Adjacent Property Protection
Permitting and Licensing

- Recent Legislation
- Excavation Contractor License
- Excavation Permit
- Pre-Construction Survey and Special Inspections
- Notification to Adjacent Property
- Exposed Party Wall and Backfilling
- Next Steps
Recent Legislation

http://phila.legistar.com
Objectives

PROTECT LIFE SAFETY AND ADJOINING PROPERTY!

- Ensure that the contractor has knowledge and skill necessary to perform excavations.
- Increase transparency and awareness of projects that include excavation work.
- Establish minimum permit submission requirements for excavations to ensure that adjoining buildings and public ways are sufficiently protected.
- Demonstrate that an adequate investigation/assessment necessary for responsible design/construction and ensure affected buildings are appropriately monitored throughout the construction or demolition.
- Provide notice and complete project information to an adjoining owner or resident of a building that is directly impacted by the work.
Bill No. 210389

• Established an excavation contractor license and permit for excavation exceeding 5’ below grade, excluding utility trenches and geotechnical investigation unless otherwise required by regulation.

• Established inspection and monitoring requirements for structural alterations on an historic structure, excluding one and two family dwellings, and when demo/ new construction, or excavation occurs within 90’ of an historic structure on the same or abutting lot.

• Modifies threshold for special inspection of excavations to 5’ below adjacent grade and 10’ within an existing building and establishes framework for a separate special inspection license category. Current requirements established under Code Bulletin B-0503-R2.
Bill No. 210389 (cont’d)

- Explicitly requires notification to adjoining property owner and identifies contents of notice where there is modification to a party wall, excavation near a party wall, or demo/new construction near an historic structure.

- Bill signed into law on 7/15/21 and becomes effective on 1/1/23.
Bill No. 220008

- Expands inspection and monitoring requirements to include any modification to a party wall, including demolition, joist replacement, and additions.

- Expands notification requirements to include demolition.

- Establishes comprehensive notification requirements and requires receipt of notice by adjacent owner with permit application.

- Scheduled to be heard by City Council Committee on Licenses and Inspections on June 2, 2022.

- Proposed effective date of January 1, 2023.

Disclaimer: All discussion around this bill is speculative and subject to change
Excavation Contractor License

- Excavation contractor license required to perform excavation services resulting in cuts, trenches, or depressions in the Earth’s surface more than 5’ below adjacent grade.
  - This includes basement dig-outs.
  - Intent is to exclude utility trenches/ geotechnical exploration that does not require a permit AND exclude demolition that does not require a separate excavation permit.

- Excavation Contractor license will be required prior to the issuance of an excavation permit filed on or after January 1, 2023.

- $103 annual fee

- License will become available in eCLIPSE in September 2022.
# Contractor License Requirements

<table>
<thead>
<tr>
<th>Requirements</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Commercial Activity License</td>
<td>Phila Tax Account in good standing</td>
</tr>
<tr>
<td>Insurance</td>
<td>$2 million general liability</td>
</tr>
<tr>
<td></td>
<td>$300k auto</td>
</tr>
<tr>
<td></td>
<td>Workman’s Compensation</td>
</tr>
<tr>
<td>License Bond</td>
<td>$100k- City will draw against the bond to recapture abatement costs</td>
</tr>
<tr>
<td>Qualified Site Safety Manager</td>
<td>OSHA training and certification</td>
</tr>
</tbody>
</table>
Excavation Site Safety Manager

- At least one site safety manager employed by the contractor. May not be employed by another excavation contractor.

- Responsible to oversee excavation operations to ensure safe practice.
  - Shall be present on-site during excavation operations.

- Must provide OSHA 30 Construction and Safety Training certificate.
  - Course must be taken within 5 years of application.
  - Site Safety Manager must either 1) retake course every 5 years or 2) present 30 continuing education credits in site safety every 5 years.

- Must provide OSHA 3015 Excavation, Training, and Soil Mechanics certificate.
  - Must take within past 5 years and re-take every 5 years or provide 20 ceus.
Excavation Contractor License
OSHA 3015 Excavation, Training, and Soil Mechanics

- 3-day, 20-hour course covering OSHA Excavation Standard and safety/health aspects of excavation and trenching.
- Requires one to pass an exam to obtain certificate
- Administered through OSHA Training Institute Education Centers. See OSHA.gov
- Mid Atlantic OTI Education Center currently has training posted for June, August, and October in Baltimore MD.
  - Cost approximately $800
  - May offer at Willow Grove location
- L&I authorized to accept equivalencies
Excavation Contractor-Next Steps

- Regulations published in July 2022 to address the following:
  - Communicate exclusions of excavation contractor license
  - Establish acceptance of continuing education credits in lieu of retaking OSHA 30 and OSHA 3015 every 5 years
  - Establish requirements of equivalent training, if the Department determines that OTI training offerings do not reasonably meet demand
  - Applicability to existing projects permitted prior to January 1, 2023

