

Chapter 363

BUILDING CONSTRUCTION AND DEMOLITION

**Article 8
Right of Entry**

§ 363-8.1. Definitions.

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

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

Building - Means:

- (1) A structure occupying an area greater than 10 square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto;
- (2) A structure occupying an area of 10 square metres or less that contains plumbing, including the plumbing appurtenant thereto;
- (3) Plumbing not located in a structure;
- (4) A sewage system; or
- (5) Structures designated in the building code.

City Property – Means any property owned, leased or under the control of the City including a highway.

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

Occupant - Any person or persons over the age of 18 years in possession of the property.

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

Owner - Includes:

- (1) The person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the person's own account or as agent or trustee of any other person, or who

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would receive the rent if the land and premises were let; and

- (2) A lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property.

Property – Means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property.

Repair - Includes:

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

§ 363-8.2. Right of entry.

- A. The owner or occupant of a property is authorized to enter an adjoining property, not including adjoining City property, at any reasonable time, for the purpose of making repairs or alterations to any building, fence or other structure on the property of the owner or occupant but only:
 - (1) if the repairs or alterations to the building, fence or other structure cannot be made from the property of the owner or occupant or from a street adjoining that property.
 - (2) to the extent necessary to carry out the repairs or alterations.
- B. The power of entry under § 363-8.2.A may be exercised by an employee or agent of the owner or occupant of the property.
- C. The power of entry under § 363-8.2.A is subject to compliance with the following conditions:
 - (1) A person exercising the power of entry shall display or, on request, produce property identification.
 - (2)(a) The owner or occupant of the property shall provide reasonable written notice of the proposed entry to the occupant of the adjoining property at least 24 hours before any person enters the adjoining property.
 - (b) The notice shall include:

1. a description of the repairs or alterations and how they will be made;
 2. the date of entry and duration of occupation;
 3. a telephone number that can be used to contact owner or occupant of the property.
- (c) The notice shall be served personally on the person to whom it is directed or by registered mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed.
- (3) Despite § 363-8.2 (2), in the case of an emergency, a notice that includes the content prescribed under § 363-8.2 (2)(b) may be given less than 24 hours before any person enters the adjoining property or as soon as practicable after any person enters the adjoining property in any manner likely to come to the attention of the occupant of the adjoining property.
- (4) The duration of the entry shall not exceed the period of time reasonably required to complete the repairs or alterations described in the notice.
- (5) The owner or occupant of the property shall ensure that the person exercising the power of entry does not create any hazards or allow any hazards to exist on the adjoining property.
- (6) The owner or occupant of the property shall, in so far as is practicable, restore the adjoining land to its original condition, including removing any equipment or materials on the adjoining property as a result of the entry.
- (7) The owner or occupant of the property shall provide compensation for any damages caused by the entry or by anything done on the adjoining land.
- D. The power of entry under § 363-8.2.A does not authorize:
- (1) Entry into a building on the adjoining property;
 - (2) Entry for any propose other than conducting the repairs or alterations described in the notice.
 - (3) The storage of materials or equipment, or the parking of vehicles, on the adjoining property; and
 - (4) An exemption to any person from complying with other applicable federal or provincial legislation or City by-laws.

§ 363-8.3. Inspection.

- A. An officer, other employee, or agent of the City may enter on a property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (1) This article;
 - (2) A direction or order of the City made under this article or the City of Toronto Act, 2006; or
 - (3) An order made by a court under section 372 of the City of Toronto Act, 2006.
- B. A person carrying out an inspection under § 363-8.3.A may:
- (1) Require the production for inspection of documents or things relevant to the inspection;
 - (2) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (3) Require information from any person concerning a matter related to the inspection; and
 - (4) Alone, or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.

§ 363-8.4. Orders to comply.

- A. An officer who finds a contravention of this article may make one or more orders requiring discontinuance of the contravening activity or to do work to correct the contravention under section 384 or 385 of the City of Toronto Act, 2006.
- B. The order may be served personally on the person to whom it is directed or by registered mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed.
- C. If there is evidence that the occupant of the land is not the registered property owner, the notice shall be served on both the registered property owner and the occupant of the land.
- D. If the address of the owner is unknown or the City is unable to effect service on the owner or occupant under § 363-8.4.B, a placard stating the terms of the order and placed in a conspicuous place upon land on or near the property shall be deemed to be sufficient notice to the owner.

- E. If the delay necessary to give an order under the preceding subsections would result in an immediate danger to the health or safety of any person, the order may be served personally on the person to whom it is directed or by a placard stating the terms of the order and placed in a conspicuous place upon land on or near the property.

§ 363-8.5. Remedial action.

- A. If a person fails to comply with an order to do work to correct a contravention of this article, the Executive Director, or persons acting upon his or her instructions, may enter the lands at any reasonable time for the purposes of doing the things described in the order at the person's expense.
- B. Under section 386 of the City of Toronto Act, 2006, the City may recover the costs of doing it by action, or the costs may be added to the tax roll and collected in the same manner as property taxes.

§ 363-8.6. Offences.

- A. Every person who contravenes a provision of this article is guilty of an offence.
- B. Every person who contravenes an order under subsection 384(1) or 385(1) of the City of Toronto Act, 2006, is guilty of an offence.