

## Development Controls in Toronto in the Nineteenth Century

Raphaël Fischler

Volume 36, numéro 1, fall 2007

URI : <https://id.erudit.org/iderudit/1015817ar>

DOI : <https://doi.org/10.7202/1015817ar>

[Aller au sommaire du numéro](#)

Éditeur(s)

Urban History Review / Revue d'histoire urbaine

ISSN

0703-0428 (imprimé)

1918-5138 (numérique)

[Découvrir la revue](#)

Citer cet article

Fischler, R. (2007). Development Controls in Toronto in the Nineteenth Century. *Urban History Review / Revue d'histoire urbaine*, 36(1), 16–31.  
<https://doi.org/10.7202/1015817ar>

### Résumé de l'article

Les études historiques de l'urbanisme réglementaire contemporain tendent à situer ses débuts durant la première ou deuxième décennie du vingtième siècle, quand les règlements de zonage modernes furent adoptés. Or, comme l'on remarqué certains chercheurs, les règlements de construction et d'utilisation du sol ont pris forme au dix-neuvième siècle et même avant. Ce travail examine les mesures de contrôle mises en place par la municipalité de Toronto entre 1834, quand elle fut constituée, et 1904, quand elle adopta le règlement n° 4408, que l'on voit souvent comme le premier pas de la Ville vers le zonage moderne. En termes techniques, il semble qu'un appareil cohérent, bien que minimal, de réglementation de l'utilisation du sol fut déjà présent dès les années 1860. Durant le courant du dix-neuvième siècle, les codes de la construction et les lois sur les nuisances montrent l'intervention grandissante des autorités publiques dans le développement de la ville industrielle. Le contrôle municipal de la production matérielle et de l'activité humaine se diversifie et s'exprime dans des arrêtés municipaux de plus en plus complexes. En termes politiques, les règlements révèlent un souci croissant de la différenciation socio-spatiale de la ville et de ses valeurs foncières, plutôt que de ses problèmes de santé et de sécurité. Le développement graduel de la réglementation de l'utilisation du sol suggère que les villes nord-américaines, bien que portées à emprunter des pratiques les unes des autres et de leurs vis-à-vis européennes, ont construit le zonage sur place, en accord avec des besoins, ressources et contraintes (économiques, politiques et légales) locaux, et en avançant petit à petit, un règlement, un amendement à la fois.

# ***Development Controls in Toronto in the Nineteenth Century***

***Raphaël Fischler***

*Histories of contemporary development control tend to situate its beginning in the first or second decade of the twentieth century, when modern zoning bylaws were adopted. Yet, as some researchers have pointed out, building and land-use regulations took shape in the nineteenth century and even earlier. This paper focuses on controls set by the City of Toronto between 1834, when it was incorporated, and 1904, when it adopted bylaw no. 4408, which is seen by many as the first step taken by the city toward modern zoning. In technical terms, it appears that a coherent, though minimal, apparatus of land-use regulation was already in place by the 1860s. Over the course of the nineteenth century, building codes and nuisance laws display the growing intervention of public authorities in the development of the industrial city. Municipal control over material production and over human activity diversifies and finds expression in increasingly complex ordinances. In political terms, the bylaws reveal a growing concern with socio-spatial differentiation and with the protection of property values rather than with health and safety. The incremental development of land-use regulation suggests that, even though North American cities borrowed from each other and from their European counterparts, they constructed zoning locally, in accordance to local needs, resources, and constraints (economic, political, and legal) and in a piecemeal fashion, one bylaw, one amendment at a time.*

*Les études historiques de l'urbanisme réglementaire contemporain tendent à situer ses débuts durant la première ou deuxième décennie du vingtième siècle, quand les règlements de zonage modernes furent adoptés. Or, comme l'on remarqué certains chercheurs, les règlements de construction et d'utilisation du sol ont pris forme au dix-neuvième siècle et même avant. Ce travail examine les mesures de contrôle mises en place par la municipalité de Toronto entre 1834, quand elle fut constituée, et 1904, quand elle adopta le règlement n°. 4408, que l'on voit souvent comme le premier pas de la Ville vers le zonage moderne. En termes techniques, il semble qu'un appareil cohérent, bien que minimal, de réglementation de l'utilisation du sol fut déjà présent dès les années 1860. Durant le courant du dix-neuvième siècle, les codes de la construction et les lois sur les nuisances montrent l'intervention grandissante des autorités publiques dans le développement de la ville industrielle. Le contrôle municipal de la production matérielle et de l'activité humaine se diversifie et s'exprime dans des arrêtés municipaux de plus en plus complexes. En termes politiques, les règlements révèlent un souci croissant de la différenciation socio-spatiale de la ville et de ses valeurs foncières, plutôt que de ses problèmes de santé et de sécurité. Le développement graduel de la réglementation de l'utilisation du sol suggère que les villes nord-améri-*

*caines, bien que portées à emprunter des pratiques les unes des autres et de leurs vis-à-vis européennes, ont construit le zonage sur place, en accord avec des besoins, ressources et contraintes (économiques, politiques et légales) locaux, et en avançant petit à petit, un règlement, un amendement à la fois.*

## ***Introduction***

In this paper, I adopt a nominalist attitude toward development regulation: I examine the bylaws themselves, not so much the motivations that led to their adoption, even less their application. Although, as Richard Harris has noted, "enforcement [is] more than half the law,"<sup>1</sup> what interests me here is the emergence of a legal and technical apparatus of control, the creation of new rules for controlling urban development. The question I want to answer at this point is the "what" of regulation, not its "why" or "how": what rules were put on the books in Toronto over time and what do they tell us about the origins of modern urban planning? Why they were adopted and how they were implemented will be studied at another time.

In order to answer the research question, I have read all the bylaws adopted by the City of Toronto between 1834 and 1904, focusing, of course, on those ordinances that dealt with the use of land and the erection of buildings. Casting a very wide net at first, to examine the myriad ways in which a newly incorporated city addressed these issues (e.g., by licensing businesses and activities, managing marketplaces, controlling the storage of dangerous substances), I narrowed the scope of my inquiry progressively to study those tools aimed specifically at regulating the use of land and the design of the built environment. Draft bylaws proved to be valuable sources of information as well, as some differences between drafts and final versions, or the occasional appearance of a proposed bylaw that was never adopted, showed the temporary abandonment of ideas whose time had not yet come. Along with the bylaws, I read minutes of City Council meetings pertaining to the ordinances at hand, in order to follow their elaboration over time. These brief summaries of council deliberations generally give little evidence of the debates that may have raged around the adoption of specific items of legislation. Reports of commissions in charge of housing and planning (the Board of Health, among others) provide better evidence on the decision-making process leading from the perception of a collective need to the presentation of a draft bylaw in front of City Council. Where the powers of the city did not allow for the adoption of a novel mode of control or intervention, the process included a request for provincial enabling legislation. I do not refer to minutes of council meetings, committee reports, or provincial statutes in this work, preferring to focus on municipal bylaws themselves. As said, the aim of the research was primarily to perform a descriptive analysis of these ordinances, not, at this point, to engage in a

political, social, or legal analysis of their adoption, let alone of their implementation.<sup>2</sup>

Other scholars of early urban planning, of course, have tried to place regulatory practices and institutions in their historical context. But their accounts generally start at the turn of the twentieth century, when zoning codes as we know them today were first developed. The term *zoning* is generally taken as shorthand for “comprehensive zoning,” the division of the entire municipal territory into different districts and the concurrent application of variable constraints on both land use and construction (especially building height and density). This technique, which appeared in Germany in the 1880s, was first enacted in North America at an urban scale in 1916, in New York City.<sup>3</sup> It was predicated, at least in principle, on the subordination of controls to an overall development scheme. In reality, neither in New York nor in most North American cities did zoning become a tool to implement a general plan; it generally continued to function in the manner originally intended, as an instrument of real-estate regulation.<sup>4</sup> Hence, despite the tension that existed between “zoners” and “planners”—the former aiming to regulate city-building site by site, mostly to protect the use and exchange value of property, and the latter hoping to subject municipal decision making to an overall scheme of development that would bring amenity as well as efficiency—historical studies of zoning in the United States and Canada generally start in the first or even in the second decade of the century, when zoning came within the purview of a nascent professional practice of urban planning.<sup>5</sup>

The temporal focus of historical research on the twentieth century is also explained by the importance of the residential environment, most importantly the “home district,” in land-use regulation. Zoning has been diffused so widely on the continent in large part because it has preserved the economic, social, and moral value of the single-family house by setting aside areas for its exclusive occupation.<sup>6</sup> The creation of such protected districts dates back mostly to the 1910s and 1920s. Berkeley, California, instituted a single-family home area in the same year that New York City adopted its comprehensive zoning code; Toronto followed suit five years later, in 1921.<sup>7</sup> Finally, the stricter and more efficient application of bylaws in the 1900s, under the pressure of rapid urbanization and of political reform, demarcates the twentieth from the nineteenth century. Richard Harris and Peter Moore view Toronto's bylaw no. 4408, by which “the permit procedure was standardized and tightened [and] building requirements raised,” as a watershed in the regulation of development.<sup>8</sup> With this 1904 law, “a new public service appeared in the residential development process in Toronto—the control of land use.”<sup>9</sup>

Yet most historians of development control, Harris and Moore included, agree that land-use regulation did not emerge *ex nihilo* and that its inception occurred over several decades, if not centuries. Especially in the nineteenth century, public and private parties spared little effort to get some grip on the rap-

idly changing city.<sup>10</sup> Their aims were chiefly to ensure health and safety and to stabilize property values. For Barbara Sanford, some of these laws, in particular those dealing with fire safety, “acted as the city's first zoning bylaw” in the 1870s; for Paul-André Linteau, late-nineteenth-century developers performed “une forme de zonage avant la lettre . . . par le biais des contrats de vente.”<sup>11</sup> These findings buttress Peter Moore's argument that the “legal origins [of zoning] can be found in the law of nuisance, and in restrictive covenants.”<sup>12</sup> As will be shown, an additional and most important precedent is the building and housing code.<sup>13</sup> Collective control over individual development, then, is much older than are comprehensive zoning and master planning. But the latter were shaped by early experiments, inheriting from them both their strengths and their weaknesses.

