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To: Chair and Members of the Community Planning, Regulation and Mobility Committee

From: Councillor Lisa Kearns, Ward 2

Cc: Tim Commisso, Kevin Arjoon, Heather MacDonald, Nancy Shea Nicol, Jamie Tellier, Nick Anastaspoulos, Helen Walihura

Date: June 29, 2020

Re: Motion regarding Noise By-laws in Connection with Construction

WHEREAS the Province of Ontario declared a State of Emergency by Order in Council 518/2020 (Ontario Regulation 50/20) on March 17, 2020 pursuant to section 7.0.1 of the Emergency Management and Civil Protection Act (the "Act"); and

WHEREAS the temporary closure of places of non-essential business was declared to help protect the health and safety of people in response to the declared emergency; and

WHEREAS on March 24, 2020 Ontario Regulation 82/20, Order Under Subsection 7.0.2 (4) – Closure of Places of non-essential Businesses, Schedule 2 'Essential Services' included Construction, Item 28: Construction work and services, including demolition services, in the industrial, commercial, institutional and residential sectors; and

WHEREAS when the Emergency Order (O.Reg. 82/20) was amended on May 1, 2020, effective May 4, the list of essential businesses was expanded to include additional construction projects and activities, including construction of schools and municipal projects and construction to prepare a site for an institutional, commercial, industrial or residential development; and

WHEREAS the Province of Ontario entered Stage 1 of reopening on May 19, 2020 (Stage 1 framework); and

WHEREAS Stage 1 included all construction activities or projects and related services that support construction activities or projects, including demolition services resume; and

WHEREAS Ontario Regulation 131/20 made under the Municipal Act, 2001 Limitation under Section 451.1 of the Act – Noise By-laws in Connection with Construction provides that a municipality does not have power to prohibit and regulate with respect to noise made in connection with the following:

1. Construction projects and services in a municipality associated with the healthcare sector, including new facilities, expansions, renovations and conversion of spaces that could be repurposed for health care space, at any time of the day or night.
2. Any other construction activity in a municipality between the hours of 6 a.m. and 10 p.m.; and

WHEREAS Ontario Regulation 131/20 will be revoked 18 months (October 7, 2021) after the day the Regulation is filed (April 7, 2020). (See: O.Reg. 131/20, s.2); and

WHEREAS on June 19, 2020 Halton Region moved into Stage 2 of reopening permitting restaurants, bars and other food and drink establishments to open outdoor dining areas such as patios, curbside, parking lots and adjacent premises; and

WHEREAS a significant number of Burlington's restaurants, bars and other food and drink establishments and their patios are located in close proximity to several large construction projects; and

WHEREAS Burlington's Ward 2 Councillor and Customer Relationship Manager's records indicate over two dozen opinion/complaints filed in 2020 for construction noise within the Ward 2 boundaries while under the current Provincial emergency order; and

WHEREAS specific concerns have been raised from those residents in near proximity to construction project with extended hours for construction/construction equipment noise while sheltering in place during COVID-19. The concerns include: reported mental health impacts, negative physical impacts (including headaches), challenges in successfully working remotely, difficulty sleeping for individuals working shifts in health care and as first responders and the negative impacts on student ability to learn while homeschooling.

NOW THEREFORE BE IT RESOLVED

THAT the City of Burlington requests that Regulation 131/20 made under the Municipal Act, 2001, Limitation under Section 451.1 of the Act – Noise By-laws in Connection with Construction, be revoked immediately, failing that; and

THAT the City of Burlington requests that Regulation 131/20 made under the Municipal Act, 2001, Limitation under Section 451.1 of the Act – Noise By-laws in Connection with Construction, be amended setting out the hours when construction is permitted as follows: Monday to Friday, 7 a.m. to 8 p.m., Saturdays, 7 a.m. to 7 p.m., with no construction on Sunday, and that Ontario Regulation 131/20 be revoked as soon as practicable and by no later than January 7, 2021; and

THAT a copy of this resolution be forwarded to the Minister of Municipal Affairs and Housing, Steve Clark, the Premier of Ontario, Doug Ford, MPPs Jane McKenna, Effie Triantafilopoulos and Parm Gill, Halton Region, AMO and LUMCO.

Lisa Kearns
Ward 2 Councillor