**

- A. Where a person has paid an amount under this Chapter that is not payable under this Chapter, the Chief Building Official may, upon receipt of satisfactory evidence, make a determination that the amount was wrongly paid, and if such a determination is made, the Chief Building Official shall refund all or part of the amount, but no refund shall be made unless an application for such refund is made within twenty-four months after the payment date.

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<sup>1</sup> Editor's Note: On the proclamation date of subsection 198(4) of chapter 8 of the Statutes of Ontario, 2007, this § 771-8F of Chapter 771, Taxation, Third Party Sign Tax, as enacted by By-law No.197-2010, shall be deleted and the following substituted: "Every long-term care home as defined in subsection 2(1) of the *Long-Term Care Homes Act, 2007*."

- B. Where a person has, in accordance with this Chapter, applied for a refund under this Chapter and the person's claim is in whole or in part refused, the Chief Building Official, or any person or entity authorized by the Chief Building Official, shall cause to be delivered to such person a statement of disallowance in such form as the Chief Building Official shall require, and the statement shall specify the amount of the disallowance and the reasons therefor.

**ARTICLE III**  
**Information**

**§ 771-10. Information to be provided to Chief Building Official.**

- A. The following information shall be provided to the Chief Building Official or his or her designated agent in the form and manner approved by the Chief Building Official, including, without limitation:
- (1) name of the Owner;
  - (2) name of any agent authorized to act on behalf of the Owner in respect of the Tax, and a copy of the appointment of such agent in a form satisfactory to the Chief Building Official;
  - (3) number of Owned Third Party Signs;
  - (4) address on which each Owned Third Party Sign is located;
  - (5) size of each Owned Third Party Sign in square metres;
  - (6) Sign Copy Type of each Owned Third Party Sign;
  - (7) Sign Type of each Owned Third Party Sign; and
  - (8) such other information as determined by the Chief Building Official as being required for the enforcement or proper administration of this Chapter.
- B. The information required pursuant to § 771-10A shall be provided to the Chief Building Official or his or her agent on or before:
- (1) March 31, 2010, for the year 2010;
  - (2) January 31st of each subsequent year; and
  - (3) such other times as the Chief Building Official may require.

ARTICLE IV  
Assessments

**§ 771-11. Annual Assessment.**

The Chief Building Official may make an assessment of an amount of tax or penalty required under this Chapter, together with any interest imposed thereon under this Chapter annually on or before:

- A. July 1, 2010, for the year 2010; and
- B. March 31st of each subsequent year.

**§ 771-12. Additional Assessment.**

The Chief Building Official may make an assessment of an amount of tax or penalty required under this Chapter, together with any interest imposed thereon under this Chapter:

- A. if a person responsible for the payment of tax fails to pay it as required under this Chapter;
- B. if a person is liable to pay tax or a penalty imposed under this Chapter; or
- C. if, in the opinion of the Chief Building Official, an assessment made pursuant to § 771-11 was based on false or erroneous information.

**§ 771-13. Limitations on assessment.**

The Chief Building Official may assess or reassess any person for any tax payable by the person under this Chapter within six years from the day the tax became payable, except that where the Chief Building Official establishes that a person has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud in supplying any information under this Chapter, or in omitting to disclose any information, then the Chief Building Official may assess or reassess at any time the Chief Building Official considers reasonable, the tax payable by such person.

**§ 771-14. Assessment on inspection.**

Where it appears from an inspection, audit or examination of the books of account, records or documents of any person that this Chapter has not been complied with, the person making the inspection, audit or examination shall calculate the amount payable under this Chapter in such manner and form and by such procedure as the Chief Building Official considers adequate and expedient, and the Chief Building Official shall assess the amount payable under this Chapter.

**§ 771-15. Notice of assessment under §§ 771-11, 771-12, 771-13 or 771-14.**

- A. The Chief Building Official shall send by mail or registered mail or deliver by hand a notice of the assessment made under §§ 771-11, 771-12, 771-13 or 771-14 to the person so assessed at the person's last known address or to the last known address of any agent appointed by the person in accordance with § 771-10A(2).
- B. A notice of assessment made under § 771-11 shall provide that the amount assessed is payable and shall be remitted to the Chief Building Official by a person so assessed or by his or her agent in accordance with this Chapter.
- C. A notice of assessment made under §§ 771-12, 771-13 or 771-14 may provide that the amount assessed is payable forthwith and, in any event, the amount of the assessment shall be remitted to the Chief Building Official by the person so assessed or by his or her agent within thirty days from the date of mailing or delivery of the notice of assessment.

**§ 771-16. Liability for tax not affected.**

Liability to pay an amount under this Chapter is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

**§ 771-17. Chief Building Official not bound by information.**

The Chief Building Official is not bound by any information delivered by or on behalf of a person responsible for the payment of tax under this Chapter and may, notwithstanding any information that has been delivered or if no information has been delivered, assess the tax payable.

**§ 771-18. Assessment valid and binding.**

An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding despite any error, defect or omission therein or in any proceeding under this Chapter relating thereto.

**§ 771-19. Payment notwithstanding appeal.**

The amount of any assessment is payable within the time required by the notice of assessment regardless of whether an objection or appeal from the assessment is made or taken.

ARTICLE V  
**Designated Collectors**

**§ 771-20. General.**

The City may, from time to time, enter into agreements in writing, designating one or more persons, as the Chief Building Official considers appropriate as designated collectors to assist in the administration of this Chapter.

**§ 771-21. Chief Building Official as collector.**

The Chief Building Official may establish appropriate collection facilities at such location or locations as the Chief Building Official considers appropriate from time to time.