Using the case of Toronto, I will attempt to describe the slow emergence of a regulatory apparatus, its incremental growth by accretion and specialization. I will try to show, in particular, that by the 1860s, an assortment of bylaws were on the books that contained, albeit in very embryonic form, the main ingredients of modern zoning: the use of a permitting process and, more significantly, the classification of land uses and building types, and the enunciation of quantitative standards.<sup>14</sup> These early ordinances had a limited effect on the process and product of urbanization, but they formed the legal and technical basis on which comprehensive zoning would be built over the next decades. What Peter Goheen has said of the social geography of Victorian Toronto may be said of its regulatory framework: by the end of the nineteenth century, and in this instance even earlier, most of the conditions that would fashion the modern metropolis were already in place.<sup>15</sup>

### **Legislative Framework**

Municipal codes on building and land use are extensions of the police power, that is, the power of the state to constrain private activities and organize public action to preserve the health, safety, and welfare of the population.<sup>16</sup> Hence the first building bylaws in Nouvelle France were adopted as “Règlements de police” whose adoption had been mandated by Louis XIV in the summer of 1672. Through his minister Colbert, the king declared,

Sa Majesté ayant remarqué que le défaut de bonne police sur tout ce qui touche la société des habitants . . . peut causer quelque diminution à cette colonie, et empêcher que d'autres François n'y passent pour s'y habituer, . . . a ordonné et ordonne, que par le Sieur *Talon*, Conseiller en ses Conseils, Intendant de justice, police et finances au dit pays, il sera fait des règlements de Police tant pour le général du dit pays que pour les habitations particulières.<sup>17</sup>

Both the public realm and private houses were soon subject to local ordinances, such as regulations that would help to prevent the loss of life and the destruction of property by fire.

Toward the end of the eighteenth century, when Upper Canada acquired its own legislative assembly, the occurrence

and spread of fire was also a major concern. Thus in October 1792, during the first session of the Provincial Parliament of Upper Canada, law-makers adopted *An Act to Prevent Accidents by Fire in This Province* that empowered local authorities “to make such orders and regulations for the prevention of accidental fires . . . as to them shall seem meet and necessary.”<sup>18</sup> What is noteworthy for our purposes is that the law included a geographic specification: local magistrates were allowed to adopt rules “in any Town or Towns, or other place or places . . . where there may be forty store-houses and dwelling-houses within the space of half a mile square.” The regulation identified not only a substantive concern but also a spatial context in which it was to be met; in addition, it relied on a quantitative standard to designate the area of application. Over a century before zoning came onto the North American scene, two key features of modern regulation were present. One, spatial differentiation, ensured that rules were somehow adapted to local conditions; the other, quantitative specification, provided for unambiguous criteria of classification or evaluation.

Another element of modern regulation is found in an act of the Upper Canada legislature passed two years later, which reinforced existing laws on the sale of liquor and the establishment of “public houses.”<sup>19</sup> These controls were based on the mechanism of licensing, whereby only individuals having obtained a “certificate,” delivered to them against payment of a fee, could open an establishment for alcohol consumption. Between the liquor licence and the building permit are many decades in time but not a great distance in regulatory technique. Who is allowed to perform a given activity in town is a matter of legitimate intervention for municipal authorities, at least when that activity, from selling spirituous beverages to erecting buildings, may have deleterious impacts on the community and its environment.

Early statutes of Upper Canada introduced yet another important mechanism of regulation that is directly complementary to licensing. The nomination of inspectors, of officials entitled to check private places and behaviours, was a keystone in particular of laws aimed at safeguarding the wholesomeness of food, especially meat.<sup>20</sup> Fear of disease, as much as dread of conflagration and dislike of disorderly conduct, was paramount in nineteenth-century policy making. Inspectors were on the front line of the war against epidemics. Their primary weapon was the licence or permit. They could grant, withhold, or revoke it—for instance, annul the right of residents to occupy a building—according to their evaluation of people's behaviour, of the performance of activities, and of the condition of facilities and appliances. This assessment was to be based on requirements set out in the law, if possible in the form of quantitative standards, otherwise in the form of general criteria.

Finally, early parliamentary statutes prefigure the planning dimension of municipal intervention in urban development. Government regulates the private use of land but also shapes

the city directly by building infrastructure, most notably streets and highways. The first guardians of orderly urban development were surveyors rather than inspectors, in particular surveyors of highways, whose duty it was to ascertain what public works were required in order to respond to local needs. This was not a technocratic endeavour but one based on the populist model of governance that would characterize urban regulation for most of its history.<sup>21</sup> The statutes of 1810 concerning Upper Canada's roads stipulate that surveyors should make a plan for a new road or for any other improvement, “upon application in writing being made to any such Surveyor by twelve free-holders of any . . . County or Riding.”<sup>22</sup>

By 1834, then, when the Town of York became the City of Toronto, lawmakers and regulators possessed in their toolbox most of the technical devices that they and their descendants would deploy in their fight against urban chaos. The realities of urbanization gave them a set of substantive interests, most prominently the preservation of health and safety, and the prevention of epidemics and conflagrations; tradition and law gave them procedural tools such as the enunciation of construction standards, the identification of particular zones of application, the nomination of surveyors and inspectors, and the use of plans and permits. The act of incorporation of Toronto granted the municipality “full power and authority” to levy taxes on real and personal property, to improve infrastructure and public spaces, to control circulation on streets and sidewalks, to inspect foods and to license taverns, theatres, and game rooms, to build pounds, almshouses, and jails, and to perform a host of other functions necessary for orderly urban life.<sup>23</sup> In fact, the statute of 1834 gave the city a broad planning mandate

to regulate and prevent the erection of slaughter-houses and tanneries; . . . to regulate and enforce the erection of party walls; to provide for the permanent improvement of the said City and the Liberties thereof, in all matters whatsoever, as well ornamental as useful; . . . to regulate or prevent the carrying on of manufactories dangerous in causing or promoting fire; . . . and generally to make all such laws as may be necessary and proper for carrying into execution the powers hereby vested and hereafter to be vested in the said Corporation, or in any department or office thereof, for the peace, welfare, safety and good government, of the said City and the Liberties thereof.<sup>24</sup>

Land-use regulation, building control, and urban design, not mentioned by these same names but represented in various clauses of the act of incorporation, were on the public agenda in 1834, when Toronto was officially born. The rest, as they say, is history—a history of slow, incremental change, of trial and error, of progressive reform and patient compromise.

Major steps in this process, which represented true innovation, had to be sanctioned by special enabling legislation, whereby the province granted the city the right to apply the police power in the proposed way.<sup>25</sup> Provincial legislation, in turn, was framed by imperial edicts and, after 1867, by the

constitutional provisions of the *British North America Act*, which granted the provinces jurisdiction over municipal affairs. Until 1917, general provisions for municipal institutions and actions in Ontario were located in the *Municipal Act*. In that year, the *Planning and Development Act* gave municipalities the specific mandate to control the subdivision of land in building plots and streets, to appoint a town-planning commission, and to adopt a "general plan" of development.<sup>26</sup> Although Canadian municipalities are creatures of their province and local action requires provincial sanction, it is really the need to deal with changing urban problems at the local level, by means of new modes of intervention and on the basis of new municipal bylaws, that drives the legislative change. Still, as important as this dynamic of problem-identification, policy making, and legislative action may be, it is not the object of this inquiry. What matters here, again, is simply the technical make-up of municipal control over urban development.

### ***Regulation Means Differentiation and Specification (1834–1869)***

The history of development regulation in the City of Toronto starts, not surprisingly, with a fire bylaw, An Act for the Preventing & Extinguishing of Fires, passed on 10 May 1834.<sup>27</sup> The ordinance aimed to reduce the risk of fire by putting constraints on building construction and on people's behaviour. Section 2, for instance, required that stoves be placed at least twelve inches from wood partitions and that ash-pans be raised at least four inches from the floor, while section 11 made it illegal to set off gunpowder, fireworks, and other explosive devices as well as to fire a firearm anywhere in the city. Some clauses, however, applied to particular situations, hence introducing a differentiation in spaces and buildings. For example, section 8 stipulated that lighted pipes and cigars were forbidden "in any Workshop wherein are combustible Materials, or in any Stable or Barn," and section 9 required that there exist easy access to the roof in "Every Store, dwelling House, or other Building of two or more Stories high." Some requirements contained in this first bylaw were specific (e.g., "at least eight Inches from the Beam or Ceiling of any Room") while others were vague (e.g., "of suitable Size, constructed of some Metal").<sup>28</sup> More important, certain clauses singled out particular buildings and uses for attention and imposed additional constraints on them. The principle of differentiation, which is so central to zoning, was present very early on.

Barely three weeks after passing the Fire and Water Bill of 10 May 1834, the Common Council of Toronto adopted the first of a long series of "Nuisance Acts."<sup>29</sup> In one rather disorganized ensemble of regulations, bylaw no. 4 prohibited the careless disposal of "dung, manure or filth of any description whatsoever" and of "any garbage of fish or any other offensive, putrid or unwholesome substance," made it unlawful to obstruct passage on streets and sidewalks, interdicted work on Sundays, banned inoculation against smallpox, and

declared it illegal to "injure, deface, or tarnish" private and public property.<sup>30</sup> But some clauses concerned the erection of particular buildings. Thus facilities for bowling and similarly unlawful games had no place in the city. More significantly, the bylaw charged the high bailiff with the duty "to prevent the erection of any huts, or shanties on the beach or public grounds adjoining within the bounds of the . . . City and liberties, and to cause all such huts or shanties to be instantly removed."<sup>31</sup> Not only was a specific type of building targeted and, with it, a particular class of citizens, but the prohibition that affected it was focused on a particular area of the city: "the beach and public ground adjoining."

Other uses of land figure in bylaw no. 6, An Act concerning Licenses, adopted a day later, on 31 May.<sup>32</sup> By requiring that all "Retailers of Ale Beer and Cyder, Butchers, Cartmen, Showmen, and Keepers or Ordinaries or victualling houses" obtain a permit signed by the mayor and the chamberlain, after review by "a standing Committee to be composed of the Mayor and six Aldermen," the City gave itself the power to control the location of taverns, stores, and other commercial enterprises on its territory.<sup>33</sup> Bylaw no. 8, barely ten days younger than the License act, added to the arsenal of control over land use and construction by establishing a board of health.<sup>34</sup> This official body was given oversight of activities potentially hazardous to the health of the city's residents, in particular tanning and slaughtering. In addition, it was granted authority to investigate the sanitary condition of "any Building of any kind, Cellar, Lot of Ground, Alley, Sink, Vault, or Privy which they may have reason to believe are foul, damp, sunken, or ill constructed, and [to] direct the cleansing, altering and amending the same."<sup>35</sup> Bylaw no. 9, enacted another ten days later, added to the emerging system of regulation by imposing additional sanitary requirements, by establishing standards for the width of new streets (no less than sixty feet) and sidewalks (variable, according to the width of the street), and by regulating the relationship of buildings to these.<sup>36</sup> Newly appointed street surveyors were to inspect lots being developed and report to Council "all Encroachments on the Streets or Roads in the City of Toronto."<sup>37</sup> They were also charged with authorizing new hookups to the public sewerage system.