- Service published to website in August 2022
- License available in September 2022
- License required on January 1, 2023
Excavation Permit

- Separate Excavation Permit required to perform excavation services resulting in cuts, trenches, or depressions in the Earth’s surface more than 5’ below adjacent grade
  - This includes basement dig-outs.
  - This excludes utility trenches/ geotechnical exploration that does not require a permit AND complete demolition permit

- Excavation permit will be a Site Permit sub-type. May be filed in conjunction with building permit but no permit may be issued until an excavation contractor is named

- Will coordinate with Streets Dept review and incorporate utility clearances

- Applies to all new building permit applications filed on or after January 1
Excavation Permit Requirements

- Excavation Plan
- Pre-construction survey, if applicable
- Special Inspections, if applicable
- Monitoring Plan, if applicable
- Excavation Contractor
- $103 fee (plus surcharges)

Note: Many requirements already exist under Chapter 33 of the Building Code and Code Bulletin B-0503 (Excavations and the Protection of Adjacent Property)
Excavation Plan-Requirements

- Excavation plan, signed and sealed by a license engineer and providing the following detail:
  - Existing Conditions
    - Property lines
    - Location and widths of adjacent walkways, streets, and easements
    - All existing buildings, including height, number of stories, and construction type
    - Neighboring structures on adjacent lots, including height, number of stories, and construction type, within ten feet of the excavation
    - Any foundation or retaining wall within ten feet of the excavation, including depth of footing
    - Location of utilities within the work area
Excavation Plan Requirements

- Required protections of footings and foundations of buildings and structures within ten feet of the excavation
- Protective or support systems for immediately adjacent rights-of-way, alleys and yards of adjacent properties
- Damp-proofing of exposed foundation walls
- Size and location of construction barriers
- Underground utility confirmation number
- Design criteria to be developed and published by October 2022.
Excavation Permit - Requirements

- Pre-construction survey, if applicable
  - Required for all excavations more than 5’ below grade and within 10’ of adjacent building (existing requirement)
  - Must be sealed by a PA licensed engineer
  - Documents existing conditions and identify potential hazards. Pending Bill No. 220008 outlines required content
  - Mandatory requirement limited to exterior evaluation

- Special Inspections, if applicable
  - Continuous special inspections required for all excavations more than 5’ below grade and within 10’ of adjacent building or structure
Excavation Permit - Requirements

- Pre-requisite approvals:
  - Streets Department approval for all temporary or permanent encroachments into ROW
  - PWD Stormwater Management for disturbances exceeding 5,000 sq ft

- Monitoring Plan, applicable
  - Additional monitoring required for work on or near historic structures
Excavation Work Site Signage

- Project Information Sign must indicate if project scope includes excavation more than 5’ below adjacent grade and 10’ within a structure, excluding utility trenches or geotechnical exploration.
- Excludes major construction requiring large sign panel.
- L&I to update sign template.
- Apples to all permits issued on or after January 1, 2023.
Excavation Permit-Next Steps

- Code Bulletin establishing any specific design criteria for the excavation plan shall be published in October 2022
- Service published to website in October 2022
- eCLIPSE permit application changes to take effect on January 1, 2023
Pre-construction and Special Inspections
What requires a pre-construction survey, special inspections, and/or monitoring plan?

<table>
<thead>
<tr>
<th>Work Scope</th>
<th>Survey</th>
<th>Special Inspections</th>
<th>Monitoring Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Excavations, more than 5’ below adjacent grade and within 10’ of an existing bldg/structure</td>
<td>Y</td>
<td>Y (continuous)</td>
<td>N</td>
</tr>
<tr>
<td>Structural alteration of an historic structure (excluding 1 or 2 family)</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
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<td>Excavation, Demolition, or Construction where historic structure is within 90’ on same or adjacent parcel</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
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<td>Modification to a party wall, including demolition, joist replacement, and additions₁</td>
<td>Y₂</td>
<td>Y</td>
<td>Y</td>
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<tr>
<td>Severing of structural roof or wall covering spanning properties₃</td>
<td>Y</td>
<td>As per Eng</td>
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1. Subject to passage of Bill No 220008
2. Existing Site Survey for demo meets requirement
3. Included in Bill No 220008 but should already warrant this level of analysis and oversight under existing code
Pre-Construction Survey

- Assessment of exterior condition of adjacent building must be performed by a licensed PA engineer.

- Documentation of adjoining or adjacent buildings, including height, number of stories, construction type, and identification of any elements that may be impacted by construction or demolition operations.
  - If building above adjacent roof line must also include visible chimneys, parapets, skylights, etc..

- Documentation of existing conditions of adjoining or adjacent buildings and identification of deficiencies. Must identify any potential hazards requiring monitoring.

- Photographs of adjoining buildings and any elements that may be impacted.

