



CITY OF KINGSTON
REPORT TO COUNCIL

Report No.: 12-115

TO: Mayor and Members of Council
FROM: Cynthia Beach, Commissioner, Sustainability & Growth
RESOURCE STAFF: Terry Willing, Director, Building & Licensing
Kim Leonard, Manager, Licensing & Enforcement
DATE OF MEETING: May 1, 2012
SUBJECT: Noise Exemption Request – Howe Island Mainland Ferry Terminal

EXECUTIVE SUMMARY:

The Ontario Ministry of Transportation has applied for an exemption to the Noise Control By-Law for the purpose of rehabilitation work on the ferry transfer bridge at the mainland Howe Island ferry terminal, located at the southerly terminus of the Howe Island Ferry Road, from 7:00 p.m. until 7:00 a.m. for a maximum of fourteen days between September 4, 2012 and October 5, 2012.

The ferry will only be out of operation from 9:00 p.m. to 5:00 a.m. each night of work activity, and the Township of Frontenac Islands' Foot Ferry, located at the eastern end of Bateau Channel, will extend its hours of operation during construction periods.

The Ontario Ministry of Transportation had made a previous application for exemption for this project, however the project could not proceed due to fabrication scheduling for some of the custom built components associated with the work. This work is the second part of a project that also involved the Wolfe Island ferry transfer bridges for which a noise exemption was approved by City Council and that phase of the project has been completed. There have been no unresolved objections submitted to this request in response to the second public notice.

RECOMMENDATION:

THAT The Ministry of Transportation be granted an exemption from the normal 7:00 p.m. to 7:00 a.m. restriction under the City of Kingston Noise Control By-Law 2004-52 Schedule "B", in order to allow for rehabilitation of the Howe Island Ferry mainland terminal located at the southerly terminus of the Howe Island Ferry Road between the hours of 7:00 p.m. and 7:00 a.m.

between September 4, 2012 and October 5, 2012 excluding Sundays and Statutory Holidays, and;

THAT this activity be permitted only for 14 days during the exemption period and that the applicant provides the Manager, Licensing and Enforcement Division, 48 hours notice before the exemption is being utilized.

AUTHORIZING SIGNATURES:

ORIGINAL SIGNED BY COMMISSIONER _____ Cynthia Beach, Commissioner, Sustainability & Growth
ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER _____ Gerard Hunt, Chief Administrative Officer

CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

Lanie Hurdle, <i>Community Services</i>	N/R
Denis Leger, <i>Transportation, Properties & Emergency Services</i>	N/R
Jim Keech, <i>President and CEO, Utilities Kingston</i>	N/R

(N/R indicates consultation not required)

OPTIONS/DISCUSSION:

In January 2012 The Ministry of Transportation made application for an exemption to Schedule "B" of By-Law No. 2004-52, "A By-Law to Regulate Noise", for the purpose of rehabilitation of the Howe Island Ferry Transfer Bridges. At its general meeting on January 10, 2012 Council resolved:

THAT The Ministry of Transportation be granted an exemption from the normal 7:00 p.m. to 7:00 a.m. restriction under the City of Kingston Noise Control By-Law 2004-52 Schedule "B", in order to allow for rehabilitation of the Howe Island Ferry mainland terminal located at the southerly terminus of the Howe Island Ferry Road between the hours of 7:00 p.m. and 7:00 a.m. between March 1, 2012 and May 15, 2012 excluding Sundays and Statutory Holidays; and

THAT this activity be permitted only for 10 days during the exemption period and that the applicant provides the Manager, Licensing and Enforcement Division, 48 hours notice before the exemption is being utilized.

The Ministry is applying for alternate dates to those granted by Council for this project. The Ministry encountered delays with fabrication scheduling for some of the custom built components of the project which hampered their original construction schedule and therefore construction could not commence in the spring of this year. The Ministry has also requested an increase in the number of night-time exemptions from 10 that was originally requested to 14. The increase in the number of nights to be exempted reflects a change in the contract specifications, wherein the contractor is now permitted to work concurrently at both terminals but is required to complete the work within a total of 14 night-time service closures. In the original plan, the contractor was not permitted to work concurrently at both terminals and was allowed up to 10 separate night-time service closures for each terminal (resulting in a potential total of 20 closures to the ferry service). It is likely the contractor will use the mainland as his base of operation for both Ontario mainland and Howe Island work, so the application is for the full period within which the work is specified.

The purpose of a ferry transfer bridge is to provide a height adjustable ramp that is lowered onto the ferry vessel's deck upon docking to allow vehicles and walk-on passengers safe and secure boarding/disembarking. When boarding is completed, the ramp is lifted from its position on the ferry's deck before the vessel leaves the terminal. The work at both the mainland and Howe Island ferry terminals involves rehabilitation of the steel ramp and steel lifting tower through replacement of selected components. In order to minimize impacts to the travelling public, it is proposed that the work be undertaken through a series of night time closures in the fall of 2012, with service restored each morning. The work is proposed from 7:00 p.m. until 7:00 a.m. for up to 14 days between September 4, 2012 and October 5, 2012. The work will not occur on Sundays or Statutory Holidays.