A new fire bylaw, bylaw no. 93, adopted on 30 June 1845, not only regulated the construction of buildings but also, and more significantly, controlled the location of "Furnaces and Manufactories dangerous from Fires."<sup>38</sup> Responding to the increasing prevalence of "serious fires" that originated in furnaces, steam engines, and metal foundries, the corporation assumed the oversight of all industrial activities that involved the use of fire or of combustible materials. But the bylaw also pertained to the fire safety of buildings in general. It made it unlawful, without authorization of the Council, to build a "House, Shed, Stable or outhouse within the boundaries of the said City (exclusive of the Liberties) [against another building] unless such House, Shed, Stable or outhouse shall

be built with party or fire walls of Stone or brick at least nine inches thick and rising at least Eighteen inches above the roof." This prohibition did not apply to wooden buildings less than eight feet square or to "Wood-Houses for the keeping or storing of fire-wood which shall not exceed twenty feet in length, ten feet in width, and ten feet in height . . . provided that such small building [*sic*] or wood-houses shall not be made to . . . front upon any Street, Lane or Square in the said City."<sup>39</sup> Implicit in this bylaw of 1845 are key principles of modern development regulations: the identification of land uses (manufacturing), the differentiation of urban areas (the urban core, exclusive of the suburban "Liberties"), and the definition of rules related to building volumes and locations (size of wooden buildings, removal from streets).

A year later, in bylaw no. 106, stables were added to the list of land uses and building types that required municipal authorization.<sup>40</sup> To obtain the necessary permit, one had to pay a fee, which varied according to the number of horses and carriages, and post a substantial bond with the City. Subjecting stables to such a system meant, in particular, that Council could evaluate the suitability of a noxious use in a given environment—no doubt on the basis of citizen input.

Geographic and functional differentiation was sharpened in the new fire law of January 28, 1850, probably under the impetus of the great fire of 1849. Bylaw no. 152 innovated in two ways: it created a special zone within the built-up area of the city in which particular regulations would apply, and it established a classification of buildings according to use and size (see bylaw 152).<sup>41</sup> The hierarchy of building types and of construction standards was directly related to the risk posed by fire (as a function of activities performed, materials used, or number of people assembled). The first category included all manners of meeting houses and of factories or workshops and all buildings of a certain size, measured by height or by area. At the other end of the scale, the fifth class contained buildings that posed very little danger to start a conflagration: dwellings (and their subsidiary structures) at least six feet from the street and at least thirty-five feet from any other building on a different lot. This category also happened to include edifices of the sort that better-off citizens could afford, because they were located on a lot large enough to give the house a reasonable distance to its neighbours. To these buildings, unlike the buildings belonging to other classes, no limitations applied: they could be built "of any dimensions and materials whatever."<sup>42</sup>

The classification of buildings contained in bylaw no. 152 was short-lived, however. Only eleven months after its adoption, the act was repealed in favour of another one, in which a simple distinction was created between buildings erected within the fire limits of 1850 and those located outside it.<sup>43</sup> Bylaw no. 179 of 1851 simply required that all buildings within a specified area be "built of stone, brick, iron or other material of an incombustible nature."<sup>44</sup> Yet, in a clause that was not part of the bill submitted to Council but was seemingly included dur-

ing deliberations, the construction requirements were limited only to those streets or portions of street that were serviced by municipal sewers.<sup>45</sup> In addition, the ordinance imposed several standards of fire safety for the area outside the fire limits (but within the city proper, excluding its Liberties). There, "any house, shed, stable, building, or pile of lumber" not attached to another structure on a different lot had to be positioned at least ten feet away from its neighbour; if it was attached to another building, it had to be insulated from it by a firewall "of stone or brick, at least thirteen and a half inches thick, and carried up at least eighteen inches above the square line of the roof."<sup>46</sup> Within the fire limits, the minimum distance of ten feet applied to the location of lumberyards or "any large quantity of lumber" vis-à-vis any other building.<sup>47</sup>

The new ordinance was itself short-lived. Barely five months after its passage, on 25 May 1852, bylaw no. 179 made way for bylaw no. 183.<sup>48</sup> The main purpose, it appears, was to reinstate certain provisions of the ordinance that it had superseded itself, namely bylaw no. 152. In addition to modifying the fire limits, the new text included a clause on structures that had been defined as belonging to the fifth class in 1850. Within the revised fire limits, buildings had to be fireproof, except for residential buildings that stood at least six feet away from a street or at least thirty-five feet from another building on a different lot. These could be built in any material; also, unlike other structures, they could be built to any size without having to include internal firewalls. In addition to fire limits, the City created boundaries within which it was forbidden for residents "to suffer the accumulation of ashes, sweeping or other refuse matter whatsoever upon, his, her or their premises."<sup>49</sup> (All refuse had to be deposited in the street between six and eight in the morning, for removal by collection carts.) It may be that increasing densities justified special rules on garbage disposal in the urban core. It is also probable, on the other hand, that the hub of commercial, political, and social life in the region became the object of increasing care, not only in terms of health and safety, but also in terms of environmental quality. That urban aesthetics became a public concern is borne out by the adoption, in 1857, of *An Act Respecting Ornamental and Shade Trees*, which made it unlawful to "climb, break, peel, cut, deface, remove, injure or destroy" any tree planted in streets and public spaces.<sup>50</sup>

As had happened with the classification of buildings in bylaw no. 152, another innovation of the middle of the century would remain without effect for a long time. In health bylaw no. 431, the controversial clauses in fact did not make it past the City Council.<sup>51</sup> Had section 14 of the bill not been struck out, Toronto would have had a preliminary form of zoning as early as in 1866. The section read,

The Board [of Health] shall from time to time assign certain places for the exercising of any trade or employment which is a nuisance or hurtful to the inhabitants or dangerous to the public health, or the exercise of which is attended by offensive or injurious odors, or is otherwise injurious to their properties or estates, and may prohibit the exercise of the same

**Bylaw No. 152, section 2 (main provisions)**

All buildings, existing or to be built in the future, "within the following limits, in the City of Toronto (that is to say within the following lines as boundaries: from the centre of George Street, on the east, to the centre of York Street, on the west; from the centre of Adelaide and Duke, on the North, to the Bay on the south, between the said east and west boundaries), on new or old foundations, or on foundations partly new and partly old, shall be distinguished by and divided into five several rates or classes of buildings as hereinafter described; and such five several rates or classes of buildings shall be under the rules and regulations and directions hereinafter contained, concerning the same."

FIRST CLASS BUILDINGS: "Every church, chapel, meeting house, or other place of public worship, every building for distilling or brewing of liquors for sale, making of soap, melting of tallow, for dyeing, for boiling or distilling turpentine, for refining of sugar, for glass or chemical works, for foundries, smelting furnaces, smithies, or for other trades, callings, or uses of a hazardous nature, of any dimensions whatever; and every dwelling house, warehouse, storehouse, or other building now built or hereafter to be built (except such as are hereinafter particularly declared to be of the fourth or fifth rates or classes of building) which shall have four or more square stories above the ground line, or shall be of the height of forty-five feet from the said ground line to upper side of wall plate, or shall be ten square of building on the ground floor, including internal and external walls, shall be deemed the first rate or class of building, and shall be built as follows": material and thickness of external walls and party walls and their foundations (stone or brick, thickness of wall decreasing between floors 1 and 2, between floors 3 and 4).

SECOND CLASS BUILDINGS: "Every dwelling house, warehouse, store house, or other building, now built or hereafter to be built (except such as are herein particularly declared to be of the first, fourth or fifth rates or classes of building) which shall have three square stories above the ground line, or shall be of the height of thirty-five feet from the said ground line to the upper side of the wall plate, or shall be eight square of building on the ground floor, including internal and external walls, shall be deemed the second rate or class of building, and shall be built as follows": material and thickness of external walls and of party walls and their foundations (stone or brick, thickness of wall decreasing between floors 1 and 2); standards lower than for first class buildings.

THIRD CLASS BUILDINGS: same as second class, but for buildings up to two stories or 22 feet in height or "six square of building on the ground floor"; requirements for foundations, external walls and party walls lower than for second class.

FOURTH CLASS BUILDINGS: dwellings, warehouses and stores, etc. one story high or less than 16 ft high or "four square of building on the ground floor . . . or any stable which shall not exceed two square stories above the ground line, or shall not exceed eighteen feet in height"; requirements for foundations, external walls and party walls still lower.

FIFTH CLASS BUILDINGS: "All dwelling houses which, as well as domestic offices, stables, or other out-buildings, attached or in any way belonging thereto, shall be severally at a distance not less than six feet from any public road, street, or causeway, and is or shall be detached from any and all other buildings, not in the same possession, at least thirty-five feet, shall be deemed the fifth rate of class of building, and may be built of any dimensions and materials whatever."

in places not so assigned. The Board may also forbid the exercise of such trade or employment within the limits of the city, or in any particular locality thereof.

The idea of setting aside certain areas for particular uses, or simply of excluding such uses from the city altogether, was not foreign to Toronto officials. What they lacked, it seems, was the legal and/or political support needed to enforce this type of explicit differentiation of uses in space, at least on a large scale.<sup>52</sup>

Discrimination did exist in the spatial allocation of industrial and commercial functions, but it occurred piecemeal, in the discretionary approval of licences. Several sections of the 1866 health bylaw helped to establish a more formal manner of zoning by submitting the construction of slaughterhouses to the approval of municipal authorities and by making this approval, in turn, explicitly a function of the building's location. After requiring "the express permission or license of the Board of Health" for any new slaughterhouse, the ordinance



specified that the building be "situated at least 100 feet from any public street, and 300 feet from any residence or dwelling, except that of the owner of such slaughter house, and that it is in no manner injurious to the public health."<sup>53</sup> The intersection of geographic and functional differentiation was now addressed explicitly: construction was subjected to distinct rules inside and outside fire limits, and residential and non-residential construction were treated differently within these limits. For the first time, the very relationship between residential and non-residential uses—a key ingredient of modern zoning—became an object of public control.<sup>54</sup>

The 1866 ordinance added other basic elements of modern building and land-use regulation to the emerging apparatus of spatial segregation. The new features are the social differentiation of residential areas and the evaluation of housing quality in sanitation, crowding, and ventilation:

Whenever a disease of a malignant and fatal character is discovered to exist in any dwelling house within the city, and which house is situated in an unhealthy or a crowded part of the same, or is in a filthy and neglected state, or is inhabited by too many persons, the Board of Health of the city, or a majority of the members thereof, may, in the exercise of sound discretion, and at the expense of the Board, compel the inhabitants of such dwelling house to remove therefrom, and may place them in sheds or tents, or other good shelter in some more salubrious situations, until measures can be taken under the direction, and at the expense of the Board, for the immediate cleansing, ventilation, purification, and disinfection of such dwelling house.<sup>55</sup>

We may see in these few lines the first expression of a slum-clearance policy. But we can also discern in it the foundation of much twentieth-century housing and planning legislation on the quality of indoor and outdoor space in residential areas. Housing reform in Toronto began in earnest only in the 1910s, under the leadership of Medical Health Officer Charles Hastings, but its points of focus—for instance, sanitation, crowding, and ventilation—were already identified half a century earlier.<sup>56</sup>

