



## STAFF REPORT ACTION REQUIRED

### Zoning By-law Amendments to Restrict Shooting Ranges and Gun Manufacturers

<b>Date:</b>	September 29, 2008
<b>To:</b>	Planning and Growth Management Committee
<b>From:</b>	Chief Planner and Executive Director, City Planning Division
<b>Wards:</b>	All
<b>Reference Number:</b>	Pg080058

#### **SUMMARY**

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This report presents a by-law to regulate the permissions for the establishment of uses involved in the making or discharging of firearms in the City of Toronto.

Council is concerned with the significant impact to public health and safety that emanates from the existence of firearms violence, in particular handguns, within the community. Through its 2004 Community Safety Plan, Council has established a balanced approach of prevention and enforcement efforts through its “Making a Safe City Safer” initiative. However, the persistence of gun related violence has caused Council to consider options for further actions. In a recent report entitled “City Based Measures to Address Gun Violence”, Council adopted actions strengthening its support for innovative prevention programs, engaging in an active national advocacy campaign, establishing a policy deeming uses that promote firearms use as unacceptable at City owned facilities and, employing its land use regulatory authority in order to reduce the availability and use of handguns consistent with its efforts on “Making a Safe City Safer” initiative.

In regulating the use of land through its Official Plan and Zoning Bylaw, City Council is obligated to have regard to the matters of Provincial interest outlined in the Planning Act. Among are statements calling for development of safe and healthy communities and the protection of public health and safety. The Official Plan already calls for the development of an attractive and safe community. What follows are zoning bylaw amendments that help achieve the vision of a safe community and are consistent with Council’s approach to firearms violence. In particular, this report recommends restrictions on the as-of-right permission to establish shooting ranges and gun manufacturers.

## RECOMMENDATIONS

**The Chief Planner and Executive Director of the City Planning Division recommend that Council:**

1. enact the Firing Range and Firearms Manufacturing Zoning By-law Amendment for the City of Toronto substantially in accordance with the draft zoning by-law identified as Attachment No. 1.
2. authorize the City Solicitor to make such stylistic and technical changes to the draft zoning by-law amendment as may be required.
3. request the Chief Planner and Executive Director of the City Planning Division to incorporate these amendments into the new Zoning Bylaw and report at that time on any other recommendations necessary to achieve their intent.

### **Financial Impact**

The recommendations in this report have no financial impact.

## DECISION HISTORY

At its meeting of January 29 and 30, 2008 Council referred Notice of Motion M16.1 “Request Federal Government to Completely Ban Handguns in Canada” to the Executive Committee for consideration on April 7, 2008:

<http://www.toronto.ca/legdocs/mmis/2008/ex/comm/communicationfile-6637.pdf>

On April 7, 2008 EX19.16a “Request Federal Government to Completely Ban Handguns in Canada” was considered by Executive Committee with EX19.16 “Report to Executive Committee Update on Toronto Gun Strategy”.

<http://www.toronto.ca/legdocs/mmis/2008/ex/bgrd/backgroundfile-11790.pdf>

At the request of the Mayor (as detailed in EX19.16), City staff were tasked with “preparing options for City-based measures to address gun violence, including a thorough analysis of possible legal measures that the City could put in place to impose gun controls within its own jurisdiction” to be brought forward to the June 3, 2008 meeting of the Executive Committee.

On April 28, 2008, Council endorsed EX19.16 and EX19.16a, with three Council motions referred to the City Manager for consideration in the preparation of the staff options paper on city-based measures to address gun violence:

<http://www.toronto.ca/legdocs/mmis/2008/cc/decisions/2008-04-28-cc20-dd.pdf>

The Staff report was presented to the June 3, 2008 meeting of Executive Committee with recommendation for possible actions to be taken by the City and a possible means of controlling firearms within the municipal boundary of the City of Toronto. The Planning

recommendations in that report were endorsed by Executive Committee and subsequently by Council.

