

Strategy for Minimizing the Negative Impacts of Residential Infill Construction Activity - Update

Date: April 23, 2018

To: Planning and Growth Management Committee

From: Chief Building Official and Executive Director, Toronto Building

Wards: All

SUMMARY

The purpose of this report is to respond to City Council's direction that the Chief Building Official, in consultation with relevant divisions, report to the Planning and Growth Management Committee on the status of actions undertaken to implement the Residential Infill Strategy and identify any further actions necessary to support its continued development.

In 2016, Toronto City Council adopted the recommendations from the Chief Building Official (Acting) which initiated the implementation and inter-divisional coordination of the strategy to address nuisance issues associated with residential infill construction. Through inter-divisional cooperation, the implementation of the strategic actions are aimed at preventing problems from occurring on residential infill construction sites as well as creating an effective and streamlined enforcement system to respond to issues when they do occur. The strategy reflects this shift to being more proactive on residential infill construction-related nuisance issues, rather than being largely reactive.

This report contains an initial evaluation of the strategic actions completed to date and recommendations aimed at improving the effectiveness of the strategy going forward. These additional recommendations include an annual targeted inspection and enforcement program aimed at residential infill sites throughout the city and proposed additional ticketing and enforcement powers for contraventions of the City's construction site fence requirements.

All action items are underway or completed. However, there are two remaining items that require City Council action to implement: the infill construction site public notice by-law and the dust control by-law. This report contains recommendations which would establish a by-law requiring a public notice to be posted on all residential infill construction and demolition sites. Municipal Licensing and Standards is considering creating regulations respecting construction dust and will report back to the Licensing

and Standards Committee in July 2018 with recommendations, as the implications of construction dust regulations may extend beyond residential infill construction.

The Executive Director, Municipal Licensing and Standards, General Manager, Toronto Water; General Manager, Parks, Forestry and Recreation, General Manager, Transportation Services, Fire Chief and General Manager, Toronto Fire Services, Executive Director, Engineering and Construction Services, Director, 311 Toronto, Director, Energy & Environment Division, and the City Solicitor were consulted in the preparation of this report.

RECOMMENDATIONS

The Chief Building Official and Executive Director, Toronto Building, recommends that:

1. City Council request that the Chief Building Official and Executive Director, Toronto Building, the Executive Director, Municipal Licensing and Standards; the General Manager, Transportation Services, the General Manager, Parks, Forestry and Recreation and the General Manager, Toronto Water evaluate the effectiveness of, and report to the Planning and Growth Management Committee in the first quarter 2019, on a joint targeted inspection and enforcement program related to residential infill construction activity conducted by Toronto Building, Municipal Licensing and Standards, Transportation Services, Parks, Forestry and Recreation and Toronto Water.
2. City Council direct the Chief Building Official and Executive Director, Toronto Building, in the review and update to Toronto Municipal Code Chapter 363, to identify and recommend opportunities for efficiencies in the inspection and enforcement of construction fencing.
3. City Council adopt the draft by-law in Appendix 2, to add an additional Chapter to the City of Toronto Municipal Code, implementing regulations concerning the posting of public notice on residential infill construction and demolition sites.
4. City Council authorize the City Solicitor to make the necessary applications to the Regional Senior Justice to seek approval for short-form wording and set fines with respect to the current provisions of Toronto Municipal Code Chapter 363 related to construction fencing, and the additional Municipal Code chapter as indicated in Recommendation 3 above.
5. City Council authorize the City Solicitor to prepare the necessary Bills for introduction in Council to implement the above noted amendments to the City of Toronto Municipal Code, subject to such stylistic and technical changes to the draft by-law as may be required.

FINANCIAL IMPACT

Regarding the implementation of the Infill Construction Public Notice by-law, Toronto Building has considered the financial impact of its implementation. Since the User Fee Policy allows fees to be waived where there is a benefit to the community, Toronto Building will not require a fee for providing the applicant with the completed digital template for printing of the residential infill construction site notice. The applicant will be bearing the cost of printing, installing and maintaining the notice under the proposed by-law.