ARTICLE VI  
**Offences and Fines**

**§ 771-22. False statements.**

A. Every person is guilty of an offence under this Chapter who:

- (1) makes, participates in, assents to or acquiesces in the making of false or deceptive statements in a statement, application, form or other document prepared, submitted or filed under or for the purposes of this Chapter; or
- (2) destroys, alters, mutilates, hides or otherwise disposes of any records or books of account, in order to evade payment of tax under this Chapter; or
- (3) makes, assents to or acquiesces in the making of false or deceptive entries, or assents to or acquiesces in the omission to enter a material particular, in any records or books of account; or
- (4) wilfully, in any manner, evades or attempts to evade:
  - (a) paying tax under this Chapter; or
  - (b) complying with this Chapter; or
- (5) conspires with any person to commit an offence described in § 771-22A(1) through § 771-22A(4); or
- (6) is a director or officer of a corporation and knowingly concurs with actions taken by or on behalf of the corporation in relation to an offence described in § 771-22A(1) through § 771-22A(4).

B. In addition to any penalty otherwise provided by this Chapter, every person is liable on conviction of an offence under § 771-16A, to a minimum fine of \$500 for each day during which the offence continues, not exceeding a maximum total fine of \$5,000.

**§ 771-23. Failure to deliver information, pay tax.**

Every person who fails to deliver the information as required by this Chapter or who fails to remit the tax payable is guilty of an offence and, in addition to any penalty otherwise provided by this chapter, on conviction is liable, to a fine for each day which the person fails to deliver the documents or fails to remit the tax payable, not exceeding a maximum total fine of \$5,000.

**§ 771-24. Failure to comply with audit or inspection.**

Every person who has failed to comply with or has contravened Article VIII of this Chapter is guilty of an offence and, in addition to any penalty otherwise provided by this Chapter, is liable on conviction to a fine for each day during which the failure to comply with or contravention of Article VIII of this Chapter continues, not exceeding a maximum total fine of \$5,000.

**§ 771-25. Offence, general.**

Subject to §§ 771-22, 771-23, and 771-24 every person who knowingly contravenes any provisions of this Chapter is guilty of an offence and on conviction is liable to a fine for each day during which the contravention continues, not exceeding a maximum total fine of \$5,000, if no other penalty is provided for the offence.

ARTICLE VII  
**Penalties**

**§ 771-26. Failure to pay tax, fraud or wilful default.**

If the Chief Building Official is satisfied that a person's failure to pay tax is attributable to fraud or wilful default, the Chief Building Official may assess a penalty against the person in a minimum amount of \$120 and a maximum amount equal to double the amount of tax payable.

**§ 771-27. Failure to comply with audit or inspection.**

Every person who fails to comply with Article VIII of this Chapter shall pay a penalty, when the Chief Building Official assesses it, in an amount not exceeding \$1,000.

**§ 771-28. Failure to deliver information.**

Every person who fails to deliver information required by this Chapter shall pay a penalty, when the Chief Building Official assesses it, in a minimum amount of \$120 and a maximum amount equal to double the amount of tax payable.

ARTICLE VIII  
**Audit and Inspection**

**§ 771-29. General.**

Any person authorized by the City for any purpose related to the administration or enforcement of this Chapter may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or where anything is done in connection with any business or where any books or records are or should be kept and:

- A. audit or examine the books and records and any account, voucher, letter, telegram, facsimile, electronic or other document that relates or may relate to the information that is or should be in the books or records or to an amount payable under this Chapter; and

- B. require a designated collector, an officer, director, agent or representative of a designated collector, a person who is liable or possibly liable to pay tax under this Chapter, an officer, director, agent or representative of that person or any person on the premises:
- (1) to give him or her all reasonable assistance with his or her audit or examination;
  - (2) to answer all questions relating to the audit or examination either orally or, if he or she requires, in writing, on oath or by statutory declaration; and
  - (3) to attend at the premises or place with him or her for the purposes of giving reasonable assistance and answering questions relating to the audit or examination.

**§ 771-30. Demand for information.**

The Chief Building Official may, for any purpose relating to the administration or enforcement of this Chapter, serve on any person personally, by registered mail or by a courier service, a written demand for information or for the production on oath or otherwise of books, letters, accounts, invoices, financial statements, electronic and such other documents as the Chief Building Official or any other person authorized by the City to make the demand considers necessary to determine compliance with this Chapter.

**§ 771-31. Compliance, demand for information.**

A person in receipt of a demand under § 771-30 shall comply with the demand within the time specified in the demand.

**§ 771-32. Compliance, no interference.**

No person shall hinder or molest or interfere with any person doing anything that he or she is authorized by this Article to do or shall prevent or attempt to prevent any person doing any such thing, and despite any other by-law of the City to the contrary, every person shall, unless the person is unable to do so, do everything the person is required by this Article to do.

ARTICLE IX  
**Objections**

**§ 771-33. Notice of objection.**

A person that objects to an assessment made under Article IV or a statement of disallowance made under § 771-9 may, within 60 days from the day of mailing or delivery by hand of the notice of assessment or statement of disallowance, serve on the Chief Building Official a notice of objection in the form approved by the Chief Building Official.

**§ 771-34. Facts and reasons to be given.**

The notice of objection shall clearly describe each issue raised by way of objection and fully set out the facts and reasons relied on by the person in respect of each issue.

**§ 771-35. Computation of Time.**

For the purpose of calculating the number of days mentioned in § 771-33, the day on which a notice of assessment or statement of disallowance is mailed under § 771-33, or a notification is given under § 771-37 is the date stated in the notice of assessment, statement of disallowance or notification.

**§ 771-36. Service.**

A notice of objection under this section shall be served by being sent by registered mail addressed to the Chief Building Official or by such other method of service as the Chief Building Official may determine from time to time.

**§ 771-37. Reconsideration.**

Upon receipt of a notice of objection, the Chief Building Official shall with all due dispatch reconsider the assessment or statement of disallowance and vacate, confirm or vary the assessment or statement of disallowance or reassess or serve a fresh statement of disallowance and the Chief Building Official shall thereupon notify the person who has made the objection of his or her action in writing.