<http://www.toronto.ca/legdocs/mmis/2008/ex/bgrd/backgroundfile-13189.pdf>

<http://www.toronto.ca/legdocs/mmis/2008/cc/decisions/2008-06-23-cc22-dd.pdf>

The recommendation for the direction of this report and public meeting is:

#### Land Use Zoning

1. City Council direct the Chief Planner and Executive Director, in consultation with the City Solicitor, to prepare a zoning by-law to restrict uses permitting the discharge of guns, including firing ranges and gun clubs, to establishments operated by a police service of the City or the Provincial or Federal Government and establishments operated by the Department of National Defence, and restrict and/or prohibit establishments that manufacture, assemble, warehouse and/or distribute guns and that the by-law be brought forward to a public meeting at the September 10, 2008 meeting of the Planning and Growth Management Committee.
2. City Council direct staff to give notice for the public meeting under the Planning Act in accordance with the regulations under the Planning Act.

## ISSUE BACKGROUND

Firearm violence, in particular handgun violence, continues to represent a significant public health and safety threat to Canadians in general and Torontonians in particular. Toronto experienced the highest number of victims of firearm-related violent crimes in Canada in 2006, as well as the highest proportion of violent crimes involving firearms.

On average, more than 1,200 Canadians are killed and over 1000 are injured with firearms each year. The economic costs of deaths and injuries from firearms in Canada have been estimated at approximately \$6.6 billion per year.

Canada's firearms homicide rate is six times lower than the U.S. However, compared to countries where handguns are banned, Canada's firearms homicide rate is three times higher than Australia and six times higher than England and Wales.

According to the Canada Firearms Centre, as of April 2008, there are 7,235,699 legally registered firearms in Canada, including 686,029 restricted and prohibited weapons registered to licensed owners. In Ontario there are approximately 215,000 registered handguns.

According to Toronto Police Services, in 2007, of the 2,603 firearms seized, 817 were identified as 'crime guns', which are any firearm that is illegally possessed, used in crime or suspected to have been used in a crime, or has an obliterated serial number. Only 368

of these crime guns had their origins proven. In total, 178 or 48.5% of crime guns were domestically sourced, that is, were stolen, lost or illegally sold in Canada.

Currently, handguns (restricted firearms) can be purchased by licensed target shooters and collectors. The Firearms Act contains regulations governing the safe storage and transport of firearms. However, there is no limit to the number of guns that can be purchased by any licensed individual.

One of the reasons for transporting a firearm in the City is to attend a firing or shooting range. Firing ranges are usually associated with outdoor facilities while shooting ranges are associated with indoor facilities. Neither are specifically mentioned in the zoning bylaws. However, shooting ranges are currently permitted in many parts of the City by association with use of a property as a 'club', in this case, a 'gun club'. Gun manufacturing is also permitted in parts of the City in a similar manner, that is, as a 'manufacturing use'. The association of these uses with gun use in the City is the subject of this report.

## **COMMENTS**

### **Jurisdictional Authority Involving Guns**

The Government of Canada has jurisdiction over legislation that governs firearms, namely the Criminal Code and the Firearms Act. The Firearms Act authorizes possession, sale, manufacture, transfer and importation of firearms. It also covers shooting clubs and ranges. The regulations passed under the Act cover matters such as, establishment and operation of clubs and ranges, the activities carried on and the keeping and destruction of records. The regulations also require evidence of compliance with local zoning regulations. Evidence of proper zoning is recognition of the role that municipalities may play with respect to this matter, which is otherwise seen as federal jurisdiction.

Municipal authority to regulate land use is provided through Section 1.1 of the Planning Act, where it states:

The purposes of this Act are,

- (a) to promote sustainable economic development in a healthy natural environment within the policy and by the means provided under this Act;
- (b) to provide for a land use planning system led by provincial policy;
- (c) to integrate matters of provincial interest in provincial and municipal planning decisions;
- (d) to provide for planning processes that are fair by making them open, accessible, timely and efficient;
- (e) to encourage co-operation and co-ordination among various interests;
- (f) to recognize the decision-making authority and accountability of municipal councils in planning.

Matters of provincial interest that are to be integrated within the City’s land use system are listed in the Planning Act under Section 2 and include among other things:

The Minister, the council of a municipality, a local board, a planning board and the Municipal Board, in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as,

- (h) the orderly development of safe and healthy communities;
- (o) the protection of public health and safety;
- (p) the appropriate location of growth and development;

With these Sections, the Planning Act establishes that a land use planning system, through its policies and regulations, should address development in a manner that produces safe communities and provides for the protection of public health and safety.