The Acting Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

In March 2016, City Council adopted the (February 9, 2016) report from the Chief Building Official and Executive Director, Toronto Building and the Executive Director, Municipal Licensing and Standards to minimize the impact of residential infill construction activity on Toronto neighbourhoods.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.PG10.1>

In June 2015, the Planning and Growth Management Committee considered the (June 3, 2015) report from the Chief Building Official containing a work plan to develop a strategy to deal with problem residential infill construction sites.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.PG5.5>

At its meeting of June 19, 2014, the Planning and Growth Management Committee referred the item “Residential Infill Construction Sites – Improving our Response” to staff for a report back.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG34.23>

At its meeting of May 20, 2014, the Parks and Environment Committee referred the item (PE27.5) “Taking Action on Dust Suppression” to staff for a report back.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PE27.5>

At its meeting of October 16, 2016, the Planning and Growth Management Committee referred the item (PG15.8) "Unfinished Construction Sites" to the Chief Building Official and Executive Director, Toronto Building for inclusion in the report on the status of the residential infill strategy.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.PG15.8>

COMMENTS

Context: The Strategy

In 2016, the (Acting) Chief Building Official brought forward recommendations for a comprehensive inter-divisional strategy to address the complex and wide-ranging issues associated with the construction and demolition of residential buildings in existing neighbourhoods. The report noted that the public is sometimes faced with confusion when they encounter multiple issues on a residential infill construction site which has resulted in difficulty when seeking assistance from the City of Toronto. Similarly, staff in the various divisions faced challenges in their ability to provide a timely and effective response to the public's concerns to pro-actively advise the public whether the appropriate approvals were obtained. Despite the fact that issues were often inter-related, the City was lacking a co-operative framework for information sharing, issue monitoring and developing an effective response.

The overall objective of minimizing the impact of residential infill construction activity was to be achieved by action items grouped into the following three strategic areas:

- Improve the City's complaint management strategy to manage and respond to complaints more quickly and effectively.
- Improve communication with residents to provide clear, understandable information, so that they can have issues resolved in a timelier manner.
- Encourage good construction practices in the building industry through education, more effective enforcement, increased use of tickets, an additional mandatory inspection and increased building inspector knowledge.

A number of key principles guided the development of strategy and its implementation:

- All of the City divisions must work together co-operatively.
- The strategy should not create additional layers of regulation or slow down the process for builders who follow the rules.
- The actions should include preventative measures and introduce processes which are able to more effectively solve problems.
- The public needs clear, accessible and easy to understand information on residential infill construction-related matters.

What is Residential Infill?

Residential infill development is an important process which allows the built environment of the City's existing neighbourhoods to continually evolve. The City of Toronto, its residents and builders are all partners in this on-going process. When demolition and construction activity increases, the potential for negative impacts associated with the process increases as well. This is especially the case in existing neighbourhoods.

It was important at the outset of developing the strategy to define more precisely what type of construction activity the strategy was intended to capture; what is meant by the

term "residential infill"? Residential infill housing for the purposes of this initiative consists of the following scenarios:

- construction of a new house on a vacant lot
- demolition of an existing house and construction of a new house on an existing lot
- demolition where there is no proposed construction of a replacement new house
- and the construction of an addition or additions to an existing house where the combined total area of the additions is 100 square metres or more

Improving the City's Complaint Management Strategy

As detailed in Appendix 1, the infill strategy is comprised of a number of strategic actions grouped into three key areas. This report will now provide an update on the status of each action and subsequent City Council directions which were to be considered as part of the overall strategy.

Dedicated Enforcement Unit

The implementation of new staff resources (approved through the 2016 budget process) to monitor issues and co-ordinate the inter-divisional response to problem residential infill sites was a foundational component of the strategy. Toronto Building's Dedicated Enforcement Unit is now established and is staffed by a Manager, Senior Building Inspector and nine inspector positions. The Unit provides city-wide support for the residential infill strategy, operating out of Toronto Building's North York District Office.

Part of the Unit's initial work has been tackling dormant building permit files, responding to problematic sites and providing targeted assistance to Toronto Building inspectors on an as-needed basis where construction sites are identified as problem properties.

By the end of 2017, the Dedicated Enforcement Unit conducted over 1600 pro-active residential infill construction site visits and reviewed, inspected and closed over 3000 inactive, or dormant files. While the Unit was initially focused on residential infill open permits, they have also worked with each Toronto Building District Office to close an additional 40,000 open permits city-wide.