ARTICLE X  
**Appeals**

**§ 771-38. General.**

After the Chief Building Official has given the notification required by § 771-37, a person who has served notice of objection under § 771-36 may appeal to Council to have the assessment or the statement of disallowance vacated or varied or reassessed, or a fresh statement of disallowance issued but no appeal under this section shall be instituted after the expiration of 90 days from the day on which notice has been mailed to such person under § 771-37.

**§ 771-39. Delegation of power to hold hearing.**

The power to hold a hearing in respect of an appeal under this section is delegated to the Government Management Committee.

**§ 771-40. Limitation.**

A person is entitled to raise by way of appeal only those issues raised by the person in a notice of objection to the assessment or statement of disallowance being appealed and in respect of which the person has complied with § 771-34.



**§ 771-41. Exception.**

Notwithstanding § 771-40, a person may raise by way of appeal an issue forming the basis of a fresh statement of disallowance, reassessment or of a variation of an assessment or statement of disallowance under § 771-37 if the issue was not part of the assessment or statement of disallowance with respect to which the person served the notice of objection.

**§ 771-42. Service.**

A notice of appeal shall be served on the City by being sent by registered mail addressed to the Clerk or by such method of service that the Clerk may determine from time to time.

**§ 771-43. Contents of notice of appeal.**

The person appealing shall set out in the notice of appeal a statement of the allegations of fact and the provisions and reasons in this Chapter that the person is submitting in support of the appeal.

**§ 771-44. Consideration of appeal.**

The Government Management Committee shall set a date and time to consider an appeal and the person appealing may attend and present oral or written submissions on such date.

**§ 771-45. Recommendations to Council.**

Following its consideration of an appeal, the Government Management Committee shall recommend to Council in writing that Council should dispose of an appeal by allowing or dismissing it, in whole or in part, together with the reasons for its recommendation, and shall notify the person appealing of its recommendation and reasons in writing.

**§ 771-46. Disposition of appeal.**

Council may dispose of an appeal by allowing or dismissing it, in whole or in part, and shall direct the Chief Building Official to vacate, vary or reconsider the assessment or statement of disallowance and reassess or issue a fresh statement of disallowance.

**§ 771-47. Irregularities.**

No assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of any person in the observance of any provision of this Chapter.

ARTICLE XI  
**Recovery of Tax**

**§ 771-48. General.**

Upon default of payment of an amount assessed under Article IV, the Chief Building Official may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected and every such action shall be brought and executed in and by the name of the City.

**§ 771-49. Remedies for recovery of tax.**

The use of any of the remedies provided by this section does not bar or affect any of the other remedies herein provided, and the remedies provided by this Chapter for the recovery and enforcement of the payment of any amount required under this Chapter are in addition to any other remedies existing at law, and no action or other proceeding in any way prejudices, limits or affects any lien, charge or priority existing under this Chapter or at law in favour of the City.

ARTICLE XII  
**Referral to Bailiff or Collection Agency**

**§ 771-50. Referral.**

The Chief Building Official may, or where the Chief Building Official determines, he or she shall refer the collection of any tax payable or required to be remitted under this Chapter to a bailiff or collection agency.

ARTICLE XIII  
**Interest**

**§ 771-51. General.**

- A. Interest at the rate of 15 percent per annum, calculated at 1.25 percent monthly shall be charged on the amount of any tax payable under this Chapter from the business day following the date on which the tax was due and payable to and including the date on which such tax is paid in full.
- B. To the extent that the tax on which interest is calculated includes any penalties, interest on such portion of the tax shall be calculated from the date on which such penalties are assessed hereunder.

ARTICLE XIX  
**Insufficient Funds Fee**

**§ 771-52. Fee.**

Where any payment under this Chapter is made by cheque or otherwise and such cheque or other payment is not honoured by the financial institution on which it is drawn by reason of insufficient funds, a fee of \$35 will be payable to the Chief Building Official.

Authority: Planning and Growth Management Committee Item 33.10, adopted as amended,  
by City of Toronto Council on November 30, December 1, 2, 4 and 7, 2009  
Enacted by Council: February 23, 2010

**CITY OF TORONTO**

**BY-LAW No. 197-2010**

**To adopt a new City of Toronto Municipal Code Chapter 771, Taxation,  
Third Party Sign Tax.**

WHEREAS subsection 267(1) of the *City of Toronto Act, 2006* (the "Act") provides that the City may, by by-law, impose a tax in the City if the tax is a direct tax, if the by-law satisfies the criteria described in subsection 267(3) and if such other conditions as may be prescribed are also satisfied; and

WHEREAS subsection 267(3) of the Act provides that a by-law enacted pursuant to subsection 267(1) must satisfy the following criteria:

- (a) It must state the subject of the tax to be imposed;
- (b) It must state the tax rate or the amount of tax payable; and
- (c) It must state the manner in which the tax is to be collected, including the designation of any persons who are authorized to collect the tax as agents for the City; and

WHEREAS no additional conditions have been prescribed for the purpose of subsection 267(1); and

WHEREAS subsection 267(4) of the Act provides that a by-law enacted pursuant to subsection 267(1) may provide for the following:

- (a) exemptions from the tax;
- (b) rebates of tax;
- (c) penalties for failing to comply with the by-law;
- (d) interest on outstanding taxes or penalties;
- (e) the assessment of outstanding tax, penalties or interest;
- (f) audit and inspection powers;
- (g) the establishment and use of dispute resolution mechanisms;
- (h) the establishment and use of such enforcement measures as the Council considers appropriate if an amount assessed for outstanding tax, penalties or interest remains unpaid after it is due; and

WHEREAS section 366 of the Act provides that the City may pass by-laws providing that a person who contravenes a by-law of the City passed under the Act is guilty of an offence; and

WHEREAS subsection 366(3) of the Act provides that the City may pass a by-law providing that a director or officer of a corporation who knowingly concurs in the contravention of a by-law of the City passed under the Act by the corporation is guilty of an offence; and