The distance between the mainland ferry terminal and the nearest dwelling in Kingston is approximately 200m. During the construction activities, the primary sources of noise will include construction vehicles, equipment and activities associated with construction

The proposed work will be undertaken by a contractor hired through a tendering process. Since the rehabilitation is relatively minor in nature and there is no grading or paving, there will be no haul routes from quarries or asphalt plants associated with this project.

The standard Ministry of Transportation construction noise constraint will be included in the contract for this work with specifics about the By-Law exemption, and is attached as Exhibit "B".

EXISTING POLICY/BY LAW:

In 2009 Council granted the Ministry of Transportation an exemption from the normal 7:00 p.m. to 7:00 a.m. restriction for the same type of work at the Barrack Street Terminal between November 21st and December 5th, 2009 for 9 consecutive days and involved 24 hour operations including Saturday and Sunday. The exemption did not permit for more than 5 week days from Monday to Friday and was not to overlap with any Statutory Holiday. In January 2012 Council granted the Ministry of Transportation an exemption for the same work that is being proposed in this report.

NOTICE PROVISIONS:

An advertisement of this request for exemption was placed in the Kingston Whig Standard on March 20, 2012 and is attached hereto as Exhibit "A". There have been no unresolved objections submitted to this request.

Council has granted exemptions to the Noise Control By-Law for this type of construction in the past, and the authority to do so is specifically granted to Council under Subsection 129 (3) of the *Municipal Act*.

ACCESSIBILITY CONSIDERATIONS:

None

FINANCIAL CONSIDERATIONS:

A \$106 fee was received to help cover the cost of processing noise exemption requests. There are no other financial considerations because advertisements were placed at the expense of The Ministry of Transportation.

CONTACTS:

Kim Leonard, Manager, Licensing & Enforcement
Fred Leech, Senior Project Manager

613-546-4291 ext. 3222
905-390.-2030

OTHER CITY OF KINGSTON STAFF CONSULTED:

N/A

EXHIBITS ATTACHED:

Exhibit "A" - Public Notification for Application of Noise Exemption

Exhibit "B" - Ministry of Transportation – Construction Noise Constraints

ADVERTISEMENT IN THE KINGSTON WHIG STANDARD – March 20, 2012

**Request for Noise Exemption – Ministry of Transportation
Noise Exemption – Howe Island Mainland Ferry Terminal**

The Ontario Ministry of Transportation has applied for an exemption to the Noise Control By-Law 2004-52 Schedule “B” to permit rehabilitation work on the ferry transfer bridge at the mainland Howe Island ferry terminal, located at the southerly terminus of the Howe Island Ferry Road. The applicant has requested the exemption for work activity between 7:00 p.m. and 7:00 a.m. for a maximum of fourteen days between September 4, 2012 and October 5, 2012. No work is proposed on Sundays or Statutory Holidays. The ferry will only be out of operation from 9:00 p.m. to 5:00 a.m. each night of work activity and the Township of Frontenac Islands’ Foot Ferry, located at the eastern end of Bateau Channel, will extend its hours of operation during construction periods.

The current by-law only permits this activity from Monday to Saturday between the hours of 7:00 a.m. and 7:00 p.m. and excludes Sundays and Statutory Holidays.

Anyone wishing to object to this exemption should deliver their concerns in writing or by e-mail before 4:00 p.m. on April 5, 2012 to:

City of Kingston

Kim Leonard, Manager, Licensing & Enforcement
216 Ontario Street
Kingston, ON K7L 2Z3

Phone: 613-546-4291, ext. 3222
Fax: 613-542-1332
Email: kleonard@cityofkingston.ca
Located at: 216 Ontario Street

This matter will be considered during the regular Council Meeting that commences at 7:30 p.m. on Tuesday, May 1, 2012.

NOTICE OF COLLECTION: Personal Information collected is pursuant to the Municipal Freedom of Information and Protection of Privacy Act (and all other applicable privacy provincial and federal legislation). Such legislation is reviewed and applied for the collection, use, disclosure and destruction of the information. The personal information collected as a result of this public notice will be used to assist in making a decision on this matter. All names, addresses, opinions and comments collected will be made available for public disclosure. Questions regarding this collection should be forwarded to Kim Leonard, Manager of Licensing and Enforcement, 216 Ontario Street, Kingston, Ontario, K7L 2Z3 or by e-mailing kleonard@cityofkingston.ca.

**Construction Noise Constraints
Special Provision No. 199F33
Noise Sensitive Areas**

This special provision covers the requirements for control of construction noise produced by the Contractor's operations. With the exception of any exemptions from municipal noise control bylaws that may be indicated elsewhere in the Contract, these requirements do not relieve the Contractor of other obligations imposed by statute or by municipal bylaw.

Noise constraints in noise sensitive areas are as follows:

Noise Limits	
Constraint	Constraint Details
Equipment Maintenance	Equipment shall be maintained in an operating condition that prevents unnecessary noise, including but not limited to non-defective muffler systems, properly secured components, and the lubrication of moving parts.
Equipment Operation	Idling of equipment shall be restricted to the minimum necessary to perform the specified work.
Local Noise Bylaws	The City of Kingston has a noise by-law that prohibits construction activities between 7 pm and 7 am as well as on Sundays and Statutory Holidays. All work must respect the requirements stipulated in the by-law and the terms of the bylaw exemption granted by the City of Kingston and included in the contract.