Inter-divisional Complaint Management Actions

A second objective of the initiative was to strengthen the City's complaint management strategy, so that issues would be addressed and resolved more quickly and efficiently. The following action items have been completed in this area:

Establishing an Inter-Divisional Working Group

Toronto Building leads the inter-divisional working group. The role of this group at the outset was to oversee the progress of City Council's directions on the infill strategy. It is comprised of assigned representatives of the following divisions' General Managers/Executive Directors:

- 311 Toronto
- City Planning
- Engineering & Construction Services

- Environment & Energy Division
- Legal Services
- Municipal Licensing & Standards
- Parks, Forestry & Recreation
- Solid Waste Management
- Toronto Fire Services
- Toronto Public Health
- Toronto Water
- Transportation Services

To date, the working group has developed an inter-divisional complaint tracking policy and procedure for problem property sites in time for the 2018 summer construction season. Under this procedure, each potential issue has been assigned to a division, clearly setting out roles and responsibilities depending on the nature of the complaint, along with timelines for response.

The inter-divisional group continues to meet on a regular basis. However, going forward, it will function more as an additional communication channel to strengthen inter-divisional cooperation for action in response to complaints.

Encouraging Good Construction Practice

Additional Building Inspection

In 2017, Toronto Building introduced an introductory inspection specific to residential construction.

The purpose of this residential-specific inspection is to directly engage the builder and the property owner (where possible) at the outset of the construction process, on City expectations and consequences of non-compliance regarding the construction activity. The inspection content with respect to all divisions was developed in co-operation with partner divisions. This is also an opportunity to advise the builder (and property owner) of the requirement to call for a final inspection so that the permit(s) are closed once construction has completed.

The building inspector is usually the main point of contact with the builder through the construction process which facilitates direct personal dialogue. The interaction between the City, builders and property owners encourages good construction practices and informs builders of their responsibilities, with the longer-term goal of mitigating against the potential need for future enforcement action.

It is too early to determine the impact of the introductory inspection as it was implemented in late-2017. Toronto Building is currently monitoring the program, collecting data and will be conducting an assessment of this action in late 2018.

Verification of Zoning Compliance & Inspector Knowledge

Toronto Building inspectors are well trained on building code issues. However, as part of the infill strategy, Toronto Building has taken a number of steps to strengthen its ability to identify zoning issues. It is important for building inspectors to identify early in the construction process how changes can impact zoning. Training has included, for example:

- Comprehensive zoning-specific training to all residential inspectors, including District-specific requirements. (half-day classroom and half-day field training)
- Inspectors and zoning examiners now work together to confirm that the as-built survey is in compliance with the approved permit.

The practice was initiated in early-2017, with full implementation in place by the end of 2017. As a result, building inspectors now have increased abilities to identify and respond to zoning-related matters in their day-to-day duties.

As-Built Surveys

Toronto Building now requires builders to submit an as-built survey (completed by an Ontario Land Surveyor) prior to the construction of the first floor walls of the new house in order to confirm location and height of a house with respect to the approved building permit. Requiring this survey information early provides the opportunity for a property owner/builder to address compliance issues relating to height and setbacks well before the house is completed. When as-built surveys are not provided before the construction of the first floor walls, inspectors may issue an Order requiring that the survey be provided before construction may resume.

Improving Communication with Residents

The second strategic area of the infill strategy is improved communication with the public. The following actions have been completed to facilitate easy and understandable public access to information, including:

Dedicated Residential Infill Website

In the development of the infill strategy, public input reinforced the need for a single City of Toronto online source for residential infill construction information. Toronto Building has set up www.toronto.ca/infill as the entry point for public information. Content at this page includes:

- Improved permit application and inspection status search
- Details on the residential infill strategy
- Construction requirements and guidelines
- Electronic copy of the "Good Neighbour Guide"

Permit Application and Inspection Status Search Page

In 2017, Toronto Building launched an improved permit applications and inspections status search page. On this page, the public may enter search parameters (e.g.,

address, permit number) to access detailed inspection information on a building. As illustrated in Figure 3, this includes the inspection stages and results. The page also includes the status of Orders issued. For those interested, the map shows permit-related activity surrounding the searched property.