WHEREAS section 370 of the Act provides that the City may establish a system of fines for offences under a by-law passed under the Act, including designating an offence as a continuing offence and providing for a minimum and maximum fine for each day or part of a day that the offence continues; and

WHEREAS section 376 provides that the City has the power to pass by-laws providing that the City may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law passed under this Act is being complied with; and

WHEREAS at its meetings of November 30, December 1, 2, 4 and 7, 2009, Council adopted a third party sign tax to be imposed on owners of third party signs located within the City of Toronto for the purpose of supplementing the revenue of the City, pursuant to its power to impose taxes as provided for in Part X under the Act, and adopted tax design features of the third party sign tax, including administration and collection procedures, an effective date for the third party sign tax of April 6, 2010, and the creation of various offences and a corresponding system of fines for the third party sign tax; and

WHEREAS subsection 267(2) of the Act provides that the City is not authorized to impose various taxes pursuant to subsection 267(1); and

WHEREAS the third party sign tax is not a tax prohibited by subsection 267(2);

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Schedule "A" to this By-law is enacted as Chapter 771, Taxation, Third Party Sign Tax, of The City of Toronto Municipal Code.

ENACTED AND PASSED this 23rd day of February, A.D. 2010.

SANDRA BUSSIN,  
Speaker

ULLI S. WATKISS  
City Clerk

(Corporate Seal)

**SCHEDULE "A" TO BY-LAW No. 197-2010**

Chapter 771  
**TAXATION, THIRD PARTY SIGN TAX**

ARTICLE I  
**General**

**§ 771-1. Interpretation.**

- A. For greater certainty, the Tax imposed by this Chapter is imposed as a Third Party Sign Tax on Owners in respect of Owned Third Party Signs, and no provision of this Chapter, including the manner of collection or payment or amount of Tax payable, shall be construed as imposing the Tax on any basis other than as a Third Party Sign Tax on Owners in respect of Owned Third Party Signs.
  
- B. The issuance of an assessment, the payment of tax, or the acceptance of a payment of tax pursuant to this Chapter shall not be used as or construed as an approval or permission for any matter not regulated by this Chapter or as a substitute for any approval, permit or permission required by law including a permit issued pursuant to Section 8 of the *Building Code Act* or a permit to erect or display a sign issued under the authority of the applicable sign by-law by the City of Toronto.

**§ 771-2. Definitions.**

As used in this Chapter, the following terms shall have the meanings indicated:

**AGGREGATE SIGN FACE AREA** — the total area, as measured in square metres, of all Sign Faces of a Third Party Sign

**ANNUAL INCREASE** — Equals the following:

$$\frac{\text{SUM for each property class of:}}{\text{Prior Year Rateable Assessment x Prior Year Ending Municipal Tax Rate (excluding Charity rebates)}} - 1$$
$$\frac{\text{SUM for each property class of:}}{\text{Prior Year Rateable Assessment x Prior Year Tax Rate for Base General Local Municipal Levy Before Graduated Tax Rate}}$$

**ASSESSMENT** — An assessment of Tax made pursuant to Article IV.

**CHIEF BUILDING OFFICIAL** — The Chief Building Official appointed by the Council of the City of Toronto pursuant to the *Building Code Act* and any person authorized by him or her to carry out the duties of the Chief Building Official under this Chapter.

**DESIGNATED COLLECTOR** — A person designated under Article IV.

**ELECTRONIC MOVING COPY** — Has the same meaning as in Chapter 694, Signs, General.

**ELECTRONIC STATIC COPY** — Has the same meaning as in Chapter 694, Signs, General.

**FUEL PUMP SIGN** — Has the same meaning as in Chapter 694, Signs, General.

**GOVERNMENT MANAGEMENT COMMITTEE** — At any time, the Government Management Committee of the City or the persons or entity performing the functions of the Government Management Committee of the City, including any successor committee.

**GROUND SIGN** — Has the same meaning as in Chapter 694, Signs, General.

**MECHANICAL COPY** — Has the same meaning as in Chapter 694, Signs, General.

**OVERHANGING STRUCTURE SIGN** — Has the same meaning as in Chapter 694, Signs, General.

**OWNED THIRD PARTY SIGN** — A Third Party Sign for which a person is an Owner.

**OWNER** — Any person who, in respect of a Third Party Sign, owns and controls the display of Sign Copy, and in the event the person who controls the display of Sign Copy on a Third Party Sign is not the same person as the person who owns the Third Party Sign, the Owner is the person who controls the display of Sign Copy on the Third Party Sign.

**PERMIT** — A permit to erect or display a Third Party Sign issued under the authority of the applicable sign by-law by the City of Toronto.

**PRIOR YEAR ENDING MUNICIPAL TAX RATE (EXCLUDING CHARITY REBATES)** — Shall have the same meaning as in the City's annual municipal property tax levy by-law.

**PRIOR YEAR RATEABLE ASSESSMENT** — Shall have the same meaning as in the City's annual municipal property tax levy by-law.

**PRIOR YEAR TAX RATE FOR BASE GENERAL LOCAL MUNICIPAL LEVY BEFORE GRADUATED TAX RATE** — Shall have the same meaning as in the City's annual municipal property tax levy by-law.

**PROJECTING SIGN** — Has the same meaning as in Chapter 694, Signs, General.

**PROPERTY CLASS** — Shall have the same meaning as in the City's annual municipal property tax levy by-law.

**ROOF SIGN** — Has the same meaning as in Chapter 694, Signs, General.

**SIGN** — Any device, fixture or medium that displays Sign Copy to attract attention or convey information of any kind and shall include its supporting structure, Sign Face, lighting fixtures and all other component parts.

