




INFORMATION UPDATE

TO:	Mayor and Members City Council
DATE:	October 1, 2019
SUBJECT:	Demolition at 319 Sherman Street North
WARD(S) AFFECTED:	City Wide
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

This Information Update is in regard to the demolition at 319 Sherman Avenue North that took place on September 30, 2019. More information will be provided as it becomes available.

Four City of Hamilton Demolition Permits were issued for four separate buildings for the 319 Sherman Ave North property on May 6, 2019.

Demolition Permits are regulated under the Ontario Building Code Act, which establishes what authorities the City has with respect to demolitions.

In order to secure a Demolition Permit, an applicant must do the following:

- complete an application form
- provide a site plan showing the location of buildings to be demolished
- show confirmation that utilities have been disconnected (applicant must submit a completed “Disconnection of Services” form)
- payment of permit fee

In addition, the Ontario Building Code Article 1.2.2.3. of Division C states that:

- (1) The applicant for a permit respecting the demolition of a building shall retain a professional engineer to undertake the general review of the project during demolition, where,

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- (a) the building exceeds 3 storeys in building height or 600 m² in building area,
- (b) the building structure includes pre-tensioned or post-tensioned members,
- (c) it is proposed that the demolition will extend below the level of the footings of any adjacent building and occur within the angle of repose of the soil, as drawn from the bottom of such footings, or
- (d) explosives or a laser are to be used during the course of demolition.”

The demolition at 319 Sherman Avenue North exceeded the 600 square metre building area, therefore the applicant was required to retain a professional engineer to undertake the general review of the project during demolition. This was included as a condition of the City's Demolition Permit. As such, the applicant had to have a professional engineer undertake the general review of the project during demolition, ensure that the demolition took place in a safe manner, and be present on-site during the demolition. It is our understanding that the consulting engineer was present during the demolition.

Under the Ontario Building Code Act, the Demolition Permit holder is not required to call for City inspections during the demolition. They are only required to call once the demolition has been completed. The City of Hamilton would then confirm that the building has been demolished and the site made clear.

It is also not within the City's authority to attach additional conditions to the Demolition Permit, such as when the demolition can occur, required weather conditions, etc. It is up to the demolition contractor, together with the consulting engineer, to determine when, and how, to best to carry out the demolition taking into account dust suppression, weather conditions, proximity to other buildings, noise, etc.

The Ministry of Environment, Conservation and Parks (MOECP) does require owners to have a plan to control emissions from their site, and to meet Section 49 of Ontario Regulation 419/05 which states that no contaminant shall be carried beyond the limits of the property on which the demolition is taking place unless every step necessary to control the emission of the contaminant has been implemented. Meeting these provisions is the responsibility of the owner and their consulting engineer.

City staff are concerned, based on the evidence we have seen, that the demolition does not appear to have had sufficient dust mitigation in place and that the demolition may have been in contravention of MOECP requirements. Staff from the Building Division have advised the MOECP of our concerns, and have been in regular contact throughout the day with staff from the MOECP who are on-site undertaking an investigation. City staff have also requested from the MOECP any information they may have with respect to any contamination or pollutants that may have been contained within the dust plume, and we are awaiting this information from the MOECP.

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I would also like to advise that, of the Demolition Permits that were issued to the same permit applicant on May 6, 2019, two are still outstanding. Building Division staff have reviewed these permits and concluded that there is no statutory basis under the Ontario Building Code Act for revoking them. However, Building staff have notified the MOECP and the MOECP has advised that the owner has agreed to voluntarily stop any further demolition on the two outstanding Demolition Permits until the MOECP completes their investigation. Building staff have also asked the MOECP to issue a cease and desist order to ensure no further demolition occurs until the provincial investigation is complete, and we expect to have a response from the Ministry tomorrow.

In addition to the actions described above, City staff have undertaken the following steps.

Even though the requirement for dust control measures are outside the scope of applicable law under the Building Code Act, as a proactive measure, and as of today, the City of Hamilton's Building Division will be attaching an information sheet with all building and demolition permits in order to remind permit applicants that there may be other legislation (MOECP, Ministry of Labour, etc.) that their project may be subject to.

Further, the Building Division has reached out to request a meeting with MOECP staff and staff from the Ministry of Labour to put together an information sharing plan so that when Demolition Permits are received, the City is able to advise the appropriate parties so that they can take the appropriate actions within their areas of authority.

Some members of Council also asked how citizens can contact the MOECP to report any environmental concern. Citizens can report any environmental concern to the Hamilton District Office of the MOECP at 905-521-7640 during office hours or 1-800-268-6060 after hours. In case of a suspected act of pollution citizens can contact 1-866-MOE TIPS (1-866-663-8477).

In addition, as with any circumstances where the public is concerned about exposure to potential pollutants, the City's Public Health Services always advises that if any individual experiences any symptoms such as irritation of the eyes, nose and throat, that persist over time they should see a physician. At this time, the City's Public Health Services has not received any inquiries with respect to this incident.

If you have any questions with respect to the City's Demolition Permit process, please contact Chief Building Official Ed Vanderwindt at (905) 546-2424 x2574 or Acting Chief Building Official Jorge Caetano at (905) 546-2424 x3931.

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