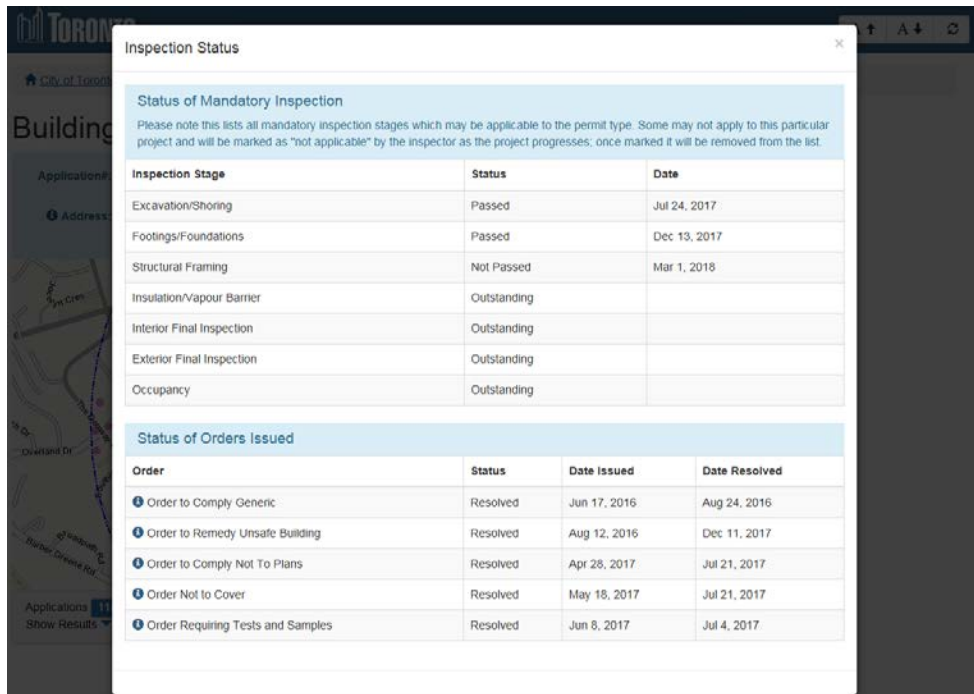


Illustration 1: Inspection Status Search Page

The status search page is a valuable tool to provide information about infill sites and City actions, to the public in real time, in a transparent way. The page allows the public to be better informed and aware of the compliance status of construction occurring in their neighbourhoods. With accurate and current information, the public is able to proactively identify where additional City response may be required. Accessible information in real time also minimizes the need for inquiries to the City through slower communication channels.

The Building Permit Application Status search page is now the second most visited page on the Toronto Building website, with over 54,000 views between March and October, 2017.

It should also be noted that the Province is considering amendments to the *Building Code Act* which would allow the City to post an actual order on-line (in addition to the status) and register the Order on title. Toronto Building has submitted comments to the Ministry of Municipal Affairs supporting these changes as they would improve public access to valuable information.

"The Good Neighbour Guide"

Best practices guides are an important complement to regulations. They can illustrate and set out how objectives can be met, based on proven experience rather than relying only on regulations and enforcement. [Toronto's Good Neighbour Guide](#), is a best

practices tool developed to support the residential infill strategy and to help people address and smoothly resolve issues. The Guide was developed co-operatively by Toronto Building, partner divisions, BILD (Building Industry and Land Development Association) and residents' associations.

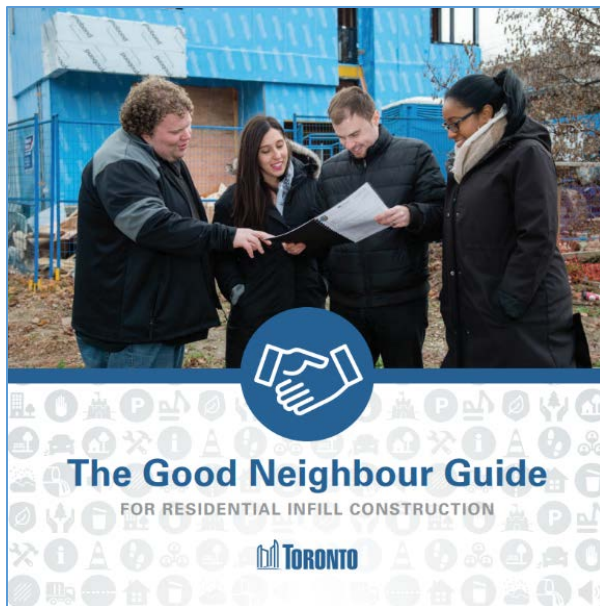


Illustration 2: Cover of the Good Neighbour Guide

The objective of the Guide is to provide information that people need at different stages of construction. Its audience extends to owners, builders and contractors as well as neighbours.

