

Authority: Licensing and Standards Committee Item LS27.2, adopted as amended, by City of Toronto Council on July 23, 24, 25, 26, 27 and 30, 2018

CITY OF TORONTO

BY-LAW 1088-2018

To adopt City of Toronto Municipal Code Chapter 417, Dust, for the regulation of nuisance dust in the City of Toronto.

Whereas under sections 7 and 8 of the City of Toronto Act, 2006, the City may pass by-laws in respect of the health, safety and well-being of persons and the economic, social and environmental well-being of the City; and

Whereas Council wishes to regulate the public nuisance of dust; and

Whereas Council has authorized the adoption of Toronto Municipal Code Chapter 417, Dust, to provide new regulations to prevent the nuisance of dust and to require mitigation measures for construction activities causing dust;

The Council of the City of Toronto enacts:

1. The City of Toronto Municipal Code is amended by adding the chapter set out in Schedule A to this by-law as Chapter 417, Dust, in Part II – General By-laws.
2. This by-law comes into force on September 4, 2018.

Enacted and passed on July 27, 2018.

Glenn De Baeremaeker,
Deputy Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

SCHEDULE A

**CHAPTER 417
DUST**

**Article 1
Definitions**

§ 417-1.1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

COMMERCIAL PROPERTY – Any property which is zoned for commercial use by an applicable Zoning By-law or which is used in whole or in part for commercial use.

CONSTRUCTION EQUIPMENT – Any equipment or device designed and intended for use in construction or material handling, including, but not limited to, hand tools, power tools, pneumatic or hydraulic tools, or other material-handling equipment.

DUST – Solid particles which may become or be airborne as a result of residential construction activities, including, but not limited to, trimming, blasting, drilling, crushing, grinding, sawing, screening, cutting, altering or moving of clay, mortar, stone, rock, stucco, concrete, tile, and insulation.

EXECUTIVE DIRECTOR – The Executive Director, Municipal Licensing and Standards Division, and the Executive Director's designate or successor.

INDUSTRIAL PROPERTY – Any property which is zoned for industrial use by an applicable Zoning By-law or which is used in whole or in part for industrial use.

MULTI-RESIDENTIAL –

- A. Land used for residential purposes that has seven or more self-contained units located on it, or
- B. Vacant land principally zoned for multi-residential development.

NECESSARY MUNICIPAL WORK – Construction, rehabilitation, or maintenance processes using construction equipment conducted by, or on behalf of, the City, the Province of Ontario, the Government of Canada, or any of their respective agencies or agents.

OFFICER – Any City employee assigned responsibility for enforcing this chapter.

PREMISES – A property, multi-residential, or mixed-use building, or a part of a property, multi-residential, or mixed-use building owned or occupied by any person, including a corporation.

RESIDENTIAL CONSTRUCTION – Anything to do in the erection, installation, extension, or material alteration or repair of a residential property, including decorative stonework, retaining walls, and walkways.

RESIDENTIAL PROPERTY – Land, a building, or structure used, capable of being used, designed, or intended for residential use, excluding a multi-residential building.

Article 2 General Requirements, Exceptions

§ 417-2.1. Dust; general requirements.

- A. No person shall cause or permit dust that occurs as a result of residential construction activities to escape a residential property onto another premises.
- B. No person shall direct or cause a person to cause or permit dust that occurs as a result of residential construction activities to escape a residential property onto another premises.
- C. It is an offence for any person to contribute to, take any action or fail to take any action that would result in the commission of an offence under Subsection A or B.

§ 417-2.2. Exceptions.

- A. Section 417-2.1. does not apply if reasonable preventative measures were taken to prevent dust from escaping a residential property.
- B. Reasonable preventative measures required in Subsection A must include one or a combination of the following dust control measures to the satisfaction of the Executive Director:
 - (1) wetting the construction material;
 - (2) using a wet saw;
 - (3) using dustless saw technology;
 - (4) tarping or otherwise containing the source of dust;
 - (5) installing wind fencing or a fence filter;
 - (6) using a vacuum attachment when cutting; or
 - (7) any other preventative measure deemed by the Executive Director to be adequate in the mitigation of dust escaping a residential property based on the nature of the activity.