**SIGN CLASS** — The following classes of Signs:

A. Class I:

- (a) Ground signs, Fuel pump signs, or Topiary signs only displaying static copy with an aggregate sign face area of less than or equal to 15 square metres; and
- (b) Wall signs, Overhanging structure signs, Window signs, or Projecting signs only displaying static copy with an aggregate sign face area of less than or equal to 25 square metres;

B. Class II:

- (a) Ground signs, Fuel pump signs, or Topiary signs only displaying static copy with an aggregate sign face area greater than 15 square metres and less than 45 square metres;
- (b) Wall signs, Overhanging structure signs, Window signs, or Projecting signs only displaying static copy with an aggregate sign face area greater than 25 square metres but less than 45 square metres; and
- (c) Wall signs, Overhanging structure signs, Window signs, or Projecting signs displaying mechanical copy, in whole or in part, with an aggregate sign face area of less than or equal to 25 square metres;

C. Class III:

- (a) Ground signs, Fuel pump signs, or Topiary signs displaying mechanical copy, in whole or in part, with an aggregate sign face area of less than or equal to 25 square metres; and
- (b) Roof signs displaying static or mechanical copy, in whole or in part, with an aggregate sign face area less than or equal to 45 square metres;

D. Class IV:

- (a) Ground signs, Fuel pump signs, or Topiary signs only displaying static copy with an aggregate sign face area greater than 45 square metres;
- (b) Ground signs, Fuel pump signs, or Topiary signs displaying mechanical copy, in whole or in part, with an aggregate sign face area greater than 25 square metres;



- (c) Wall signs, Overhanging structure signs, Window signs, or Projecting signs only displaying static copy with an aggregate sign face area greater than 45 square metres;
- (d) Wall signs, Overhanging structure signs, Window signs, or Projecting signs displaying mechanical copy, in whole or in part, with an aggregate sign face area greater than 25 square metres; and
- (e) Roof signs displaying static or mechanical copy, in whole or in part with an aggregate sign face area greater than 45 square metres; and

E. Class V:

- (a) All signs displaying or containing electronic static copy or electronic moving copy

**SIGN COPY** — Any colour graphic, logo, symbol, word, numeral, text, image, message, picture or combination thereof displayed on a Sign Face.

**SIGN COPY TYPES** — Types of Sign Copy, consisting of the following categories of Sign Copy Type:

- A. Mechanical Copy;
- B. Electronic Moving Copy;
- C. Electronic Static Copy; and
- D. Static Copy.

**SIGN FACE** — The opaque, transparent, or translucent surface of a Sign upon, against, or through which the Sign Copy is displayed including any frame or border, and shall also include the portion of any surface upon which a Sign is projected or painted

**STATIC COPY** — Has the same meaning as in Chapter 694, Signs, General.

**SIGN TYPE** — Types of Signs, consisting of the following categories of Sign Types:

- A. Fuel Pump Signs;
- B. Ground Signs;
- C. Overhanging structure signs;
- D. Projecting signs;
- E. Roof signs;
- F. Topiary signs;
- G. Wall signs; and
- H. Window signs;

**TAX** — The tax imposed by this Chapter including all penalties and interest that are or may be added to a tax under this Chapter.

**THIRD PARTY SIGN** — A Sign located within the City of Toronto which advertises, promotes, or directs attention to businesses, goods, services, matters or activities that are not available at or related to the premises where the Sign is located, which Sign has a Aggregate Sign Face Area of greater than 1.0 square metre.

**TOPIARY SIGN** — Has the same meaning as in Chapter 694, Signs, General.

**WALL SIGN** — Has the same meaning as in Chapter 694, Signs, General.

**WINDOW SIGN** — Has the same meaning as in Chapter 694, Signs, General.

**§ 771-3. Interpretation bulletins and guidelines.**

In administering this Chapter, the Chief Building Official may issue such interpretation bulletins and guidelines as he or she may, from time to time, determine necessary or advisable.

**§ 771-4. Forms.**

The Chief Building Official may approve the use and format of forms for any purpose of this Chapter and the forms may provide for such information to be furnished as the Chief Building Official may require for the enforcement and proper administration of this Chapter.

**ARTICLE II**  
**Tax**

**§ 771-5. Liability to tax.**

Every Owner is liable to tax as required by this Article.

**§ 771-6. Payment of tax.**

Tax shall be payable annually every calendar year in respect of each Owned Third Party Sign on the earlier of:

- A. September 1, 2010, for the year 2010, and July 1st of each subsequent years; and
- B. Prior to the issuance of a Permit for the Third Party Sign.

**§ 771-7. Amount of tax.**

A. Tax is payable at the following annual rates:

	Class I Signs	Class II Signs	Class III Signs	Class IV Signs	Class V Signs
<b>2010</b>	\$850.68	\$2108.22	\$3661.64	\$8,136.99	\$17,753.42
<b>2011</b>	\$1,150.00	\$2,850.00	\$4,950.00	\$11,000.00	\$24,000.00
<b>Each Subsequent Year</b>	Previous year's tax rate + Annual Increase	Previous year's tax rate + Annual Increase	Previous year's tax rate + Annual Increase	Previous year's tax rate + Annual Increase	Previous year's tax rate + Annual Increase

- B. The annual tax payable in respect of a Permit issued during a calendar year shall be reduced to reflect the portion of the calendar year remaining from the date the Permit is issued.
- C. The Chief Building Official shall refund tax paid in respect of a portion of a calendar year remaining from the date of revocation or expiration of a Permit or from the date of removal of a Third Party Sign in accordance with a Notice of Violation issued by the City of Toronto under the authority of the applicable sign by-law.
- D. In the case of joint Owners of a single Third Party Sign, the amount of tax payable under §§ 771-7A and 771-7B in respect of that Third Party Sign shall be imposed jointly on both Owners and each Owner is jointly and severally liable for the amount of tax payable.