The Guide contains information about and direct links to other City approvals including: Ravine and natural feature protection, trees, landscape permits, sewer discharge permits and water connections and street occupation permits. For people who have tried talking to builders or property owners and are unable to resolve issues, the Guide includes a comprehensive table identifying issues, the City (or Provincial Ministry) responsible and a direct contact, including Toronto Building's Dedicated Enforcement Unit. The Guide is a

companion to Toronto Building's [Homeowner's Guide to Building Permits](#).

The electronic copy of the Good Neighbour Guide was accessed over 1,700 times between March and October, 2017. Information on the residential infill website and the Good Neighbour Guide were included in the permit documents of over 2800 permits in the last four months of 2017.

Transit Shelter Ads

From July 17 to August 13, 2017, Toronto Building had advertisements placed in 100 transit shelters through the City of Toronto's agreement with Astral Media. As illustrated in Figure 4, the advertisement was intended to let people know that the toronto.ca/infill website was available should they have questions or concerns about construction in their neighbourhood.



Illustration 3: Toronto Building Transit Shelter Advertisement

Proposed Residential Infill Construction Site Public Notice By-law

Currently, the building permit placard is the only on-site communications tool to provide the public with basic information about a residential infill project. Builders often post their company name and information on-site; however, there is nothing to provide the public with guidance on how they can obtain further information (such as the permit search website) on the City approvals related to the project. As a result, the public does not have immediate information which can help them understand the construction project and resolve issues should they arise.

The objective of the proposed residential infill construction site public notice by-law (the "Infill Notice By-law") is to provide the public with a gateway to "real time" information concerning the City's approvals and enforcement activities.

The Building Code requires only that the permit be posted on site; it does not authorize the inclusion of additional information on the permit placard. There is a positive obligation on the Chief Building Official to issue the permit if all applicable law as defined by the Building Code has been met. A municipal by-law cannot interfere with this process, or conflict with the requirements of the *Building Code Act* or the Building Code. In keeping with the first principles of the infill initiative, the proposed requirements for the public notice to be posted at a construction site are intended to be run parallel with the permit process as a separate and distinct municipal requirement. The proposed Infill Notice By-law will not in any way, nor is it intended to, regulate construction; rather, it has the purpose of disseminating key information regarding the project to the public.

A number of North American cities already require that construction sites contain notices, signs, or placards providing the public with information about the construction or demolition occurring on-site. The objectives of the proposed Infill Notice By-law are consistent with the other jurisdictions; namely, to help foster clarity about the rules and support good construction practices for infill construction and disseminate information to the public. The content of the proposed public notice, including builder contact information and a rendering of the proposed construction, is also consistent with the requirements of other jurisdictions.

In order to provide clear, accessible and useful information to the public about residential infill construction sites, the Chief Building Official is recommending that City Council adopt the draft by-law (attached as Appendix 2) which sets out the framework for the requirements, content and enforcement provisions of the proposed Infill Notice By-law.

The proposed design of the residential infill notice is contained in Appendix 3.

This public notice is intended to act as a first point of information and a gateway to the City's website where real-time information can be obtained by the public. Information contained on the proposed notice would include project-specific information such as:

- site address
- builder's company name

- builder's working telephone number and email address
- building permit number and date of issuance
- Toronto Building general contact information and 311
- and direction that additional current information may be found on the www.toronto.ca/infill website

The other half of the notice contains paraphrased content from the Good Neighbour Guide covering areas such as tree protection, parking, litter and noise. Implementation of the Infill Notice By-law will result in each residential infill construction site containing information on the specific hours when the operation of equipment generating noise in residential areas is permitted. It has been designed to not only assist in communication with residents, but as an instrument to communicate directly with all trades. The objective in this regard is to encourage courteous construction practices, so that the project has a minimal impact on neighbours.

Toronto Building met with BILD (Building Industry and Land Development Association) and residents' associations to discuss the residential infill strategy and solicit feedback on a draft design of the sign and administrative process. Both groups agreed that posting the proposed public notice provides the public with a useful tool to obtain information concerning the operation of the City and could assist with address and resolving potential problems on site. Staff have incorporated common feedback from the groups in the current design with the objective of streamlining the text and improving the clarity of information. The notice's design has also been approved through the City's Corporate Communications and is compliant with the Corporate Identity Program.

