



STAFF REPORT ACTION REQUIRED

Noise from the Operation of Construction Equipment on Sundays and Statutory Holidays

To report on any additional regulations, restrictions or exemptions that may be necessary to permit the implementation of the proposed amendments to Chapter 591, Noise, referred by Council at its meeting on September 25, 26, 27 and 28, 2006.

Date:	May 28, 2007
To:	Licensing and Standards Committee
From:	Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	3019

SUMMARY

The proposed amendment, referred to the Executive Director, Municipal Licensing and Standards Division by Council at its meeting of September 25, 26, 27 and 28, 2006, will be difficult to enforce as determination of the distancing factor will be onerous.

To increase the ability to enforce the provision, the amendment should be simplified to prohibit noise from the use of construction equipment on Sundays and holidays, excluding the continuous pouring of concrete and large crane work, necessary municipal work, and any emergency work that cannot be performed during regular business hours. Additionally the terms “regular business hours,” “continuous pouring of concrete,” “large crane work” and “necessary municipal work” should also be defined.

The report was prepared in consultation with Technical Services, Transportation Services, Toronto Water, Toronto Building, Legal Services, and the Toronto Transit Commission.

RECOMMENDATIONS

The Executive Director of Municipal Licensing and Standards recommends that:

1. The City of Toronto Municipal Code Chapter 591, Noise be amended to:

- a. Effective January 1, 2008, prohibit noise from the operation of construction equipment on Sundays and holidays, excluding the continuous pouring of concrete and large crane work, necessary municipal work, and emergency work that cannot be performed during regular business hours.
- b. Provide definitions for the following terms:

REGULAR BUSINESS HOURS – 7:00 a.m. to 7:00 p.m. Monday to Friday, 9:00 a.m. to 7:00 p.m. Saturday, and excluding statutory holidays

LARGE CRANE WORK — The erection and dismantling of a crane or any other crane work that requires a road closure in order for the work to be started and finished.

CONTINUOUS POURING OF CONCRETE — Slip-forming, deck pour or pre-pour operations that cannot be interrupted once the operations have commenced.

NECESSARY MUNICIPAL WORK — City rehabilitation or maintenance processes using construction equipment that must be performed at times that minimize lane closures or lane reductions, or both, of City streets, or minimize use of the Toronto Transit Commission's subway or street car rights-of-ways or any ancillary facilities associated with the transit system, including, but not limited to the following:

- i. Deck removal over an expressway or arterial roadway;
 - ii. Major intersection rehabilitation; and,
 - iii. All Toronto Transit Commission work respecting the transit system, including any ancillary facilities.
2. The City Solicitor be directed to prepare the necessary bill to give effect to the recommendations from this report, as adopted by Council; and
 3. The funding required for the enforcement and communication of the bylaw amendment be deferred for consideration with Municipal Licensing & Standards 2008 Operating Budget.
 4. City staff be authorised and directed to take any other action necessary to implement the bylaw amendments.

FINANCIAL IMPACT

With the adoption of the amendments to Chapter 591, Noise, of the Toronto Municipal Code proposed in this report, together with the amendments to the by-law adopted in 2006 related to noise from loudspeakers and other amplification devices, and noise from construction activities in low-rise residential neighbourhoods on Sundays and statutory holidays, the equivalent of six full time employees (FTE's) will need to be added to the Municipal Licensing and Standards Division complement to alleviate additional pressures on enforcement staff and to avoid further service levels impacts. Additionally, it is estimated that 0.2 FTEs of administrative support will be required to support the officers.

The hiring of additional staff will add a pressure to the 2008 operating budget of approximately \$523,943 based on \$442, 943 for salary and benefits, plus \$63,000 in additional start-up and annual operating costs (e.g., computers, software, clothing, workstation, mileage, and training) related to enforcement and \$18,000 for administrative support (annualized based on 2008 rates).

Additionally, to support the bylaw, and those affected by the city-wide prohibition, a communications strategy will need to be developed with messaging for specific audiences including the construction industry and the general public. The public education campaign will include advertising in a variety of media and City of Toronto publications, developing supporting materials such as fact sheets and a brochure and posting of information on the City of Toronto web site. A budget of \$20,000 is required to support the bylaw to help ensure effective implementation. A funding request for this initiative will be included in the 2008 operating budget submission.

The Deputy City Manager and Chief Financial Officer has reviewed this report and concur with the financial impact statement.

DECISION HISTORY

City Council, at its meeting of September 25, 26, 27 and 28, 2006 had before it a report from the Executive Director, Municipal Licensing and Standards dated August 21, 2006 entitled Operation of Construction Equipment in Residential Neighbourhoods on Sundays and Statutory Holidays within 100 metres of any Residential Dwelling Units.

City Council debated a recommendation that Chapter 591, Noise, of the Toronto Municipal Code be amended to prohibit the use of construction equipment on Sundays and holidays within 100 metres of any residential dwelling units, excluding the pouring of concrete and large crane work, necessary municipal work and emergency work that cannot be performed during regular business hours.

The Clause, together with the motions, were referred to the Executive Director, Municipal Licensing and Standards Division, in consultation with the General Manager, Transportation Services for a report to the Licensing and Standards Committee on any additional regulations, restrictions or exemptions that may be necessary as a result of the implementation of the new bylaw.

COMMENTS

Municipal Licensing and Standards

The amendment proposed by Council, to prohibit noise from the use of construction equipment on Sundays and holidays within 100 metres of any residential dwelling units, excluding the pouring of concrete and large crane work, will be difficult to enforce as a determination of the distancing factor will be onerous.