The new powers of the Board of Health no doubt were a response to the appearance of "slum areas" in the city, themselves a consequence of rapid population growth and industrialization. Though the map of Toronto when bylaw no. 431 was adopted (in 1866) "presented a heterogeneous jumble of land uses revealing a mixture of small residential and industrial development," it also started to exhibit patterns of socio-spatial segregation and to include pockets of destitution, in particular in "inaccessible and undesirable peripheral locations."<sup>57</sup> In the face of threats to health and safety (and to good morals) arising from noxious activities and from desperate poverty, municipal law at times established clear, numerical guidelines for private development and at times allowed public officials to exercise "sound discretion" in the regulation of construction.<sup>58</sup> In addition, it ushered in the age of bureaucratic administration and of its handmaiden, the statistical analysis of society.<sup>59</sup> Thus section 42 of the bylaw stipulates,

"[The medical health officer of the City] shall keep a record of all the cases of disease attended or visited by him under this Bylaw, of all the wells or water supplies examined by him or them; he or they shall also keep a meteorological record and a record of ozonometrical condition of the atmosphere in the vicinity of his or their office and of his or their residence, and shall keep a full and complete register of the births and deaths within the city."<sup>60</sup>

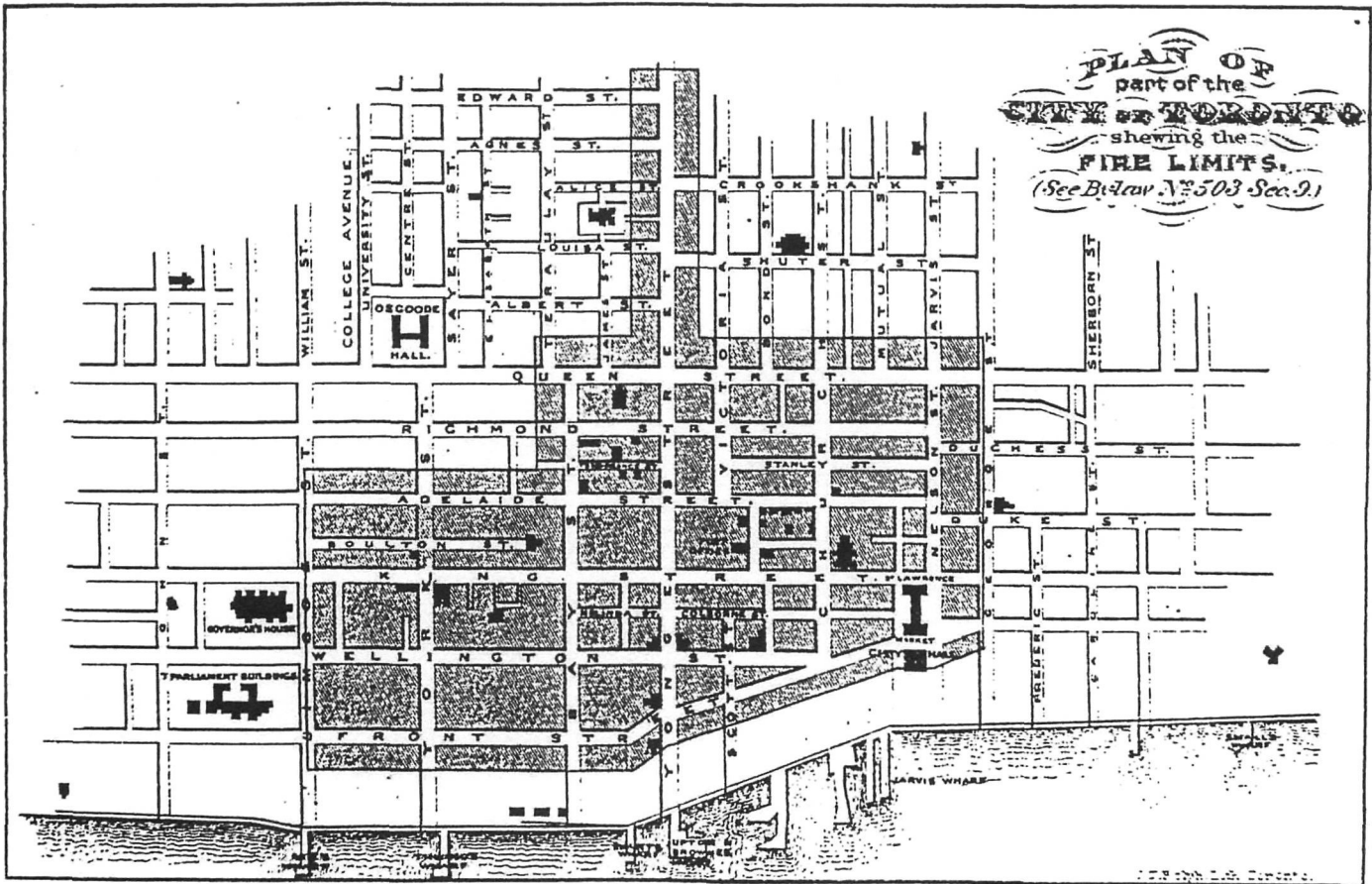
At the end of the decade, a consolidated building bylaw was adopted that may well be seen as the first modern development ordinance of the City of Toronto.<sup>61</sup> Though not quite a zoning ordinance, bylaw no. 503, of 26 November 1869, was the first to include a zoning map, in this case a map showing the area within which only fireproof constructions could be erected (fig. 1). The graphic representation did not replace the textual definition of the fire limits, but it did give the reader a concrete impression of the spatial differentiation that the bylaw operated. More importantly, the ordinance brought together land-use and construction controls in a single building code. Most of the forty-three sections (the first bylaw of the kind, bylaw no. 1, contained eleven sections) still dealt with the prevention of fires, but the mechanisms they describe show a certain specialization: there are quantitative standards for construction details, specialized building requirements according to building height, building type, or building location, and an outright prohibition for a particular use in a given zone and a system of permitting for other noxious activities.

The refinement of regulations went together with—indeed was dependent on—an elaboration of the institutions of local government. At the same meeting in which Council adopted the new building bylaw of 1869, it approved a global revision of the corporation's administrative machinery.<sup>62</sup> Particularly noteworthy in the revision is a clause pertaining to the city engineer:

It shall be the duty of the City Engineer . . . to report to the . . . Board of Works on or before the first day of December in each year, as to the improvements and repairs necessary, in his opinion, to be made by the Corporation during the next succeeding year, so far as he can anticipate the same.<sup>63</sup>

What was expected of the city engineer was nothing else than the preparation of an annual plan of infrastructure development. In 1869, that activity was not called planning yet, but it entailed that all-embracing, forward-looking stance that urban planners have claimed as a hallmark of their trade. By 1876, this conception of municipal control over urban development was in fact quite clear. In that year, the city engineer was enjoined "to take such measures as he may consider necessary to secure a perfect survey, and a complete system of levels and bench marks, in and for the City of Toronto, with a view to a general plan of sewerage, and the establishment of the levels of all streets, sewers, private drains, buildings, &c."<sup>64</sup> The plan in question, though not yet comprehensive, was nevertheless "general" in that it covered the entire city.





By-law no. 503, City of Toronto, s. 9, Bylaws of the City of Toronto, from the Date of the Incorporation of the City in 1834, to the Year 1869 inclusive (Toronto: Roswell, 1870, n.p.).

Figure 1: Fire zone of 1869, City of Toronto.

As was discussed above, zoning and planning have had, at best, an uneasy relationship with each other. But what bylaws nos. 503 and 04 suggest, and bylaw no. 708 confirms, is that the second half of the nineteenth century saw a growing awareness by officials and professionals of the need to deal with urban development in a holistic manner, rather than case by case. The specialization of urban areas forced people to examine the spatial relationships, real and ideal, between different activities and between different buildings, while the specialization of public functions brought them to explore ways of rationalizing municipal expenditures. Socio-spatial segregation and infrastructure planning would both be served by zoning.<sup>65</sup>

### **The Emergence of Modern Regulation (1870–1904)**

Over the final three decades of the nineteenth century, the fairly rudimentary building and land-use codes generated in the first thirty-five years of existence of the City of Toronto would grow in number and in complexity. A first sign of this process is the adoption, in 1873, of two significant amendments to the consolidated building bylaw of 1869. The first change concerns the fire limits. A sentence added during council deliberations on bylaw no. 576, which amended bylaw no. 503, shows clearly the manner in which such regula-

tions operated in practice, in response to local demand. The appended sentence stipulates that the fire limits could be extended "on petition of two-thirds of the rate-payers on the Street or portion of the Street proposed to be included, who represent half in value of the assessment on the Street or part of a Street so to be included."<sup>66</sup> It is likely that this new provision only formalized the informal game of political demand and supply that was being played in the definition of fire limits, the granting of licences, and other modes of regulation. It created an institutional conduit for requests from local owners to have harsher building standards imposed on their properties. This would protect their home turf from cheap construction, hence also from settlement by people belonging to lower socio-economic classes. As will be explained below, a similar system of local control would govern the formal segregation of noxious uses—stables first, laundries and butcher shops later—within the city.

The second amendment that bylaw no. 576 introduced was the creation of a second fire limit, with less strict construction standards. In this zone, structures did not have to be built of incombustible material, as in the first fire zone, but simply had to be covered with it. More specifically, they had to be "roughcast or covered with plaster, and roofed with shingles

laid in mortar at least three quarters of an inch in thickness.”<sup>67</sup> With increasing social and functional specialization in urban space, regulation, too, underwent internal differentiation. It was not long until a third fire limit, an intermediary between the existing two, was added (in 1874) and, somewhat later, a fourth one (in 1885).<sup>68</sup> From limit A to limit C and then D, standards allowed for less fire-resistant and therefore less costly construction. Some of these standards varied with building height (e.g., thicker brick walls for higher buildings) and with building type (e.g., privies and woodsheds under a certain size and far enough removed from other buildings and from streets or lanes could be built in wood within limit B). In addition, fire limits of each class now applied to several areas. In other words, pockets of urban territory were placed within each type of district, and the number of such zones increased with time, as new areas requested and received municipal protection.