Requirements to Post the Public Notice

The proposed Infill Notice By-law sets out the requirements that the public notice be posted on-site where there is a permit to construct or demolish a building which meets the residential infill criteria. The proposed requirements set out that applicants for residential infill projects must submit project-specific information to Toronto Building. The Division will then provide the applicants with a document (either electronic or non-electronic) containing the specific design and information for the public notice related to the infill project. The applicant will then be responsible for manufacturing, installing and maintaining the public notice on-site in accordance with the provisions of the Infill Notice By-law.

Toronto Building will initially develop a manual process to provide the files to applicants so that the sign can be implemented for part of the 2018 construction season. The effective date would be September 4, 2018. The Division will also work to develop a web-based application so that applicants can have the form processed instantaneously for manufacturing.

Enforcement

In order to verify that the public notice has been installed within the prescribed timeframe (at least five days prior to the commencement of demolition in the case of demolition and within five days of the commencement of construction in the case of construction), the by-law would require that the builder or property owner electronically

submit a photograph of the notice(s) installed on site. Toronto Building will also be including compliance with the public notice requirements as part of the mandatory first inspection.

Should the public notice not be installed in accordance with the proposed Infill Notice By-law, Toronto Building inspectors currently have no ability to issue a ticket as an administrative penalty. Toronto Building, will upon the necessary approvals from the Regional Senior Justice, issue tickets to commence proceedings under the Provincial Offences Act, as part of the enforcement strategy, along with commencing Part III prosecutions as appropriate.

Targeted Inspection and Enforcement Program

In July and August, 2017, Toronto Building led a joint targeted inter-divisional inspection and enforcement program on residential infill sites with Transportation Services, Urban Forestry, Toronto Water and Municipal Licensing and Standards. The program focused on wards having high infill construction activity (5, 23, 31, 32 and 36) in each of the City's Community Council Areas. A total of 615 construction sites were reviewed through this program.

While not a City Council direction for implementing the infill strategy, staff identified the benefit of implementing routine targeted inspection and enforcement in areas of the city having high construction activity. This program accomplishes the following objectives:

- Establishes a benchmark of the current state of residential infill with respect to the number and type of infractions in order to measure the overall effectiveness of the program.
- Allows staff from all divisions to determine key concerns in order to inform the future evolution of the program.
- Facilitates sharing of information and practices across divisions, including the identification of potential efficiencies and elimination of inspection duplication while educating inspectors across divisions on key issues.
- Establishes a City presence on residential infill construction sites, reinforcing City expectations and consequences of non-compliance.

Targeted Inspection and Enforcement Program: Summary Findings

Toronto Building

As a result of the Targeted Inspection and Enforcement Program, Toronto Building identified opportunities to improve earlier submission of as-built surveys, including enforcement. One hundred and thirty-nine of the sites visited during the program required follow-up enforcement action to achieve compliance with the as-built survey requirements. Within two weeks, compliance had been achieved for 117 (of the 139) of the sites. As a result, staff identified this as a priority area for residential infill

enforcement action, and is implementing a quality assurance program to strengthen compliance in 2018.

In March 2018 the Dedicated Enforcement Unit audited an additional 251 sites city-wide for compliance with the as-built survey requirements. Of the sites audited, orders were issued to 63 permit holders where as-built surveys had not been provided. Compliance for 31 sites was achieved within two weeks (of the orders being issued) and inspectors followed up with issuing tickets on an additional 27 sites. By the second week of April, compliance was achieved on 78 percent (21) of the sites where tickets were issued. Toronto Building will continue to use proactive monitoring as a tool to measure the effectiveness of ticketing to obtain compliance.

Transportation Services

During the Targeted Inspection and Enforcement Program, Transportation Standards Officers focused on identifying and immediately addressing hazard and safety concerns within the road allowance. Follow-up inspections for non-safety related right-of-way infractions were conducted within a reasonable time after the site visits. Ninety-five percent compliance was achieved within four to six weeks for non-emergent work and the remaining five percent is currently being resolved through the Court system with Legal Services.

In order to be more effective and proactive with enforcement and inspections, Transportation Services has received budget approval for the additional hiring of Transportation Standards Officers to better manage the substantial increase of residential infill projects.

Toronto Water

Toronto Water's By-law staff participated in the Targeted Inspection and Enforcement Program and found occurrences of the following:

- Evidence of improper liquid discharges (dry weather construction run off) being pumped into city street ditches.
- Sump pumps discharging too close to the roadway and capable of entering the city infrastructure of storm catch basins.
- Roof leads or downspouts connected directly to storm sewers rather than at grade per the Sewers By-law.