The Planning Act also requires that any decision of Council shall be consistent with the Provincial Policy Statement. Part V of the Provincial Policy Statement contains policies that provide direction on matters of provincial interest related to land use planning and development. Section 1.1.1 discusses how healthy, liveable and safe communities are sustained including avoiding development and land use patterns which may cause environmental or public health and safety concerns.

The City’s efforts in its “Making a Safe City Safer” and the recent report on “City Based Measures to Address Gun Violence” have established that gun violence, in particular handgun violence, is a threat to public health and safety. The aim of any action should be to help reduce gun use and availability. The City’s actions under the Planning Act may be considered more indirect than direct with respect to this aim but nonetheless, the City’s land use planning objectives should be consistent with efforts to protect public health and safety as it relates to gun violence.

The City’s land use planning strategy is governed by the Official Plan. The Official Plan contains objectives and policies that manage primarily the physical change while taking into account the effects on the social, economic and healthy natural environment of the City. The intent of the Official Plan is stated in the first chapter:

The vision of the Plan is about creating an attractive and safe city that evokes pride, passion and a sense of belonging - a city where people of all ages and abilities can enjoy a good quality of life.

The words “safe” and “safety” are mentioned no fewer than 42 times in the Official Plan. The concepts of developing ‘safe’ communities and ensuring protection of public health and ‘safety’ are embedded throughout the Plan. The theme of safety relates to land uses, including residential communities or employment districts, design of development, design within the public realm and opportunities for making the transportation system safer.

The Official Plan policies are implemented by zoning bylaws. Zoning bylaw provisions must translate the Official Plan vision of an “attractive and safe” city into regulations governing the use of land and the erection of buildings. With respect to the issue of gun violence, zoning can best be used in two ways. The first is to regulate uses such as gunsmiths and gun manufacturing, and secondly to address uses involved in the discharging of firearms, such as, firing ranges.

### **Existing Zoning Bylaws are Silent on Ranges and Gun Manufacturing**

Under the current legacy of zoning bylaws, gun manufacturing is not specifically defined. But owing to the general nature of the various definitions of ‘manufacturing plant’ or ‘custom workshop’ found in existing zoning bylaws, gun manufacturing is permitted throughout many parts of the City that are zoned for industrial purposes and permitting a manufacturing plant.

Similarly, a shooting or firing range, a facility associated with a gun club, might be permitted by the general nature of the definitions of ‘club’, ‘recreation use’, or ‘place of entertainment’. These uses are permitted in many zones throughout the City including most industrial zones, mixed commercial and industrial zones, many commercial zones, and in commercial-residential zones.

Without specific mention of shooting ranges and gun manufacturers as permitted uses in the zoning by-laws, it is possible under current zoning regulations to locate these uses in many parts of the City without limitation on the numbers of such uses that may be established. Regulating such uses would involve defining them as separate uses and imposing appropriate regulations limiting their establishment in the City.

Such actions with respect to zoning would be in keeping with the policies in the Official Plan and consistent with the direction outlined in the report “City-Based Measures to Address Gun Violence” and with Council’s direction involving its own facilities. Council’s position on the use of City owned facilities is that shooting ranges, gun clubs and the promotion of firearm use, in general is considered unacceptable.

### **Zoning By-law – Regulatory Approach**

In accordance with regulations passed under the federal Firearms Act, a person who wishes to establish and operate a shooting range must submit a request for approval to the Chief Firearms Officer of Ontario. The request must be accompanied by information about the applicant and the location of the shooting range. In addition, the applicant must provide, among other things, documentation of “evidence of compliance with applicable zoning bylaws”. This requirement recognizes the City’s role in regulating land uses including shooting ranges.

The approach proposed to regulate shooting ranges is to define them as a separate use but to not permit them in any zone except for facilities operated by the Canadian Armed Forces, a Public Police Force or other under the authorization of a Municipal, Provincial

or Federal government. In this manner, in order for a shooting range to be established in the future, an application for rezoning would have to be made to Council. Restricting the development of shooting ranges in this manner is consistent with the policies of the Official Plan and Council's concern with the continued use and prevalence of gun use in the City.

There are currently four known shooting ranges in the City. There are no firing ranges in the City. There is no requirement for the City to be notified when such facilities are established or licensed. Without a change in the current zoning, shooting ranges may continue to be developed in many parts of the City as are clubs of any sort.