Alternatively, a provision that would lend itself to a reasonable enforcement strategy would be to prohibit noise from the use of construction equipment on Sundays and holidays, excluding the continuous pouring of concrete and large crane work, necessary municipal work or emergency work that cannot be performed during regular business hours. This amendment does not include any provision for distance.

Weekends, including Sundays and holidays, are very important for scheduling certain construction activity that cannot otherwise take place during the week, or only on Saturdays, because of the duration of the work that has to be done, and the significant traffic impacts on arterial streets.

Therefore, the terms “large crane work,” “continuous pouring of concrete,” “necessary municipal work,” as well as “regular business hours” should be defined. The definitions for these terms are as follows:

REGULAR BUSINESS HOURS – 7:00 a.m. to 7:00 p.m. Monday to Friday, 9:00 a.m. to 7:00 p.m. Saturday, and excluding statutory holidays

LARGE CRANE WORK — The erection and dismantling of a crane or any other crane work that requires a road closure in order for the work to be started and finished.

CONTINUOUS POURING OF CONCRETE — Slip-forming, deck pour or pre-pour operations that cannot be interrupted once the operations have commenced.

NECESSARY MUNICIPAL WORK — City rehabilitation or maintenance processes using construction equipment that must be performed at times that minimize lane closures or lane reductions, or both, of City streets, or minimize use of the Toronto Transit Commission’s subway or street car rights of ways or any ancillary facilities associated with the transit system, including, but not limited to the following:

- i. Deck removal over an expressway or arterial roadway;
- ii. Major intersection rehabilitation;
- iii. All Toronto Transit Commission work respecting the transit system, including any ancillary facilities.

Enforcement

While recommended, the hiring of four additional staff was not approved with the amendments to Chapter 591, Noise, of the Toronto Municipal Code in 2006 related to noise from loudspeakers and other amplification devices, and noise from construction activities in neighbourhoods on Sundays and statutory holidays. It is expected that the extension of the restrictions on noise from construction activities city-wide will result to additional pressures on enforcement staff and further impact service levels.

The enforcement activity generally occurs outside of regular business hours, on Sundays and statutory holidays for the construction activity and in the late evening/early morning hours for noise related to loudspeakers.

In order to support compliance and enforcement with the amendments to Chapter 591, Noise, an increase in Municipal Licensing and Standards Division staffing is required. An increase of staff in the amount of 6.2 FTE (Full-time equivalents) will need to be added to the staff complement to meet the anticipated enforcement needs and related administrative processes.

The hiring of additional staff will add a pressure to the 2008 operating budget of approximately \$523,943 based on \$442, 943 for salary and benefits, plus \$63,000 in additional start-up and annual operating costs (e.g., computers, software, clothing, workstation, mileage, and training) related to enforcement and \$18,000 for administrative support (annualized based on 2008 rates). A funding request for this initiative will be included in the 2008 operating budget submission.

Communications Plan

To support the bylaw and those affected by the city-wide prohibition, a communications strategy will be developed with messaging for specific audiences including the construction industry and the general public. The public education campaign will include advertising in a variety of media and City of Toronto publications, developing supporting materials such as fact sheets and a brochure and posting of information on the City of Toronto web site. A budget of \$20,000 is required to support the bylaw to help ensure effective implementation.

Toronto Water

In addition to the exclusions noted above, Toronto Water suggests the following types of work should also be excluded from the bylaw amendment: concrete demolition work, work to be performed during pre-arranged expressway or night-time closures and work to be performed within the TTC subway right-of-way. These items should be exempted from the bylaw amendment unless they are considered to be part of "necessary municipal work."

Toronto Transit Commission (TTC)

The proposed bylaw amendment as written will have significant impact on the construction and maintenance activities associated with the expansion, rehabilitation and maintenance of the TTC's assets located throughout the City. Most of these work activities are scheduled outside the daily operating hours of the TTC and on weekends in an effort to minimize impact to TTC customers and operations. Further constraint on these already narrow work windows will result in the TTC performing work less economically and efficiently, thus increasing costs and impacting the delivery of service.

Of particular concern is work associated with the rehabilitation and maintenance of both the TTC's subway and surface track assets. The TTC's peak period for maintenance and rehabilitation of the operating subway occurs between the hours of 2:00 a.m. and 5:30 a.m., Mondays through Saturdays and 2:00 a.m. to 9:00 a.m. on Sundays. The reconstruction and maintenance of the streetcar track network requires work to be completed on weekend evenings and holidays in an effort to take advantage of lower traffic, transit and pedestrian volumes associated with these timelines.

The TTC has no ability to adjust the already narrow work windows associated with subway operations without reducing service levels and closing the subway at an earlier time. Since most TTC streetcar track work is scheduled in the interests of reducing impact to the overall community, re-scheduling of this work away from weekends would simply shift the burden and have a broader impact to the City at large. Therefore to lessen the overall impact of the proposed bylaw amendment on the TTC's operations, all construction and maintenance activities conducted across the transit system and its ancillary facilities should be defined as 'Necessary Municipal Work' in line with the recommendations above.

IMPLEMENTATION

Given the logistics in scheduling construction work and the work that would already be planned for, especially relating to large construction projects, it is suggested that the implementation of the recommendations in this report take effect January 1, 2008. This will assist the construction industry in adjusting to the new bylaw requirements, as well as better align the implementation with the acquisition of resources identified for enforcement and the communications plan.

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SIGNATURE

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