Toronto Water By-law staff dealt with these issues by giving directions to the property owner or contractor to rectify the issue immediately which was largely achieved.

No additional enforcement tools for Toronto Water are recommended at this time.

Urban Forestry

During the Targeted Inspection and Enforcement Program, Urban Forestry staff identified 64 sites with tree protection contraventions. Under the City's Tree By-laws,

when a contravention has occurred, Urban Forestry will charge a contravention inspection fee, issue orders requiring that the contravening activity be discontinued, and order work be done to correct the contravention. When warranted, Urban Forestry can also take legal action and pursue prosecution.

Of the 64 sites with contraventions, Urban Forestry inspectors applied 60 contravention inspection fees and issued 39 orders to comply and 40 stop work orders. To date, 49 sites have achieved compliance within an average of 33 days. Of the 15 sites where compliance is outstanding, four sites require remedial landscaping to be implemented after construction work is completed on site and all sites require the collection of contravention inspection fees which are being recovered through the addition to the tax roll.

At the time of the Targeted Inspection and Enforcement Program, Urban Forestry was in the process of strengthening enforcement measures. In February 2018, City Council approved the creation of seven permanent positions dedicated specifically to the enforcement of the City's Tree By-laws. In addition to the creation of the permanent staff, Urban Forestry now has the capacity to have contractors/City staff complete remedial work on site to correct the contravention where non-compliance is an issue and add the cost of this work and any outstanding contravention inspection fees to the resident's tax roll. The implementation of the new permanent unit will result in increased compliance through further refinement of enforcement practices, greater ability for monitoring and follow-up of reported contraventions, shorter contravention inspection response times, increased opportunity for interaction and education of residents, and increased capacity to enforce orders and prosecute where required.

Municipal Licensing and Standards/Toronto Building: Construction Fencing

The Targeted Inspection and Enforcement Program identified a large number of properties where construction fencing was not installed in accordance with City requirements. The Program highlighted the need for efficiencies with enforcement of construction fencing requirements as multiple divisions are involved in this matter. Toronto Building, Municipal Licensing & Standards and Transportation Services respond to this issue separately, depending on the nature of the location (private versus public property).

The Program identified that the duplication of inspection processes in the current system is both time-consuming and cumbersome, resulting in challenges for inspectors to achieve compliance. Under the current regulatory framework, Toronto Building is only able to respond to non-compliance with the issuance of an unsafe order under the *Building Code Act*. In the meantime, the safety hazard may still exist. Municipal Licensing and Standards, however, has the authority under Toronto Municipal Code Chapter 632 (Property, Vacant or Hazardous) to issue orders and take steps immediately to address safety concerns and place costs on the property tax roll. Transportation Services addresses the presence of construction fencing erected on the public right-of-way, without the proper municipal approvals through the provisions of municipal code chapter dealing with the use of Streets and Sidewalks, Chapter 743.

Therefore, it is staff's opinion that it is necessary to provide inspectors with the appropriate tools to achieve compliance with the existing requirements (Toronto Municipal Code Chapter 363, Building Construction and Demolition, Article III) while at the same time eliminate duplication of inspection services. In order to address this concern, Toronto Building will be undertaking a review and update of Toronto Municipal Code Chapter 363 (Building Construction and Demolition), to achieve long-term efficiencies in this area. In the short-term, Toronto Building upon the City obtaining the approval of the Regional Senior Justice concerning short-form wording and set fines, related to the current provisions of Toronto Municipal Code Chapter 363 related to construction fencing, shall include the issuance of tickets as part of the enforcement processes.

Additional Council Directions Related to Residential Infill Construction

In considering the Residential Infill Strategy and related issues, City Council directed the Chief Building Official to report on the following additional issues:

Revocation of City Permissions

Toronto Building was asked to report on the City's ability to suspend or revoke permissions on problem residential construction sites when a builder does not follow good construction practices. In response, the City's ability is limited. There is no authority under the *Building Code Act* to revoke a building permit based on builder behaviour. The information on the site signage reminding all contractors that everyone is responsible for keeping the site tidy and safe supports the objective of encouraging good construction practices in order to eliminate the need for revocation.

While other City divisions provide approvals related to the construction process, they cannot be revoked unless there is a direct violation of the approval. Enforcement must be related to permissions granted. Behaviour will continue to be a strategic area for action with regard to the infill strategy.