- Signature of special inspection agency acknowledging that assessment was reviewed and existing conditions will be monitored accordingly.
Special Inspections

- Licensed special inspection agency must monitor conditions throughout construction or demolition.

- Excavation requires continuous monitoring throughout excavation activity.

- All other work requires periodic inspection as determined by the engineer. The scope, frequency, and acceptable tolerances shall be established by the engineer through a monitoring plan.
  - Certain work may be exempt from special inspection as per L&I or, under very limited conditions, by the engineer.
  - Unless otherwise authorized by L&I, an engineer may not state that periodic inspection is not required.
New categories for Excavation and Structural Observation will be established by regulation, to be published in July 2022.

Intent is to require PE with a minimum of one-year relevant experience and will allow graduate engineer with two years relevant experience as a supplemental inspector.

Application for new license categories will become available in September 2022.

Existing licensed special inspectors and special inspection agencies must amend existing licenses to include categories.

- Must first amend inspector license and, once approved, amend agency license.
Notification Requirements
## When is notification required

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1. Subject to passage of Bill No 220008
Does owner sign form?

- Yes
  - Submit permit app with signed form
    - L&I sends notice of application to adjacent property
      - L&I issues permit for code-compliant submission
      - Note: Owner’s Rep required to send final notice to adjacent property owner at least 10 days prior to start of work and must provide any updated information

- No
  - Submit permit app without signed form
    - L&I sends notice of application to adjacent property
      - L&I issues permit for code-compliant submission
      - Min 60 days

Owner’s Rep contacts adjacent property owner with project information
Initial Notification

- Notice of proposed work must be provided to adjacent property owner and resident (if different) and include:
  - Description of work
  - Plans depicting work that may impact building
  - Project schedule
  - Preconstruction survey
  - Protections
  - Prescribed Monitoring
  - Contractor Certificate of Insurance
  - Project Contact Information
Initial Notification

- Use owner address registered with the Office of Property Assessment
- L&I to establish a form for owner’s signature of receipt, to be filed with permit application
- If owner’s signature cannot be secured, permit shall not be issued in less than 60 days from application date.
  - 60-day time period does not apply to permit applications filed to remediate an unsafe or imminently dangerous conditions
Notification from L&I

- Upon receipt of application, L&I will send automated notice to the resident of the adjoining property and include the following information:
  - Permit Type and Described Scope of Work
  - Description of detail that should have been received with Initial Notification
  - Property Owner’s Rights
    - Note: Access remains a private matter
  - Permit Applicant Contact Information

Note: Most notification requirements are proposed under Bill No. 220008
Final Notification and Updates

- Final notification identifying any updates or changes must be sent to the adjacent owner and resident must be sent at least 10 days prior to the start of work
  - Time period does not apply to permit applications filed to remediate an unsafe or imminently dangerous conditions

- Builder responsible to update adjacent owner and resident of any changes that may impact their property throughout the duration of the project

- L&I is not collecting proof of notice; however, any substantiated deviations from Code may result in enforcement action, including a Stop Work Order
Exposed Party Wall and Backfilling (Demo)
Exterior Wall

- B-3307 requires party walls exposed during demolition be treated with exterior wall coverings compliant with Ch 14.

- Wall must be protected against weather and temporary protections are permitted for a max of 30 days under existing regulation. Provision is being moved to Ch 33 and allowable time period for temporary protection is extended to 60 days (via amendment).

- This provision is frequently overlooked because the exterior wall covering is not included in the demolition permit.

- Beginning Jan 1, a complete demolition impacting a party wall must either include the exterior wall covering in the permit scope OR a separate exterior wall covering permit shall be required prior to demolition permit issuance.

- An exposed party wall that is not weather-protected or is not permanently covered after 60 days shall constitute a violation.
Backfilling

- B-3303.4.1 Where a structure is demolished or removed and no new construction is contemplated, the vacant lot shall be graded in accordance with the Building Code.

- Demolition is complete upon removal of the building and permit cannot be left open indefinitely.

- Within 30 days of building removal: A site must be backfilled OR a new construction permit must be issued.
  - If the demolition impacted a party wall, the new construction permit must include monitoring of the structure from the time the building is removed.
  - Failure to comply within 30 days of building removal constitutes a violation.

- The intent to backfill or monitor must be noted in the demolition work plan.
  - Backfill will be required unless a new construction permit application has been submitted or issued.
Next Steps
Implementation Timeline

- June 2022
  - Anticipate Enactment of Bill No 220008

- July 2022
  - Publish Regulations

- Sept 2022
  - Excavation Contractor License Available
  - Special Inspection Applications Available

- Oct 2022
  - Publish excavation permit information
  - Publish Notification Requirements and Forms

- Jan 1, 2023
  - Excavation Permit Available
  - All permit requirements become effective
Stay Tuned
for future announcements, email communications, and information sessions