In the case of gunsmiths and gun manufacturing, the issues are similar to firing or shooting ranges. They are not specifically defined and therefore could appear in many locations where they would never be considered desirable uses. Also, related uses such as warehousing and showrooms should also be restricted where they are associated with the manufacturing, customizing, storing or displaying of firearms or firearm parts.

To deal with gunsmiths and gun manufacturing and the warehousing of firearms, the zoning by-law approach taken ensures that the making of firearms is not included as a manufacturing use. Any desire to provide for firearms manufacturing should be subject to a rezoning process in accordance with the regulations of the Planning Act.

Zoning implemented under this strategy would restrict the establishment of new firearm related uses. Any firearm related use that exists legally on the date the zoning by-law amendment comes into force would be permitted to continue to operate as a legal nonconforming use (Section 34(9) of the Planning Act) until the use is discontinued.

## **Implementation**

Using this zoning by-law approach to regulate shooting and firing ranges and the manufacturing of firearms is an effective tool to control the establishment of new uses within the City.

Once Council enacts the by-law, all new uses involved in the making of firearms must comply with the provisions of the zoning by-law. This by-law would also preclude any shooting range associated with a gun club. Any existing gun club without a shooting range would have to use an existing shooting range or apply for a rezoning to establish its own shooting/firing range.

All existing shooting/firing ranges would become legal non-conforming uses and would be protected as such under the provisions of the Planning Act.

## **CONTACT**

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## **SIGNATURE**

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Gary Wright  
Chief Planner and Executive Director  
City Planning Division

## **ATTACHMENTS**

Attachment 1: Draft Zoning By-law to Regulate Specific Firearm Related Uses

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**Attachment 1 :**

**Draft Zoning By-law to Regulate Specific Firearm Related Uses**

Authority: Planning and Growth Management Committee Item No.  
as adopted by City of Toronto Council on , 2008  
Enacted by Council:

**CITY OF TORONTO**

**Bill No.**

**BY-LAW No. -2008**

**A By-Law To Regulate Permission For The Manufacturing of Firearms and Uses  
Where the Discharging of Firearms is Permitted.**

**WHEREAS** City Council has a desire to regulate the manufacturing of firearms and uses involving the discharging of firearms within the City;

**WHEREAS** City Council recognizes that some specific zoning restrictions for the making and discharging of firearms are necessary;

**WHEREAS** authority is given to City Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended to pass this by-law;

**WHEREAS** City Council has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*.

**THEREFORE** the Council of the City of Toronto **HEREBY ENACTS** as follows:

1. For the purposes of this by-law:
  - (1) “**ammunition**” means a cartridge or shot shell or similar device containing a projectile for use in a **firearm**.
  - (2) “**firearm**” means a device such as a handgun, rifle, shotgun or any other similar device, used or capable of being used to fire a projectile from a cartridge or shot shell;
  - (3) “**manufacturing**” means the use of premises for the fabricating, processing, assembling, packaging, producing or making of goods or commodities.
2. Despite any other general or specific provision in any by-law of the City of Toronto or its former municipalities enacted under section 34 of the *Planning Act* or its predecessor section:

- (1) the making of a firearm or any part of a firearm shall not be a permitted use under the term of manufacturing in any zoning by-law enacted under section 34 of the *Planning Act* or its predecessor section;
- (2) where a zoning by-law enacted under section 34 of the *Planning Act*, or its predecessor section, permits a showroom use or warehouse use, such use is permitted in the area of the city to which the by-law applies, provided the goods and commodities being stored or displayed shall not include:
  - (i) **ammunition**; or
  - (ii) a **firearm**, whether the **firearm** is operational or not;
- (3) a use involving the discharge of a **firearm** shall be permitted provided the use:
  - (i) is entirely located in a wholly enclosed building; and
  - (ii) is operated by the Canadian Armed Forces, a Public Police Force or other under the authorization of a Municipal, Provincial or Federal government; and
- (4) in any by-law of the City of Toronto or its former municipalities enacted under section 34 of the *Planning Act* or its predecessor section, a gunsmith or custom workshop that makes a firearm or any part of a firearm, shall be **manufacturing** and shall comply with the requirements of 2(1) and 2(2) of this by-law.

**ENACTED AND PASSED** this            day of            , A.D. 2008.

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Mayor

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City Clerk