Greater sophistication also appeared in procedural requirements. In the same bylaw that instated fire limit C—bylaw no. 627—construction work in limit A was subjected to a new requirement: that builders deposit with the city commissioner “a correct ground or block plan of such proposed building, drawn to a scale of eight feet to an inch and showing the levels of the cellars and basements of such proposed building with reference to the level of the nearest adjoining street.”<sup>69</sup> This clause, ostensibly aimed at ensuring satisfactory sewage and drainage on site, introduced a new practice: the filing of plans by private parties prior to construction. Yet it did not make work conditional on the reception of a formal permit. The application of a licensing system to construction in general, and not only to the use of land in a way potentially noxious, did occur soon, however. In 1879, bylaw no. 908 forbade people to start work on a new or existing building without having received a “written certificate” from the city commissioner. This document would be delivered only if, judging from “the plans and specifications of the proposed building, alterations or repairs,” the project was ostensibly in compliance with relevant city bylaws.<sup>70</sup>

In 1866, we saw, section 14 of the bill for bylaw no. 431 was struck out by Toronto’s elected representatives. This section would have authorized the Board of Health, with Council approval, to designate areas for the exercise of particular trades or to delimit areas from which such trades would be prohibited.<sup>71</sup> Bylaw no. 627, first passed in 1874, contained the first land-use constraint of this type: a blanket prohibition against certain functions within a given zone. Until that time, lumberyards had been allowed within fire limits A only if there remained at least ten feet of space between them and surrounding buildings. From now on, however, it was forbidden for anyone “[to] establish a lumber yard, or collect or allow to be collected any large quantity of lumber upon any lot” (except for construction purposes) within that zone.<sup>72</sup>

The fire limit was subject to two different regimes of regulation. As an administrative device, it defined areas within which

certain constraints applied. The interdiction on lumber yards was automatic for any plot located within limits A. As a geographic entity, the fire zone was being defined in response to local requests for protection. This mechanism of regulation on demand was soon applied to another noxious land use, the stable. On 22 July 1886, Council enacted bylaw no. 1702, which made it unlawful to build a stable for horses or cattle without the approval of the medical health officer and, more significantly, without “the consent in writing of a majority of the owners and lessees of the real property situate [*sic*] within an area of five hundred feet of the proposed site.”<sup>73</sup> City residents were to control land development together with municipal officials, and they could do so by demanding that stricter regulations be imposed on their part of town or by applying existing rules to close off their neighbourhood to a given project.

But the system of regulation-on-demand could also work in the other direction, that is, to weaken or repeal certain constraints on the location of injurious land uses. Thus, a few months after residents obtained the right to accept or reject stables from their living area, the owners of butcher shops managed to remove from the books the provision, first included in the health bylaw of 1866, that set minimum distances between buildings where animals were butchered, on the one hand, and “any dwelling house” or “any public street,” on the other hand. The original standards of 300 feet and 100 feet had been increased recently to 200 yards and 70 yards. Having taken due note of the fact that these provisions would “work injuriously to the carrying on of the butchers’ trade,” Council members tightened the rules on the construction, sanitation, and inspection of slaughterhouses but revoked the rules on their location.<sup>74</sup> It was hoped, presumably, that better butchering facilities would simply not require their being put at a distance from residential units. As will be seen below, spatial limitations on the butcher shops would come back eighteen years later, and with a vengeance.

Spatial separation constituted one way of lessening dangers and irritants, and reducing nuisances at the source was another. Buildings were made more fireproof at the same time as they were more effectively segregated according to their level of fire resistance. Likewise, activities that posed threats to human health were subjected to more numerous and more stringent regulations as to place and construction. Yet, as the new regulation on butcher shops indicates, technical controls made faster inroads than geographic ones. In matters of public health, the first necessity was to improve “the sanitary condition of buildings,” a goal pursued first by means of standards for indoor and outdoor plumbing<sup>75</sup> but soon also by means of norms for indoor and outdoor space. The former would help to provide access to clean water and efficient sewers, the latter to sufficient light and air—all of these being requirements for soundness of body, if not of mind. With respect to space, two innovations must be noted. The first concerns the volume of air available to each person. In a

bylaw of 1887, concerning the care of children in charitable institutions, the City made it mandatory for the medical health officer to ascertain “the situation and suitableness” of homes and, in particular, to ensure that they offered on average at least seven hundred and fifty cubic feet of space per child.<sup>76</sup>

The second innovation pertains to the space around buildings. In the preamble to bylaw no. 2379, passed on 8 July 1889, municipal legislators stated that their statute was based on the *British Metropolitan Building Act* of 1844, which aimed to ensure sufficient ventilation and to reduce the risk of conflagration in crowded urban areas. The bylaw established new minimum requirements for the width of streets and introduced standards for the open space available to each dwelling. No residential building could from now on be built on a street or alley less than thirty feet wide, and every such edifice had to possess at least three hundred square feet of unbuilt area on its own lot.<sup>77</sup> The ordinance did for Toronto what the act had done for Britain forty-five years earlier: it explicitly made the spatial configuration of residential development, the relationship of buildings to open space, an object of public regulation.<sup>78</sup> But this “Bylaw to regulate the width of streets and the erection of dwellings” also introduced a procedural element of paramount importance in modern zoning, the variance. Section 3 of the bylaw reads,

The foregoing sections shall not apply in any case in which the City Engineer and the City Commissioner, shall report in writing, and a majority of the members of the . . . Council present at any meeting thereof shall vote that in their opinion the opening or acceptance of the particular thoroughfare, or the erection of the particular building, is in the public interest, notwithstanding that the same is a contravention of this Bylaw.

Public officials could disregard the law if a project's contribution to the general welfare exceeded its nefarious side effects due to lack of open space.

Discretion itself was not new in building control, as many regulations granted officials, appointed as well as elected, much leeway in evaluating plans and situations; they did so, in particular, because it was hard to quantify or otherwise specify the qualities expected of buildings and activities. What was new was the authority granted to professionals and, ultimately, to politicians to disregard clear and unambiguous guidelines and to exempt individual projects from the application of the law. This possibility is part and parcel of comprehensive zoning. Indeed, it is seen as a legal safety valve, insofar as it enables municipalities to lighten the weight of regulations in cases where constraints would impose undue hardships on property owners who, because of the particularities of their site, could not otherwise profitably develop their land. Of course, a mechanism that was supposed to help deal with exceptional circumstances soon became a means to apply the law on a case-by-case basis and to disregard it whenever it was politically advantageous to do so.<sup>79</sup> The danger of this system must have been apparent in Toronto in 1889, for the clause on exceptions was removed when the provisions of

bylaw no. 2379 were made part of the revised building code of 13 January 1890.<sup>80</sup>

The code of 1890 shows the growing complexity of building regulations; it contains seventy-seven sections occupying over twenty-one pages, plus a six-page verbal description of fire limits.<sup>81</sup> The new provisions it introduced reflect the changes that were occurring in the city at the time.<sup>82</sup> For example, increasing building heights—not yet subject to preset limits but the object of growing concern—were accounted for in the construction requirements within fire limit A: these were no longer modulated for buildings with fewer than two stories and for buildings with two stories and more, but for buildings fewer than forty feet, more than forty feet, and more than sixty feet in height.<sup>83</sup> The most important innovation in this ordinance, though, is probably the differentiation of building types in the provisions for fire limit B. As the different social classes sorted themselves out more clearly in the city and as their housing displayed a wider array of forms, regulation followed suit. Thus the section on construction within limit B included stipulations for party walls in “buildings erected in terraces or rows” and in “semi-detached houses.”<sup>84</sup> The same section, as amended in 1894, also gave recognition to geographic specialization by allowing for the use of different materials (cement stucco instead of brick) for parts of facades on “residential streets.”<sup>85</sup>

As development practices changed, so did regulatory practices. The appearance of large apartment buildings in Toronto was reflected in the adoption of requirements for the thickness of foundations and bearing walls, modulated according to the number of stories (from one to ten), in “buildings used as a dwelling house, apartment house, tenement house or lodging house.”<sup>86</sup> The process of differentiation and specification culminated in the new building code of 1904, with its 154 sections, occupying close to a hundred pages, and its nine-page description of fire limits.<sup>87</sup> Bylaw no. 4408 has most characteristics of contemporary development regulations: it lays out the process for obtaining a building permit, it includes a glossary of terms with their legal definition, and it presents a large number of specific requirements. But whereas modern controls have since been separated into building, housing, and zoning codes, bylaw no. 4408 is all three at the same time.<sup>88</sup>

A palimpsest of Council enactments, the bylaw “for regulating the erection and to provide for the safety of Buildings” contains striking innovations layered on top of older clauses, some dating back to the 1850s.<sup>89</sup> To deal with a more complex city made up of more complicated buildings, the text targets a wider range of situations and a greater array of objects. For instance, it gives legal sanction to the distinction between apartment and home. It defines an “Apartment or Tenement House” as “A building which, or any portion of which, is or is intended to be occupied as a dwelling by more than two families living independent of one another and doing their cooking upon the premises” and describes

a "Dwelling" as "A building either detached or in a block used solely as a residence, and occupied by not more than two families." (A lodging house contains multiple units in which there are no cooking facilities.)<sup>90</sup> The ordinance also differs from its predecessors by bringing back from oblivion a provision of building bylaw no. 152, passed in 1850: the classification of building types according to their quality of construction. Once again, five classes of structures are identified, ranging from "First Class Buildings" that are "of fireproof construction throughout" to "Fifth Class Buildings" that include "frame structures covered with galvanized iron" and meeting specific standards of construction.<sup>91</sup> Regular frame structures belong to a separate category. The classification is then used to organize "Requirements as to Style of Buildings," that is, according to size and use.<sup>92</sup> Thus all edifices over seventy feet in height (except for churches and grain elevators), all residential buildings over fifty-five feet in height, and most public buildings over fifty feet in height have to be of the first class. For all other buildings, some degree of fire-resistance is required, except within given geographic limits, where regular frame construction is allowed. But in no case are residential buildings made of wood allowed to be higher than thirty-five feet.

The 1904 code innovates in particular in its height and other volumetric specifications. Not only does the ordinance limit the height of residential and public buildings in relation to construction type, it imposes a general height limitation of 100 feet on all structures, except where "special fire extinguishing appliances" are present that meet the approval of the inspector of buildings. It also limits height as a function of the size of the floor plan, again with a differentiation according to construction type. For example, the height of a building with steel-frame construction may not exceed five times the smallest side of its ground floor; the proportion for a wood-frame building is a mere one and a half. In addition, the bylaw retains earlier standards as to the width of the street and the area of open space needed for residential development, but it adds a new twist to the regulation on lot coverage. The absolute minimum amount of space that must be left vacant around a building is still 300 square feet, but in general, the norm is now relative to the size of the lot: every residential project must "preserve at least ten per centum of the area of the lot, plot and premises, free from all construction from ground to sky."<sup>93</sup> Excluded from this provision are corner lots and lots that extend over the whole depth of a block. Most significantly, "Buildings on business streets may cover the entire area of a lot for such of the stories beginning with the lower as are used for store or salesroom purposes only."<sup>94</sup>

The imposition of variable requirements as to building envelope according to land use is a fundamental element of zoning. Another, as we have seen, is the allocation of the various uses to their own sectors. This essential component of zoning, too, is present in bylaw no. 4408, even if only partially. Section 49 of the bylaw reads as follows:

It shall not be lawful for any person to locate, build, construct or keep on any street, avenue or alley, in any block in which one-third of the buildings are devoted exclusively to residence purposes, or in which the land is laid out in lots intended for residence purposes, a livery, boarding or sales stable, or to locate, alter, build, construct or keep on any street or avenue in any block in which all the buildings are devoted to exclusive residence purposes, any building designed, constructed or altered to be used for any business purpose whatsoever, unless a written consent of a majority of the property owners, or of the duly authorized agents of such owners of property, on both sides of the street or avenue on such block, shall first have been obtained and filed with the Inspector of Buildings.<sup>95</sup>

Businesses of all sorts, and not only stables, could now be excluded from residential areas if local residents so wanted. Land-use control would be directed not only at uses that represent a distinct health or fire hazard but, much more generally, at "any trade or employment which is a nuisance or hurtful to the inhabitants . . . or is otherwise injurious to their properties or estates," to quote again from the rejected section 14 of the draft for bylaw no. 431. As seen earlier, the Board of Health had sought with this provision to acquire the power to exclude "such trade or employment within the limits of the city, or in any particular locality thereof."<sup>96</sup> It took nearly forty years, from 1866 to 1904, to get such a statute past City Council; when the regulation was finally adopted, the power to shape the functional organization of the city rested not only with municipal officials but also with the owners of residential property. The former controlled the movement of commercial and industrial uses through licensing procedures and, to a certain extent, through the system of fire limits. The latter helped to define the precise location of these limits; more important, they controlled the access of non-residential activities to their block.