Vacant Construction Sites

City Council requested that the Chief Building Official consider a strategy to effectively deal with unfinished/abandoned residential infill construction sites. Provincial legislation prohibits the City from imposing additional conditions to compel a permit holder to finish construction within a prescribed timeframe. While legislation provides authority for the Chief Building Official to revoke a permit where construction has not commenced within six months of permit issuance or has been substantially suspended for a period of one year, there is no authority to proceed to remove unauthorized construction in the absence of a court order. The order would result in the City's removing the construction rather than having the construction completed, which is the City's goal. Obtaining such a court order is a long, drawn out process with no guaranteed outcome and which may not be the most effective means for dealing with unfinished or abandoned infill sites.

Due to the limitations of the City's regulatory tools, Toronto Building is working through the infill strategy to keep builders engaged with the City. Even with additional authority, the City could not force construction to continue, as the root problem is typically the lack of finances, or other externalities to continue the project. Toronto Building and other divisions are focused on prioritizing the issues posed by stalled construction sites. The

first priority is site safety, then maintenance (tidiness/litter) followed by actions to encourage the permit holder to complete the building's exterior, thereby mitigating potential impacts on neighbours.

Council Direction: Advising Homeowner

City Council directed Toronto Building to develop a process to advise the homeowner that a permit is closed. The importance of closing a permit by calling for a final inspection has been included in *The Good Neighbour Guide*, *The Homeowner's Building Permit Guide* and the Introductory Inspection. The Dedicated Enforcement Unit has also been focused on closing open permits, which requires direct follow-up with permit holders. To support the educational tools, Toronto Building is working to implement changes to its business system so that a confirmation email/letter is generated to advise the homeowner that the permit has been closed.

Council Direction: Construction Dust Control

At its meeting of May 20, 2014, the Parks and Environment Committee referred the item ([PE27.5](#)) "Taking Action on Dust Suppression" to staff for a report back. In considering the response to PE27.5, staff from the Environment & Energy Division met with staff from Toronto Building, Municipal Licensing and Standards and Toronto Public Health. Staff agreed that a City response to control dust from construction would be most appropriately addressed through this coordinated strategy to address infill construction issues.

Understanding the Problem

Dust from construction activity is generally caused by cutting stone, rock, concrete, tile and insulation. Also, significant volumes of dust are created during demolition and excavation. These activities happen not only on residential infill projects, but also large projects to build condominiums or a simple landscaping project to install tiling or concrete on a driveway or walkway.

Existing Regulations

The *Occupational Health and Safety Act* regulates dust if it is a hazard to workers, and requires that either dust be adequately controlled or that workers are given personal protective equipment. The *Environmental Protection Act* regulates dust produced in facilities and generally does not address construction dust.

There are no general regulations regarding construction dust in Toronto's Municipal Code. Demolition, which causes significant dust, requires a permit and a dust suppression plan. Major construction projects requiring a development application also require a construction management plan which must outline on and off-site dust control measures.

There are no regulations regarding dust for smaller projects, such as some home construction, home renovations, and landscaping work that usually produce dust at low levels.

Next Steps

Staff are considering creating regulations respecting dust caused by construction activity. The regulations could apply to all construction activity in Toronto, not only residential infill construction. This potential regulation would be in addition to existing dust mitigation plans for larger projects and for demolitions.

In the Spring, the City will consult with the public and key stakeholders on new dust regulations and report back in the second quarter of 2018 with recommendations.

Conclusions

Since the adoption of the residential infill strategy in 2016, Toronto Building and a number of other divisions have completed all but two strategic actions aimed at addressing nuisance issues associated with residential infill construction. City Council direction is still required to implement actions related to the residential infill construction site signage and dust control. The inter-divisional Targeted Inspection and Enforcement Program, though not an initial City Council direction, has highlighted areas for future focus as the strategy moves beyond the initial implementation phase.

A report in 2019 will provide City Council with continued analysis and recommendations on how to more effectively prevent problems on residential infill sites and continue to improve the response from all divisions when they occur.

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ATTACHMENTS

Appendix 1: Status of Actions to Implement Residential Infill Strategy

Appendix 2: Proposed By-law concerning New Municipal Code Chapter for Infill Construction Public Notice

Appendix 3: Proposed Designs for the Residential Infill Construction Public Notice, and Residential Infill Demolition Public Notice