**§ 771-8. Exemptions.**

No tax is payable by an Owner who is one of the following persons or entities:

- A. The Crown or a Crown agency within the meaning of the *Crown Agency Act*, R.S.O. 1990, c. C.48;
- B. An authority, board, commission, corporation, office or organization of person a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council of Ontario or a member of the Executive Council of Ontario;
- C. A board as defined in subsection 1(1) of the *Education Act*, R.S.O. 1990, c. E.2;
- D. A university in Ontario or a college of applied arts and technology and post-secondary institution in Ontario whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating annual operating grants entitlements from the Crown;

- E. A hospital referred to in the list of hospitals and their grades and classifications maintained by the Minister of Health under the *Public Hospitals Act*, R.S.O. 1990, c. P.40, every private hospital operated under the authority of a licence issued under the *Public Hospitals Act*, R.S.O. 1990, c. P.40, and every hospital established or approved by the Lieutenant Governor in Council as a community psychiatric hospital under the *Community Psychiatric Hospitals Act*, R.S.O. 1990, c. C.21;
- F. A nursing home as defined in subsection 1(1) of the *Nursing Homes Act*, R.S.O. 1990, c. N.7, every approved charitable home for the aged as defined in section 1 of the *Charitable Institutions Act*, R.S.O. 1990, c. C.9, every home as defined in section 1 of the *Homes for the Aged and Rest Homes Act*, R.S.O. 1990, c. H.13, and a long-term care home as defined in subsection 2(1) of the *Long-Term Care Homes Act, 2007*, S.O. 2007, c.8, ss. 198(4), 232(2);<sup>1</sup>
- G. The Toronto Community Housing Corporation;
- H. The Toronto Economic Development Corporation;
- I. The City of Toronto;
- J. A local board as defined in the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Sched. A;
- K. During the term of a revenue sharing agreement with the City of Toronto, an Owner who has entered into a revenue sharing agreement with the City of Toronto;
- L. Such other persons and entities as may be prescribed by the Lieutenant Governor in Council pursuant to subsection 272(b) of the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Sched. A; and
- M. Such other persons and entities as may be exempted by by-law of the City.

#### **§ 771-9. Refunds of the tax.**

- A. Where a person has paid an amount under this Chapter that is not payable under this Chapter, the Chief Building Official may, upon receipt of satisfactory evidence, make a determination that the amount was wrongly paid, and if such a determination is made, the Chief Building Official shall refund all or part of the amount, but no refund shall be made unless an application for such refund is made within twenty-four months after the payment date.

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<sup>1</sup> Editor's Note: On the proclamation date of subsection 198(4) of chapter 8 of the Statutes of Ontario, 2007, this § 771-8F of Chapter 771, Taxation, Third Party Sign Tax, as enacted by By-law No.197-2010, shall be deleted and the following substituted: "Every long-term care home as defined in subsection 2(1) of the *Long-Term Care Homes Act, 2007*."

- B. Where a person has, in accordance with this Chapter, applied for a refund under this Chapter and the person's claim is in whole or in part refused, the Chief Building Official, or any person or entity authorized by the Chief Building Official, shall cause to be delivered to such person a statement of disallowance in such form as the Chief Building Official shall require, and the statement shall specify the amount of the disallowance and the reasons therefor.

**ARTICLE III**  
**Information**

**§ 771-10. Information to be provided to Chief Building Official.**

- A. The following information shall be provided to the Chief Building Official or his or her designated agent in the form and manner approved by the Chief Building Official, including, without limitation:
- (1) name of the Owner;
  - (2) name of any agent authorized to act on behalf of the Owner in respect of the Tax, and a copy of the appointment of such agent in a form satisfactory to the Chief Building Official;
  - (3) number of Owned Third Party Signs;
  - (4) address on which each Owned Third Party Sign is located;
  - (5) size of each Owned Third Party Sign in square metres;
  - (6) Sign Copy Type of each Owned Third Party Sign;
  - (7) Sign Type of each Owned Third Party Sign; and
  - (8) such other information as determined by the Chief Building Official as being required for the enforcement or proper administration of this Chapter.
- B. The information required pursuant to § 771-10A shall be provided to the Chief Building Official or his or her agent on or before:
- (1) March 31, 2010, for the year 2010;
  - (2) January 31st of each subsequent year; and
  - (3) such other times as the Chief Building Official may require.

ARTICLE IV  
Assessments

**§ 771-11. Annual Assessment.**

The Chief Building Official may make an assessment of an amount of tax or penalty required under this Chapter, together with any interest imposed thereon under this Chapter annually on or before:

- A. July 1, 2010, for the year 2010; and
- B. March 31st of each subsequent year.

**§ 771-12. Additional Assessment.**

The Chief Building Official may make an assessment of an amount of tax or penalty required under this Chapter, together with any interest imposed thereon under this Chapter:

- A. if a person responsible for the payment of tax fails to pay it as required under this Chapter;
- B. if a person is liable to pay tax or a penalty imposed under this Chapter; or
- C. if, in the opinion of the Chief Building Official, an assessment made pursuant to § 771-11 was based on false or erroneous information.

**§ 771-13. Limitations on assessment.**

The Chief Building Official may assess or reassess any person for any tax payable by the person under this Chapter within six years from the day the tax became payable, except that where the Chief Building Official establishes that a person has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud in supplying any information under this Chapter, or in omitting to disclose any information, then the Chief Building Official may assess or reassess at any time the Chief Building Official considers reasonable, the tax payable by such person.

**§ 771-14. Assessment on inspection.**

Where it appears from an inspection, audit or examination of the books of account, records or documents of any person that this Chapter has not been complied with, the person making the inspection, audit or examination shall calculate the amount payable under this Chapter in such manner and form and by such procedure as the Chief Building Official considers adequate and expedient, and the Chief Building Official shall assess the amount payable under this Chapter.