To enforce the exclusionary provisions of section 49, however, municipal authorities needed the sanction of the province. The legislative basis for exclusionary controls came within a few months, when Ontario lawmakers passed an amendment to the *Municipal Act*. It authorized local councils to adopt, with a vote of a two-thirds majority, "such bylaws as they may deem expedient to prevent, regulate and control the location, erection and use of buildings for laundries, butcher shops, stores and manufactories" from specific areas.<sup>97</sup> In response to a request for a building permit or for a licence, or upon notification by any person that a commercial facility was being planned in a certain area, the city's property commissioner would be mandated to "cause enquiry to be made amongst residents of the neighborhood where such laundry, butcher shop, store or manufactory is proposed to be located, erected or used, with a view of ascertaining if any objections exists to the location, erection and use of the building for any of the purposes aforesaid."<sup>98</sup> Based on the commissioner's findings as well as on "his opinion as to the advisability of such a business being established in the said locality," the Board of Control would decide whether or not to recommend approval of the devel-

opment request or, on the contrary, adoption of a bylaw to exclude non-residential uses from the area.<sup>99</sup>

What precisely the “neighborhood” or “locality” in question was, in which residents were to be policed and from which certain uses could be banned, was a matter for the commissioner to establish then and there. And what exactly made a butcher shop a nuisance in one place and not in another was also a matter of judgment. But this high level of discretion did not prevent—in fact probably encouraged—the multiplication of bylaws against uses perceived as detrimental to the value and enjoyment of property. Indeed, it made it possible for residents of better residential areas, such as Rosedale and the Annex, to obtain blanket protections even before the threat of invasion had manifested itself.<sup>100</sup> Over the next two decades, very large parts of the city were covered by residential restrictions and a growing number of land uses were excluded from the protected areas. In 1912, even apartment buildings, increasingly perceived as injurious to health and safety and especially to good order and morals, became the object of exclusionary zoning.<sup>101</sup> With all these measures in place, good residential areas enjoyed an appreciable level of protection. Upon his return from a trip to Toronto, Edward Bassett, lead author of New York City’s famous 1916 zoning ordinance and one of the “fathers” of zoning in the United States, declared his admiration for Toronto bylaws. Thanks to them, he noted, “several of the suburbs are carefully protected for detached private homes,” a fact that made the city “permanently attractive for the residence of citizens who otherwise would move outside of the city limits.”<sup>102</sup>

Fire limits and other building controls imposed minimum standards on the quality of construction and hence on the cost of buildings in certain areas, but they did not directly segregate land uses. Municipal licensing and land-use regulations did exercise direct command over the location of activities, but both were reactive systems in which officials responded to the requests of individual builders or to the demands of particular groups of residents. What was needed, and what the Board of Health had asked for in 1866, was a mechanism of proactive and systematic regulation by which whole areas could be designated for specific usage, in particular for residential use. As Peter Moore has documented, a partial system of that kind was instituted in 1921, when certain parts of the city were set aside explicitly for single-family homes; but a comprehensive zoning code, in which the city’s entire territory was divided into land-use districts, would not come into force in Toronto until 1954.<sup>103</sup>

### ***Conclusion***

At the Sixth National Conference on City Planning, which was held in Toronto in May 1914, Lawrence Veiller, the prominent housing reformer, discussed the attempts of North American municipalities to protect residential areas from unwanted uses. He noted that, from the beginnings of settlement in America, homeowners “have sought so far as mere man could, acting

alone and without the powerful support of government, to control his own neighborhood and protect the little home into which he had put his earnings.”<sup>104</sup> The main weapon in this struggle was the private covenant. By the early 1900s, deed restrictions proved to be insufficient and needed to be supplemented by public controls. Developers and public officials worked to institute public constraints, invoking the police power of the state to protect the health, safety, and general welfare of residents in home areas; that is, to protect the social and financial capital that these residents held in their home and its environment.

Public control over land development was not really new. Many frontier towns, Toronto included, were planned communities for which military or civilian authorities had established clear patterns of land subdivision and circulation and in which, more important for our purposes, they had tied the occupation of individual lots to specific conditions. An edict of 29 December 1798, issued by the clerk of the Executive Council of Upper Canada, requires of all those who would henceforth settle along Yonge Street “that within twelve months from the time they are permitted to occupy their respective lots, they do cause to be erected thereon a *good and sufficient dwelling house*, of a least 16 feet by 20 in the clear, and do occupy the same in Person, or by a *substantial Tenant*.”<sup>105</sup> The restrictions in terms of land use (to erect a residence) and in terms of social class (the house to be “good and sufficient” and, if not inhabited by the owner, to be rented to a “substantial” tenant) anticipate by three-quarters of a century the private covenants applied by the developers in the better subdivisions of Victorian Toronto and by over a century the public regulations that municipal authorities enacted under the first zoning laws.<sup>106</sup>

In developing a planning apparatus, officials and professionals responded to local constraints with new controls, some of which were derived from precedents in other cities and countries. Practices of development regulation in Germany inspired planners across the Atlantic Ocean in their quest for more comprehensive control; likewise, Canadian planners found much food for thought in the United States and the United Kingdom. But North American zoning was not a German import, nor was the Toronto zoning code a copy of ordinances from New York City or London. Although exchanges between cities were numerous, modern development controls are place-specific. They grew by accretion, nourished by local demands and shaped by local customs. In genotype, they vary little from city to city; in phenotype, they have distinct characteristics, because each has its own history of crises and compromises, its own legacy of problems and solutions.

Further research is warranted to help understand better what accounts for similarities and differences among cities and countries, in particular to see what explains the resemblance between municipal controls in Ontario and in Quebec or the likeness between those of cities in Canada and in the



United States, despite the differences in legal and even constitutional regimes, or to examine what accounts for the parting trajectories of land-use regulation in Canada and in Britain, despite the similarity in legal and constitutional framework.<sup>107</sup> Exchanges between cities and countries, in particular through nascent professional associations, also deserve study.<sup>108</sup> Because the nominalist approach adopted here makes for a history without agents, future inquiries are particularly needed to shed light on the motivations and strategies of actors who participated in the development of building and planning codes. For example, one presumes that the process was driven in large part by local elites, but alliances and conflicts among segments of the bourgeoisie (between owners and developers, between political reformers and political conservatives) deserve to be studied in detail, as does the interaction between local and provincial (or national) governments and, last but not least, the relationship between the state and civil society.<sup>109</sup>

At this point, we have followed the evolution of building and land-use regulation in one city, up to the early years of the twentieth century. As Harris, Moore, and others have remarked, the following decades saw the institution of controls on urban development at once more comprehensive, more stringent, and more efficiently applied. Yet this new legal, professional, and bureaucratic structure rested on a foundation raised patiently over the course of the previous century, in a long process of incremental change. The basic elements were defined early on in the form of licensing mechanisms and construction requirements, then more specifically in the shape of standards for sanitary facilities, indoor space, building height, lot coverage, and other features of the built environment. Controls on building volumes, in turn, became key building blocks of zoning, together with the provisions of nuisance laws (and private covenants) with respect to land use. They are products of legal and political bricolage whose essential components were crafted in the middle decades of nineteenth century, and sometimes even earlier. Taking stock of what had been accomplished in the protection of residential areas, Veiller noted in 1914 that the creation of zoning gave planners once more "that delicious illustration of fancying [themselves] pioneers blazing new trails and then discovering afterward that [they] were only following in the footsteps of earlier adventurers."<sup>110</sup> The trailblazers whom the New York reformer had in mind were his contemporaries working in other cities of the United States. But as Veiller himself had documented with ample detail in his history of New York City housing codes,<sup>111</sup> the invention of zoning started much earlier. It proceeded by fits and starts and over time yielded complex ordinances that are only now seriously being put into question.

## Notes

1. Richard Harris, *Unplanned Suburbs: Toronto's American Tragedy, 1900 to 1950* (Baltimore: Johns Hopkins University Press, 1996), 143.
2. All the primary sources mentioned here were consulted at the City of Toronto Archives. Most bylaws passed after September 1876, as well as

minutes of council meetings and committee reports, were consulted in the Minutes of Proceedings of the Council of the Corporation of the City of Toronto. Bylaws adopted until September 1876 were found either on the microfiches of City Bylaws held at Central Records, City of Toronto, or in the following compilations: *Tabular Statement of the Bylaws of the Corporation of the City of Toronto, from No. 1 to 302 Inclusive and from the 10th of May to the 14th of November 1859* (Toronto: 1859; C2A, RG1, Toronto City Archives [hereafter CTA]; *Bylaws of the City of Toronto, from the Date of the Incorporation of the City in 1834, to the Year 1869 Inclusive* (Toronto: Roswell, 1870; box 2, RG1 C, CTA); *A Second Consolidation of the Bylaws of the City of Toronto, from the Date of Its Incorporation in 1834, to the 30th September, 1876, Inclusive* (Toronto: Hunter, Rose, 1876; box 3, RG1 C, CTA); *Bylaws of the City of Toronto, from the Date of Its Incorporation in 1834, to the 13th January, 1890, Inclusive* (Toronto: Roswell & Hutchison, 1890; box 3, RG1 C, CTA).

