

The Corporation of the Town of Lakeshore

Report to Council

Legislative & Legal Services



To: Mayor & Members of Council

From: Kristen Newman, Director of Legislative & Legal Services
Morris Harding, Manager of Building Services

Date: October 26, 2020

Subject: Bill 215 – Main Street Recovery Act, 2020 – Amendments to the Municipal Act, 2001 regarding Noise Prohibitions

Recommendation

Direct the Clerk to file a comment objecting to the Province of Ontario's proposed Bill 215 amendments to the *Municipal Act, 2001*, as described in the report presented at the November 10, 2020 meeting.

Background

The Province of Ontario is seeking input from interested stakeholders and the public regarding the proposed *Main Street Recovery Act, 2020* ("Bill 215") (attachment 1) as part of its Main Street Recovery Plan (attachment 2). The proposal in the Environmental Registry ("EBR") is attached as attachment 3. This bill proposes amendments to a number of statutes, including:

- *Highway Traffic Act*,
- *Municipal Act, 2001/ City of Toronto Act, 2006*, and,
- *Ontario Food Terminal Act*.

Bill 215 is currently at the second reading in the legislature. As noted above, the Bill amends various statutes. Only one particular amendment is addressed in this report because of its relevance to municipal jurisdiction—the amendment to the *Municipal Act, 2001*.

Through Bill 215, the Province proposes to add the following section to the *Municipal Act, 2001*:

130 (1) Despite sections 9, 10, 11 and 129, a municipality does not have the power to prohibit and regulate with respect to noise made in the municipality in connection with the delivery of goods to any of the following, except as otherwise authorized by regulation:

1. Retail business establishments.
2. Restaurants, including cafes and bars.
3. Hotels and motels.
4. Goods distribution facilities.

The Bill also proposes to give the Minister the authority to make regulations to prohibit and regulate with respect to noise made in the municipality in connection with the delivery of goods in relations to those places described above.

A restriction on the ability for a municipality to pass noise by-laws similar to this one was introduced by emergency order, O. Reg. 70/20, in March 2020 during the onset of the COVID-19 pandemic. Bill 215 appears to propose to make this change permanent as there does not appear to be a sunset clause included in the text of Bill 215.

Comments

The *Municipal Act, 2001* permits municipalities to regulate noise. Section 129 of the Act states:

Noise, odour, dust, etc.

129 Without limiting sections 9, 10 and 11, a local municipality may,

(a) prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors; and

(b) prohibit the matters described in clause (a) unless a permit is obtained from the municipality for those matters and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans.

These powers include the authority to regulate the places addressed by the proposed language (i.e., retail business establishments, restaurants, hotels and motels and goods distribution facilities). The Town has exercised its authority to regulate the delivery of goods through By-law 106-2007, being a By-law to Control Noise (“Noise By-law”). The Noise By-law operates so as to prohibit noise created from the “Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, productions

materials, or refuse, whatsoever, unless necessary for the maintenance of essential services or the moving of private household effects” from 8 pm to 8 am.

The passage and coming into force of Bill 215 will result in a reduction in municipal powers in relation to noise--a subject matter which municipalities have traditionally governed and for which it makes sense to have local regulation which reflects the desires and wishes of the community being regulated. As such, Administration recommends that Council direct Administration to file an objection in the EBR because this is an unnecessary encroachment upon municipal discretion.

If Council wishes not to object to Bill 215, Administration recommends that Council direct Administration to file a comment in the EBR requesting that the Province make the amendments to the *Municipal Act, 2001* temporary in nature during the recovery period so as not to make the restrictions permanent.

The EBR comment period closes November 21, 2020 at 11:59pm.

In the event that Bill 215 is passed by the Legislature, Administration will prepare a proposed amendment to the Town’s Noise By-law to address conflicts created by the new provisions in the *Municipal Act, 2001*.

Financial Impacts

There are no financial implications arising from this report. The Town generates very little, if any, revenue from Noise By-law charges if a place contravenes the Noise By-law.

Attachment(s): 1. Main Street Recovery Plan

2. Bill 215

3. EBR Proposal

3. Noise By-law

Report Approval Details

Document Title:	Bill 215 - Main Street Recovery Act, 2020.docx
Attachments:	<ul style="list-style-type: none">- 1-Province-MainStreetRecoveryPlan.pdf- 2-Bill215.pdf- 3-EBRProposal.html- 4-NoiseBy-law.pdf
Final Approval Date:	Nov 5, 2020

This report and all of its attachments were approved and signed as outlined below:

Morris Harding

Tammie Ryall

Rosanna Pellerito

Truper McBride