**§ 771-15. Notice of assessment under §§ 771-11, 771-12, 771-13 or 771-14.**

- A. The Chief Building Official shall send by mail or registered mail or deliver by hand a notice of the assessment made under §§ 771-11, 771-12, 771-13 or 771-14 to the person so assessed at the person's last known address or to the last known address of any agent appointed by the person in accordance with § 771-10A(2).
- B. A notice of assessment made under § 771-11 shall provide that the amount assessed is payable and shall be remitted to the Chief Building Official by a person so assessed or by his or her agent in accordance with this Chapter.
- C. A notice of assessment made under §§ 771-12, 771-13 or 771-14 may provide that the amount assessed is payable forthwith and, in any event, the amount of the assessment shall be remitted to the Chief Building Official by the person so assessed or by his or her agent within thirty days from the date of mailing or delivery of the notice of assessment.

**§ 771-16. Liability for tax not affected.**

Liability to pay an amount under this Chapter is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

**§ 771-17. Chief Building Official not bound by information.**

The Chief Building Official is not bound by any information delivered by or on behalf of a person responsible for the payment of tax under this Chapter and may, notwithstanding any information that has been delivered or if no information has been delivered, assess the tax payable.

**§ 771-18. Assessment valid and binding.**

An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding despite any error, defect or omission therein or in any proceeding under this Chapter relating thereto.

**§ 771-19. Payment notwithstanding appeal.**

The amount of any assessment is payable within the time required by the notice of assessment regardless of whether an objection or appeal from the assessment is made or taken.

ARTICLE V  
**Designated Collectors**

**§ 771-20. General.**

The City may, from time to time, enter into agreements in writing, designating one or more persons, as the Chief Building Official considers appropriate as designated collectors to assist in the administration of this Chapter.

**§ 771-21. Chief Building Official as collector.**

The Chief Building Official may establish appropriate collection facilities at such location or locations as the Chief Building Official considers appropriate from time to time.

ARTICLE VI  
**Offences and Fines**

**§ 771-22. False statements.**

A. Every person is guilty of an offence under this Chapter who:

- (1) makes, participates in, assents to or acquiesces in the making of false or deceptive statements in a statement, application, form or other document prepared, submitted or filed under or for the purposes of this Chapter; or
- (2) destroys, alters, mutilates, hides or otherwise disposes of any records or books of account, in order to evade payment of tax under this Chapter; or
- (3) makes, assents to or acquiesces in the making of false or deceptive entries, or assents to or acquiesces in the omission to enter a material particular, in any records or books of account; or
- (4) wilfully, in any manner, evades or attempts to evade:
  - (a) paying tax under this Chapter; or
  - (b) complying with this Chapter; or
- (5) conspires with any person to commit an offence described in § 771-22A(1) through § 771-22A(4); or
- (6) is a director or officer of a corporation and knowingly concurs with actions taken by or on behalf of the corporation in relation to an offence described in § 771-22A(1) through § 771-22A(4).

B. In addition to any penalty otherwise provided by this Chapter, every person is liable on conviction of an offence under § 771-16A, to a minimum fine of \$500 for each day during which the offence continues, not exceeding a maximum total fine of \$5,000.

**§ 771-23. Failure to deliver information, pay tax.**

Every person who fails to deliver the information as required by this Chapter or who fails to remit the tax payable is guilty of an offence and, in addition to any penalty otherwise provided by this chapter, on conviction is liable, to a fine for each day which the person fails to deliver the documents or fails to remit the tax payable, not exceeding a maximum total fine of \$5,000.



**§ 771-24. Failure to comply with audit or inspection.**

Every person who has failed to comply with or has contravened Article VIII of this Chapter is guilty of an offence and, in addition to any penalty otherwise provided by this Chapter, is liable on conviction to a fine for each day during which the failure to comply with or contravention of Article VIII of this Chapter continues, not exceeding a maximum total fine of \$5,000.

**§ 771-25. Offence, general.**

Subject to §§ 771-22, 771-23, and 771-24 every person who knowingly contravenes any provisions of this Chapter is guilty of an offence and on conviction is liable to a fine for each day during which the contravention continues, not exceeding a maximum total fine of \$5,000, if no other penalty is provided for the offence.

ARTICLE VII  
**Penalties**

**§ 771-26. Failure to pay tax, fraud or wilful default.**

If the Chief Building Official is satisfied that a person's failure to pay tax is attributable to fraud or wilful default, the Chief Building Official may assess a penalty against the person in a minimum amount of \$120 and a maximum amount equal to double the amount of tax payable.

**§ 771-27. Failure to comply with audit or inspection.**

Every person who fails to comply with Article VIII of this Chapter shall pay a penalty, when the Chief Building Official assesses it, in an amount not exceeding \$1,000.

**§ 771-28. Failure to deliver information.**

Every person who fails to deliver information required by this Chapter shall pay a penalty, when the Chief Building Official assesses it, in a minimum amount of \$120 and a maximum amount equal to double the amount of tax payable.

ARTICLE VIII  
**Audit and Inspection**

**§ 771-29. General.**

Any person authorized by the City for any purpose related to the administration or enforcement of this Chapter may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or where anything is done in connection with any business or where any books or records are or should be kept and:

- A. audit or examine the books and records and any account, voucher, letter, telegram, facsimile, electronic or other document that relates or may relate to the information that is or should be in the books or records or to an amount payable under this Chapter; and

- B. require a designated collector, an officer, director, agent or representative of a designated collector, a person who is liable or possibly liable to pay tax under this Chapter, an officer, director, agent or representative of that person or any person on the premises:
- (1) to give him or her all reasonable assistance with his or her audit or examination;
  - (2) to answer all questions relating to the audit or examination either orally or, if he or she requires, in writing, on oath or by statutory declaration; and
  - (3) to attend at the premises or place with him or her for the purposes of giving reasonable assistance and answering questions relating to the audit or examination.