3. Suburban municipalities were already "zoned" before that time, but New York City's 1916 ordinance was the first truly comprehensive one, combining building and land-use regulations over a vast and varied urban territory. On German zoning, see Thomas H. Logan, "The Americanization of German Zoning," *Journal of the American Institute of Planners* 42 (1976): 377–385. On New York City, see S. J. Makielski, Jr., *The Politics of Zoning: The New York Experience* (New York: Columbia University Press, 1966), and Seymour I. Toll, *Zoned American* (New York: Grossman, 1969), as well as Raphaël Fischler, "The Metropolitan Dimension of Early Zoning: Revisiting the 1916 New York City Ordinance," *Journal of the American Planning Association* 64 (1998), 170–188.
4. Peter W. Moore, "Zoning and Neighborhood Change in the Annex in Toronto, 1900–1970" (PhD diss., University of Toronto, 1978), 148; Mel Scott, *American City Planning since 1890* (Berkeley: University of California Press, 1971), 160; Walter Van Nus, "Towards the City Efficient: Theory and Practice of Zoning, 1919–1939," in *The Usable Urban Past: Planning and Politics in the Modern Canadian City*, Carleton Library No. 119, ed. Alan F. J. Artibise and Gilbert A. Stelter (Toronto: Macmillan, 1979), 239.
5. Richard Harris, "The Impact of Building Controls on Residential Development in Toronto, 1900–1940," *Planning Perspectives* 6 (1991): 269–296, 1991; Peter Moore, "Zoning and Planning: The Toronto Experience, 1904–1970," in *Usable Urban Past* (see note 4), 316–341; Van Nus, "Towards the City Efficient"; John C. Weaver, "The Property Industry and Land-Use Controls: The Vancouver Experience, 1910–45," *Plan Canada* 19 (1979): 211–225.
6. Richard F. Babcock, *The Zoning Game: Municipal Practices and Policies* (Madison: University of Wisconsin Press, 1966); Constance Perin, *Everything in Its Place: Social Order and Land Use in America* (Princeton: Princeton University Press, 1977).
7. Districting ordinance no. 452 N. S., City of Berkeley (1916); bylaw no. 8815, City of Toronto (1921).
8. Harris, "The Impact of Building Controls," 275.
9. Peter W. Moore, "Public Services and Residential Development in a Toronto Neighborhood, 1880–1915," *Journal of Urban History* 9 (1983): 445–471, 464. J. M. S. Careless expresses the same opinion when he writes, "The move towards planning and spatial control was first effectively expressed in 'non-residential restrictions,' provincially enacted at the city's request in 1904" (*Toronto to 1918: An Illustrated History* [Toronto, Lorimer, and National Museum of Man, 1984], 193). The operative word, here, is probably *effectively*, even though, according to Careless, bylaws remained weak and officials easy to sway (*ibid.*, 179).
10. On London and England as a whole, see Roger H. Harper, *Victorian Building Regulations: Summary Tables of the Principal English Building Acts and Model Bylaws, 1840–1914* (London: Mansell, 1985); on Paris, see Antony Sutcliffe, *Paris: An Architectural History* (New Haven: Yale University Press, 1993).
11. Paul-André Linteau, *Maisonneuve, ou comment des promoteurs*

- fabriquer une ville, 1883–1918* (Montreal, Boréal Express, 1981), 63–64.
12. Barbara Sanford, "The Political Economy of Land Development in Nineteenth-Century Toronto," *Urban History Review / Revue d'histoire urbaine* (hereafter *UHR*) 16 (1987): 17–33, 28; Moore, "Zoning and Planning," 317. Andrew King has documented the contribution of nuisance laws to zoning, Marc Weiss that of restrictive covenants: Andrew J. King, *Law and Land Use in Chicago: A Prehistory of Modern Zoning* (New York: Garland, 1986); Marc A. Weiss, *The Rise of the Community Builders: The American Real Estate Industry and Urban Land Planning* (New York: Columbia University Press, 1987). For a historical examination of restrictive covenants as collective (though not public) means of social and functional segregation, see Robert M. Fogelson, *Bourgeois Nightmares: Suburbia, 1870–1930* (New Haven: Yale University Press, 2005). On the blurred line of demarcation between public and collective controls, in particular the fact that municipal land-use regulations in suburbs are often seen as private covenants writ large, see Jonathan Levine, *Zoned Out: Regulation, Markets and Choices in Transportation and Metropolitan Land-Use* (Washington, DC: Resources for the Future, 2006), chap. 5.
  13. See, for instance, Raphaël Fischler, "Standards of Development" (PhD diss., University of California at Berkeley, 1993).
  14. One may argue that in truly modern (i.e., contemporary) zoning, quantitative standards have lost ground to qualitative ones. Still, the former remain central, even if they tend to be performance standards rather than specification standards. For a general discussion of this shift and of its meaning for urban governance, see Jane Jacobs, *Dark Age Ahead* (Toronto: Random House Canada, 2004).
  15. Peter G. Goheen, *Victorian Toronto, 1850–1900: Pattern and Process of Growth*, Research Paper No. 127 (Chicago: Department of Geography, University of Chicago, 1970), 20.
  16. For an analysis of how the police power was applied in Kingston over the course of the nineteenth century, see Brian S. Osborne and Donald Swainson, *Kingston: Building on the Past* (Westport, ON: Batternut, 1988).
  17. "Arrêt du conseil d'état qui ordonne à Mr. Talon de faire des règlements de police," in *Édits, ordonnances royaux, déclarations et arrêts du conseil d'état du roi, concernant le Canada; Mis par ordre chronologique, et publiés par ordre de son excellence Sir Robert Shore Milnes, baronet, lieutenant gouverneur de la province du Bas-Canada* (Québec: Desbarats, 1803), 1:62.
  18. Canada, *Statutes*, 32 George III, c. V, 1792.
  19. "An Act for Regulating the Manner of Licensing Public Houses, and for the More Easy Convicting of Persons Selling Spirituous Liquors without License," 34 George III, c. XII, 1794.
  20. "An Act to Regulate the Curing, Packing, and Inspection of Beef and Pork," 45 George III, c. VIII, 1805.
  21. Moore, "Zoning and Neighborhood Change."
  22. "An Act to Provide for the Laying Out, Amending and Keeping in Repair, the Public Highways and Roads in this Province, and to Repeal the Laws Now in Force for That Purpose," 50 George III, c. 1, 1810, s. 3.
  23. "An Act to Extend the Limits of the Town of York; to Erect the Said Town into a City; and to Incorporate It under the Name of the City of Toronto," 4 William IV, c. 23, 1834, s. 22.
  24. Ibid.
  25. For Montreal, this special legislation came in the form of a city charter or of amendments to that charter. At the time of writing, the City of Toronto was seeking to obtain the status of "charter city" as well, hoping to be ruled by a provincial law that "would be custom-built to meet Toronto's unique needs and responsibilities" and "would . . . spell out clearly the City's spheres of power with respect to local matters and give the City the ability to act independently within these spheres" (City of Toronto, "Towards a New Relationship with Ontario and Canada," <http://www.toronto.ca/ourcity/citycharter.htm>).
  26. *An Act Respecting Surveys and Plans of Land in or near Urban Municipalities*, S.O., c. 44, 1917. For a general introduction to planning law in Ontario, albeit mostly for the post-1946 period, see Ted Gomme, "Municipal Planning in Ontario," *Plan Canada* 24 (1984): 102–114.
  27. An Act for the Preventing & Extinguishing of Fires, bylaw no. 1, City of Toronto (1834).
  28. Ibid. The quotations are from ss. 1 and 2.
  29. An Act concerning Nuisances and the Good Government of the City, bylaw no. 4, City of Toronto (1834).
  30. Ibid. The quotations are from s. 1, paras. 3, 10, and 14.
  31. Ibid., s. 1, para. 5.
  32. An Act concerning Licenses, bylaw no. 6, City of Toronto (1834).
  33. Ibid., ss. 1 and 9.
  34. An Act to Establish a Board of Health, bylaw no. 8, City of Toronto (1834).
  35. Ibid., s. 6.
  36. An Act for Regulating, Paving, Cleaning, and Repairing the Streets, and Roads, and for Constructing Common Sewers, bylaw no. 9, City of Toronto (1834).
  37. Ibid., s. 11.
  38. An Act to Restrain the Erection of Furnaces and Manufactories Dangerous from Fires, to Regulate the Erection of Party Walls, and for Other Purposes Mentioned Therein, bylaw no. 93, City of Toronto (1845).
  39. Ibid., s. 3.
  40. An Act to License Livery Stables, bylaw no. 106, City of Toronto (1846).
  41. An Act to Provide for the Erection of Party Walls, and to Prevent the Erection of Buildings Dangerous in Promoting Fires within Certain Limits, bylaw no. 152, City of Toronto, (1850).
  42. Ibid., s. 2.
  43. An Act to Amend the Law Relating to Party Walls, and for the Prevention of Fires, bylaw no. 179, City of Toronto (1851).
  44. Ibid., s. 2.
  45. Ibid. The additional clause was written by hand on a piece of paper attached to the printed draft bill (as shown on the microfiche reproduction of the bylaw, Central Records, City of Toronto).
  46. Ibid., s. 31.
  47. Ibid., se. 32.
  48. An Act to Repeal the Laws Now in Force Relating to Party Walls and to Make Provision for the Erection of Brick Buildings within Certain Limits, bylaw no. 183, City of Toronto (1852).
  49. An Act to Amend and Consolidate the Laws Relating to the Board of Health, bylaw no. 227, City of Toronto (1855).
  50. An Act Respecting Ornamental and Shade Trees, bylaw no. 248, City of Toronto (1857).
  51. City of Toronto, bill for A Bylaw to Repeal Bylaw No. 410 Relative to the Board of Health, and to Extend and Make Further Provision for the Health of the City Hereafter, bylaw no. 431 (1866); a copy of the annotated draft bill is on the microfiche copy of the bylaw at Central Records, City of Toronto.
  52. A similar example of an idea being implemented only decades after it was first aired can be found in the use of the "floor area ratio," as opposed to height and lot coverage, to control building volume in New York City. The principle was put forward as early as 1916 but enacted only in 1961 (Fischler, "The Metropolitan Dimension of Early Zoning").
  53. Bylaw to Repeal Bylaw No. 410 Relative to the Board of Health, and to