- C. Section 417-2.1. does not apply to:
- (1) necessary municipal work;
 - (2) work occurring on commercial and industrial properties; and
 - (3) the construction of a multi-residential building, subdivision, or mixed-use development; and
 - (4) a residential demolition project for which an approved demolition permit has been issued.

Article 3
Enforcement, Orders, Offences and Penalties

§ 417-3.1. Orders, offences and penalties.

- A. Offences.
- (1) Every person who contravenes any provision of this chapter, or a notice of violation or direction or order issued in accordance with this chapter, is guilty of an offence and on conviction is liable to a fine of not more than \$100,000.
 - (2) In addition to a fine or fines provided for in this section every person who gains an economic advantage from contravening this chapter, or a notice of violation or direction or order issued in accordance with this chapter, is liable to a special fine in an amount equal to the fair market value of the economic advantage obtained from the contravention.
 - (3) In addition to offences in Subsections A(1) and (2), every person is guilty of an offence under this chapter who:
 - (a) Hinders or obstructs or attempts to hinder or obstruct any person exercising a power or performing a duty under this chapter;
 - (b) Neglects or refuses to produce or provide any information or thing to any person acting pursuant to an order made under section 378 of the City of Toronto Act, 2006;
 - (c) Knowingly makes, participates in, assents to or acquiesces in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this chapter.
 - (4) Where a corporation contravenes any of the provisions of this chapter, or a notice of violation or direction or order issued in accordance with this chapter, every director or officer who concurs in such contravention is guilty of an offence and on conviction is liable to a fine of no more than \$100,000.

- (5) Each offence is designated as a continuing offence and is subject to, for each day or part of a day that the offence continues a maximum fine of no more than \$10,000. The total of all of the daily fines imposed for each offence may exceed \$100,000.

B. Entry to inspect.

- (1) In accordance with section 376 of the City of Toronto Act, 2006, an officer may enter upon land within the City at any reasonable time for the purpose of carrying out inspections to determine whether the following are being complied with:
 - (a) This chapter; or
 - (b) A notice of violation or direction or order issued in accordance with this chapter.
- (2) For the purposes of an inspection under Subsection B(1), an officer may:
 - (a) Require, for inspection, the production of documents or things relevant to the inspection;
 - (b) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts of them;
 - (c) Require information from any person concerning a matter related to the inspection;
 - (d) Be accompanied by such person or persons as the officer determines is necessary if such person or persons possesses special or expert knowledge related to the purpose of the inspection; and
 - (e) Make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

C. Orders to comply or notices of violation.

- (1) An officer who finds a contravention of this chapter may make one or more orders or notices of violation requiring discontinuance of the contravening activity or to do work to correct the contravention under section 384 or 385 of the City of Toronto Act, 2006.
- (2) An order or notice of violation may be of immediate effect should the Executive Director determine that a delay would result in circumstances that endanger the health or safety of any person or similarly serious consequences.
- (3) The order or notice of violation may be served personally on the person to whom it is directed or to an email or social media address that person has provided to the

City or by registered mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed.

- (4) If there is evidence that the occupant of the land is not the registered property owner, the order or notice of violation shall be served on both the registered property owner and the occupant of the land.
- (5) If the address of the owner is unknown or the City is unable to effect service on the owner or occupant under Subsection C(3), a placard stating the terms of the order or notice of violation and placed in a conspicuous place upon land on or near the property shall be deemed to be sufficient notice to the owner.
- (6) If the delay necessary to serve an order or notice of violation under Subsection C(3) would result in circumstances that endanger the health or safety of any person or similarly serious consequences, the order or notice of violation may be served by a placard stating the terms of the order or notice of violation and placed in a conspicuous place upon land on or near the property.

D. Remedial action.

If a person fails to comply with an order or a notice of violation to correct a contravention of this chapter, the Executive Director or persons acting upon the Executive Director's instructions, may enter the lands at any reasonable time for the purposes of doing the things described in the order or notice of violation at the person's expense.