**§ 771-30. Demand for information.**

The Chief Building Official may, for any purpose relating to the administration or enforcement of this Chapter, serve on any person personally, by registered mail or by a courier service, a written demand for information or for the production on oath or otherwise of books, letters, accounts, invoices, financial statements, electronic and such other documents as the Chief Building Official or any other person authorized by the City to make the demand considers necessary to determine compliance with this Chapter.

**§ 771-31. Compliance, demand for information.**

A person in receipt of a demand under § 771-30 shall comply with the demand within the time specified in the demand.

**§ 771-32. Compliance, no interference.**

No person shall hinder or molest or interfere with any person doing anything that he or she is authorized by this Article to do or shall prevent or attempt to prevent any person doing any such thing, and despite any other by-law of the City to the contrary, every person shall, unless the person is unable to do so, do everything the person is required by this Article to do.

ARTICLE IX  
**Objections**

**§ 771-33. Notice of objection.**

A person that objects to an assessment made under Article IV or a statement of disallowance made under § 771-9 may, within 60 days from the day of mailing or delivery by hand of the notice of assessment or statement of disallowance, serve on the Chief Building Official a notice of objection in the form approved by the Chief Building Official.

**§ 771-34. Facts and reasons to be given.**

The notice of objection shall clearly describe each issue raised by way of objection and fully set out the facts and reasons relied on by the person in respect of each issue.

**§ 771-35. Computation of Time.**

For the purpose of calculating the number of days mentioned in § 771-33, the day on which a notice of assessment or statement of disallowance is mailed under § 771-33, or a notification is given under § 771-37 is the date stated in the notice of assessment, statement of disallowance or notification.

**§ 771-36. Service.**

A notice of objection under this section shall be served by being sent by registered mail addressed to the Chief Building Official or by such other method of service as the Chief Building Official may determine from time to time.

**§ 771-37. Reconsideration.**

Upon receipt of a notice of objection, the Chief Building Official shall with all due dispatch reconsider the assessment or statement of disallowance and vacate, confirm or vary the assessment or statement of disallowance or reassess or serve a fresh statement of disallowance and the Chief Building Official shall thereupon notify the person who has made the objection of his or her action in writing.

ARTICLE X  
**Appeals**

**§ 771-38. General.**

After the Chief Building Official has given the notification required by § 771-37, a person who has served notice of objection under § 771-36 may appeal to Council to have the assessment or the statement of disallowance vacated or varied or reassessed, or a fresh statement of disallowance issued but no appeal under this section shall be instituted after the expiration of 90 days from the day on which notice has been mailed to such person under § 771-37.

**§ 771-39. Delegation of power to hold hearing.**

The power to hold a hearing in respect of an appeal under this section is delegated to the Government Management Committee.

**§ 771-40. Limitation.**

A person is entitled to raise by way of appeal only those issues raised by the person in a notice of objection to the assessment or statement of disallowance being appealed and in respect of which the person has complied with § 771-34.

**§ 771-41. Exception.**

Notwithstanding § 771-40, a person may raise by way of appeal an issue forming the basis of a fresh statement of disallowance, reassessment or of a variation of an assessment or statement of disallowance under § 771-37 if the issue was not part of the assessment or statement of disallowance with respect to which the person served the notice of objection.

**§ 771-42. Service.**

A notice of appeal shall be served on the City by being sent by registered mail addressed to the Clerk or by such method of service that the Clerk may determine from time to time.

**§ 771-43. Contents of notice of appeal.**

The person appealing shall set out in the notice of appeal a statement of the allegations of fact and the provisions and reasons in this Chapter that the person is submitting in support of the appeal.

**§ 771-44. Consideration of appeal.**

The Government Management Committee shall set a date and time to consider an appeal and the person appealing may attend and present oral or written submissions on such date.

**§ 771-45. Recommendations to Council.**

Following its consideration of an appeal, the Government Management Committee shall recommend to Council in writing that Council should dispose of an appeal by allowing or dismissing it, in whole or in part, together with the reasons for its recommendation, and shall notify the person appealing of its recommendation and reasons in writing.

**§ 771-46. Disposition of appeal.**

Council may dispose of an appeal by allowing or dismissing it, in whole or in part, and shall direct the Chief Building Official to vacate, vary or reconsider the assessment or statement of disallowance and reassess or issue a fresh statement of disallowance.

**§ 771-47. Irregularities.**

No assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of any person in the observance of any provision of this Chapter.

ARTICLE XI  
**Recovery of Tax**

**§ 771-48. General.**

Upon default of payment of an amount assessed under Article IV, the Chief Building Official may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected and every such action shall be brought and executed in and by the name of the City.

**§ 771-49. Remedies for recovery of tax.**

The use of any of the remedies provided by this section does not bar or affect any of the other remedies herein provided, and the remedies provided by this Chapter for the recovery and enforcement of the payment of any amount required under this Chapter are in addition to any other remedies existing at law, and no action or other proceeding in any way prejudices, limits or affects any lien, charge or priority existing under this Chapter or at law in favour of the City.

ARTICLE XII  
**Referral to Bailiff or Collection Agency**

**§ 771-50. Referral.**

The Chief Building Official may, or where the Chief Building Official determines, he or she shall refer the collection of any tax payable or required to be remitted under this Chapter to a bailiff or collection agency.

ARTICLE XIII  
**Interest**

**§ 771-51. General.**

- A. Interest at the rate of 15 percent per annum, calculated at 1.25 percent monthly shall be charged on the amount of any tax payable under this Chapter from the business day following the date on which the tax was due and payable to and including the date on which such tax is paid in full.
- B. To the extent that the tax on which interest is calculated includes any penalties, interest on such portion of the tax shall be calculated from the date on which such penalties are assessed hereunder.

ARTICLE XIX  
**Insufficient Funds Fee**

**§ 771-52. Fee.**

Where any payment under this Chapter is made by cheque or otherwise and such cheque or other payment is not honoured by the financial institution on which it is drawn by reason of insufficient funds, a fee of \$35 will be payable to the Chief Building Official.