- Extend and Make Further Provision for the Health of the City Hereafter, bylaw no. 431, City of Toronto (1866), ss. 14, 15.
54. Another enactment, adopted on the same day as the public-health bylaw, regulated urban development on a dual spatial and functional basis. It brought the establishment of oil refineries and similar facilities under the purview of City Council and strictly prohibited the storage of more than ten barrels of petroleum and one barrel of benzine in the central part of the city. See Bylaw to Regulate the Erection of Coal Oil Refineries and the Storage of Petroleum, Rock Oil, Coal Oil, Water Oil, or Any of the Products of Petroleum, as well as Naphtha, Benzole, Benzine, Kerosene, or Any Burning Fluid by Whatever Name Known, within the City of Toronto, bylaw no. 432, City of Toronto (1866). The boundaries within which one could store only a limited amount of flammable material were, roughly, Front and Palace streets to the south, Simcoe Street and College Avenue to the west, the city limits to the north, and Berkeley Street to the east.
  55. Bylaw to Repeal Bylaw No. 410 Relative to the Board of Health, City of Toronto, s. 19.
  56. Shirley Spragge, "A Confluence of Interests: Housing Reform in Toronto, 1900–1920," in *The Usable Urban Past* (see note 4), 247–267.
  57. Goheen, *Victorian Toronto*, 115, 126.
  58. The use of specification standards and the exercise of discretion have been and still are objects of great concern among legislators and professionals. See, for example, Philip Booth, *Controlling Development: Certainty and Discretion in Europe, the USA and Hong Kong* (London: UCL, 1996).
  59. On this development in Canada, see Paul Rutherford, "Tomorrow's Metropolis: The Urban Reform Movement in Canada, 1880–1920," in *The Canadian City: Essays in Urban and Social History*, ed. Gilbert A. Stelter and Alan F. J. Artibise, rev. ed. (Ottawa: Carleton University Press, 1984), 435–455. For a book-length analysis of new modes of "governmentality" in the UK and other countries, see Patrick Joyce, *The Rule of Freedom: Liberalism and the Modern City* (London: Verso, 2003).
  60. The increasing bureaucratization of government can be witnessed as well in the introduction of forms for official use in a variety of duties, for instance in the determination and collection of "sewerage rates" after the laying of public sewers and in the investigation and abatement of nuisances (A Bylaw to Provide for Regulating the Common Sewers, and an Annual Rental or Sewerage Fee, bylaw no. 468, City of Toronto [1868]; A Bylaw Relative to the Public Health of the City of Toronto, bylaw no. 502, City of Toronto [1869]).
  61. A Bylaw for Regulating the Erection of Buildings, and the Storage of Inflammable Substances, and for Making Other Provisions for the Prevention of Fires, bylaw no. 503, City of Toronto (1869).
  62. A Bylaw to Regulate the Proceedings in the Municipal Council of the Corporation of the City of Toronto and the Committees Thereof, bylaw no. 504, City of Toronto (1869).
  63. *Ibid.*, s. 77, para. 2.
  64. A Bylaw to Amend Bylaw No. 504, so Far as the Same Relates to the City Engineer and Staff, bylaw no. 708, City of Toronto (1876), s. 4, para. 2.
  65. See Nino Hason, "The Emergence and Development of Zoning Controls in North American Municipalities: A Critical Analysis," Papers on Planning in Design No. 13 (University of Toronto, Department of Urban and Regional Planning, 1977); see also Fischler, "The Metropolitan Dimension of Early Zoning."
  66. A Bylaw to Amend Bylaw No. 503, Relative to the Erection of Buildings within Certain Limits of the City of Toronto, bylaw no. 576, City of Toronto (1873), s. 3.
  67. *Ibid.*, s. 5.
  68. A Bylaw for Regulating the Erection of Buildings and the Storage of Inflammable Material, bylaw no. 627, City of Toronto (1874, am. 1875, 1876); A Bylaw to Amend by Law [sic] No. 627, and to Regulate the Erection of Buildings within the Limits of the City of Toronto, South of the Esplanade, and along the Water Front of the City, bylaw no. 1623, City of Toronto (1885).
  69. Bylaw no. 627, s. 53.
  70. A Bylaw to Amend Bylaw [sic] No. 627 (as Last Consolidated) [sic] Respecting the Erection of Buildings and the Storage of Inflammable Material, bylaw no. 908, City of Toronto (1879), s. 6.
  71. Bill for Bylaw to Repeal Bylaw No. 410 Relative to the Board of Health, City of Toronto, s. 14.
  72. A Bylaw for Regulating the Erection of Buildings and the Storage of Inflammable Material, City of Toronto, s. 38.
  73. A Bylaw to Regulate the Establishment and Maintenance of Livery and Other Stables, and to Prevent Nuisances, bylaw no. 1702, City of Toronto (1886), s. 1.
  74. A Bylaw Respecting the Public Health Bylaw, bylaw no. 1769, City of Toronto (1886).
  75. A Bylaw to License and Regulate Plumbers, and to Secure the Sanitary Condition of Buildings, bylaw no. 1791, City of Toronto (1887).
  76. A Bylaw to Provide for the Protection of Infant Children, under the Provisions of the Act 50 Vic., cap. 36, Ontario Statutes, 1887, bylaw no. 1847, City of Toronto (1887), s. 3.
  77. A Bylaw to Regulate the Width of Streets and the Erection of Dwellings in the City of Toronto, bylaw no. 2379, City of Toronto (1889), ss. 1 and 2. These clauses were included in the city's building code in 1890 (see below) and were re-enacted without change in 1895 to function on the basis of Ontario's Consolidated Municipal Act of 1892 (A Bylaw to Amend Bylaw No. 2468, being "A Bylaw for Regulating the Erection of Buildings and the Storage of Inflammable Material," City of Toronto, "so as to Prevent Building on Narrow Streets, and Providing for Vacant Space at All Dwelling Houses, [bylaw no. 3363 [1895]]).
  78. This argument is put forward by John Burnett, *A Social History of Housing, 1815–1970* (London: Methuen, 1978), 154.
  79. Scott, *American City Planning since 1890*, 197.
  80. A Bylaw for Regulating the Erection of Buildings and the Storage of Inflammable Material, bylaw no. 2468, City of Toronto (1890); the same standards for street width and for open space are present (ss. 4 and 5), but the clause on exceptions is not.
  81. *Ibid.*
  82. See Goheen, *Victorian Toronto*, chap. 7, and Careless, *Toronto to 1918*, chap. 4.
  83. *Ibid.*, s. 46.
  84. *Ibid.*, s. 69.
  85. A Bylaw to Amend Bylaw No. 2468, Being a Bylaw for Regulating the Erection of Buildings and the Storage of Inflammable Material, bylaw no. 3217, City of Toronto (1894).
  86. A Bylaw to Amend Bylaw Number 2468 Regulating the Erection of Buildings, bylaw no. 4379, City of Toronto (1904), s. 4. Other requirements were applied to "buildings used as hotels, office buildings, warehouses, factory buildings, and public buildings." Another innovation was the fact that the standards were presented in tabular form.
  87. A Bylaw for Regulating the Erection and to Provide for the Safety of Buildings, bylaw no. 4408, City of Toronto (1904).
  88. Bylaw no. 4408 contains clauses typical of twentieth-century housing codes, such as a minimum ceiling height (eight feet) and a minimum size for the window or windows that furnish air and light to a given room or couple of rooms (10 per cent of the floor area of the single room or of the two rooms that get their light and air from that source).

89. Among the oldest sections contained in the bylaw of 1904 are those pertaining to fire safety and dealing with items such as furnaces, lumberyards, stoves, ashes, ladders, tanneries, inflammable substance, and gunpowder (*ibid.*, ss. 127–145).
90. *Ibid.*, s. 18, paras. 32, 33, 34.
91. *Ibid.*, s. 18, para. 45.
92. *Ibid.*, s. 19.
93. *Ibid.*, s. 20, para. 2.
94. *Ibid.*
95. *Ibid.*, s. 49.
96. Bill for A Bylaw to Repeal Bylaw No. 410 Relative to the Board of Health, City of Toronto, s. 14.
97. A Bylaw to Prevent the Erection and Use for Laundries of Any Building on Any Property Fronting or Abutting upon Parliament Street, from Winchester Street Northerly to the Northerly Terminus Thereof, bylaw no. 4460, City of Toronto (1904), preamble.
98. A Bylaw to Provide for Ascertaining whether a Bylaw Should Be Passed Prohibiting, Preventing, Regulating or Controlling the Location, Erection and Use of Buildings for Laundries, Butcher Shops, Stores and Manufactories, bylaw no. 4454, City of Toronto (1904), s. 1.
99. *Ibid.*
100. Peter W. Moore, "Zoning and Neighborhood Change in the Annex," 135. Moore mentions that one area received protection even before the Municipal Amendment Act had been officially adopted (*ibid.*, 134).
101. A Bylaw to Prohibit the Erection of Apartment or Tenement Houses, and of Garages to Be Used for Hire or Gain, on Certain Streets, bylaw no. 6061, City of Toronto (1912). This bylaw was only the first of a long series that prohibited the location of apartment buildings and garages on designated residential streets. In 1912, other such ordinances were bylaws no. 6109, 6117, 6128, 6141, 6142, 6143, 6180, 6234, 6286. On the fight against apartments and tenements, see Richard Dennis, "Apartment Housing in Canadian Cities, 1900–1940," *UHR* 26 (1998): 17–31.
102. Edward Bassett, *New York Times*, September 14, 1913, s. VII.
103. Moore, "Zoning and Planning," 320–328.
104. Lawrence Veiller, "Protecting Residential Districts," in *Proceedings of the Sixth National Conference on City Planning, Toronto, May 25–27, 1914* (Boston, n.p., 1914), 93.
105. Emphasis changed. The printed notice is reproduced in Careless, *Toronto to 1918*, 24. The other two clauses require, respectively, that owners clear and fence in at least five acres of land on their property and that they open up Yonge Street in front of their lot (to the middle of the road), all this within the first year of ownership. On development control prior to incorporation, see also Sanford, "The Political Economy of Land Development."
106. Eric Ross Arthur quotes from a letter describing similar private restrictions in *Toronto, No Mean City* (Toronto: University of Toronto Press, 1965), 22.
107. The author's own research on Montreal bylaws shows a high degree of overlap with those of Toronto. See Raphaël Fischler, "From Building and Nuisance Bylaws to Zoning Codes: Montreal and Toronto, 1834–1914" (paper presented at the Annual Meeting of the Association of Collegiate Schools of Planning, Baltimore, November 21–24, 2002). For comparisons of regulatory systems in different countries, see, for example, J. Barry Cullingworth, *The Political Culture of Planning: American Land Use Planning in Comparative Perspective* (New York: Routledge, 1993) and Booth, *Controlling Development*.
108. Historical work on the international diffusion of urban planning has burgeoned in the past few years, but it tends to deal with the twentieth century, not the nineteenth century. See, for example, Daniel T. Rogers, *Atlantic Crossings: Social Politics in a Progressive Age* (Cambridge: Belknap, 1998), and Stephen V. Ward, "Re-examining the International Diffusion of Planning," in *Planning in a Changing World: The Twentieth Century Experience*, ed. Robert Freestone (London: Spon, 2000), 40–60.
109. Classic essays on the history of the Progressive Movement, even those pertaining to the US, can help guide inquiry here; e.g., Samuel P. Hays, "The Politics of Reform in Municipal Government in the Progressive Era," *Pacific Northwest Quarterly* 55 (October 1964): 157–169.
110. Veiller, "Protecting Residential Districts," 95.
111. Lawrence Veiller, "Tenement House Reform in New York City, 1834–1900," in *The Tenement House Problem*, ed. Robert W. DeForest and Lawrence Veiller (New York: Macmillan, 1903), 69–118.