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FOR THE **REGULAR MEETING OF CITY COUNCIL**  
TO BE HELD ON **THURSDAY, FEBRUARY 10, 2005 AT 7:00 P.M.**  
IN THE **COUNCIL CHAMBER, TOM DAVIES SQUARE**

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**ADDENDUM (RESOLUTION PREPARED)**

*(Two-thirds Majority Required to Deal with the Addendum)*

1. Declarations of Pecuniary Interest

**ROUTINE MANAGEMENT REPORTS**

AD-1 Report dated 2005-02-10, with attachments, from the Executive Director of Administrative Support Services regarding Request for a Noise By-law Exemption - Buttcon Limited - Wal-Mart Construction. **AD1 - AD4**  
**(RESOLUTION PREPARED)**

(Buttcon Limited has requested a Noise By-law exemption for the demolition and reconstruction of Wal-Mart at the New Sudbury Centre for the time period of February 10, 2005 to July 1, 2005.)

(Next Agenda Item: **CIVIC PETITIONS**)

**2005-02-10**

**THOM MOWRY**  
**CITY CLERK**

**CORRIE-JO CAPORALE**  
**COUNCIL SECRETARY**

# Request for Decision City Council



## Type of Decision

Meeting Date	Thursday, February 10, 2005				Report Date	Thursday, February 10, 2005			
Decision Requested	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	Priority	<input checked="" type="checkbox"/>	High	<input type="checkbox"/>	Low
	Direction Only				Type of Meeting	<input checked="" type="checkbox"/>	Open	<input type="checkbox"/>	Closed

## Report Title

**REQUEST FOR A NOISE BY-LAW EXEMPTION  
BUTTCOON LIMITED - WAL-MART CONSTRUCTION**

### Policy Implication + Budget Impact

This report and recommendation(s) have been reviewed by the Finance Division and the funding source has been identified.

#### **Policy Implication:**

Buttcon Limited has requested an exemption to Chapter 776 of the former City of Sudbury Municipal Code (Noise By-law).

The proposed exemption would provide for an additional five (5) hours of construction daily.

#### **Budget Impact:**

There is no financial impact associated with this Request for Decision.

Background Attached

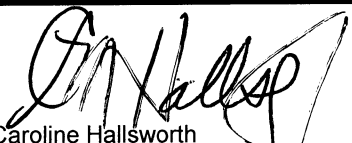
### Recommendation

THAT this Council has no objection to the granting of an exemption to Chapter 776 of the former City of Sudbury Municipal Code (Noise By-law) to Buttcon Limited and its contractors in order to carry out the demolition and construction of Wal-Mart at the New Sudbury Shopping Centre, LaSalle Boulevard, Sudbury;

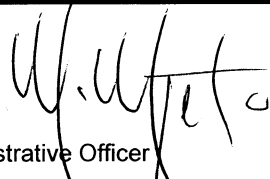
AND THAT an exemption to Chapter 776 of the former City of Sudbury Municipal Code (Noise) be granted to Buttcon Limited for the following dates and times: February 10, 2005 to July 1, 2005, inclusive, between the hours 6:00 a.m. and 10:00 p.m. of each day;

Recommendation Continued

### Recommended by

  
Caroline Hallsworth  
Executive Director of Administrative Support Services

### Recommended by the C.A.O.

  
Mark Mieto  
Chief Administrative Officer

**AD1**

Date: 2005-02-10

**Report Prepared By**



Thom M. Mowry  
City Clerk

**Division Review**

**RECOMMENDATION (continued):**

AND THAT Buttcon Limited shall ensure proper traffic control is in place during this period;

AND FURTHER THAT approval of this exemption be subject to Buttcon Limited providing public notice of this construction activity to area residents.

**BACKGROUND:**

1. Request

The City Clerk's Office has received a request from Mr. Martin Lask, of Buttcon Limited for an exemption to Chapter 776 of the former City of Sudbury Municipal Code (Noise By-law) to demolish and reconstruct Wal-Mart at the New Sudbury Centre, 1349 LaSalle Boulevard, Sudbury. Buttcon Limited has requested that the exemption allow for the starting of equipment (excavator, pile drivers, fork lifts, etc.) early enough to warm them up for a 6:00 a.m. start, including Saturdays and working till dark.

They have also advised that a 35 k.w. Silenced Generator will be running continuously to supply power to the new building and miscellaneous other equipment for hoisting and finishing.

Demolition and construction is scheduled to occur between February 10, 2005 and July 1, 2005.

2. Chapter 776 (Noise), City of Sudbury Municipal Code

Article 776.2.2 2.3 of Chapter 776 (Noise) of the former City of Sudbury Municipal Code prohibits the creating, causing or permitting of "unusual noise or noises". Article 766.3.10 further provides that:

"Any unnecessary noise arising between the hour of 6 o'clock p.m. of any day and 7 o'clock a.m. of the next following day from any excavation or construction work whatsoever including the erection, demolition, alteration or repair of any building, authorized by the City except in the case of urgent necessity shall be deemed to be unusual noise."

Every person who contravenes any of the provisions of Chapter 776 (Noise) is subject, upon conviction, of a fine of not more than \$5,000, exclusive of court costs.

AD 2

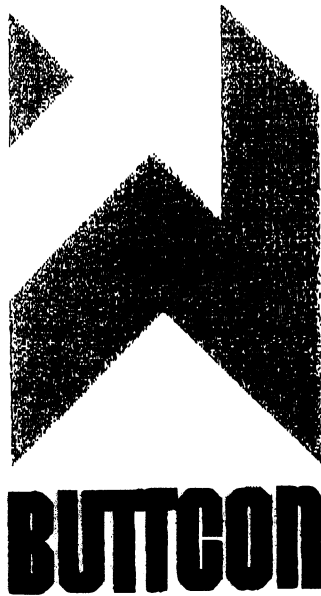
3. Review of Request and Recommendation:

Buttcon Limited's request has been reviewed with the Manager of By-law Enforcement Services. Noise complaints have been received by the By-law Enforcement Department, particularly with regard to snow removal operations. Some of these complaints regarding snow removal operations have resulted in charges being laid. Due to the near proximity of residential neighbours to the construction site, By-law Enforcement Services has recommended that should Council approve the requested exemption that it made be subject to the following conditions:

1. that the hours of operation be restricted to an early start of 6:00 a.m. and cease no later than 10:00 p.m. (this would provide an extra five (5) hours of construction daily);
2. that Buttcon Limited ensure that appropriate traffic control measures are put in place for the construction site and for ingress and egress to the construction site; and,
3. that the area residents be notified of the proposed construction activity.

A photocopy of the correspondence, dated 2005-02-09, received from Buttcon Limited is attached for the information of Council.

Attachment



**BUTTCON LIMITED**

8000 Jane Street,  
Tower B, Suite 401  
Concord Ontario  
L4K 5B8  
Sudbury Wal-Mart  
1349 LaSalle Blvd.  
Sudbury Ontario.

February 09,2005

Mr. Thom M. Mowry  
City Clerk  
Greater Grand Sudbury  
200 Rue Brady St.  
Sudbury On.  
P3A 5P3  
Via fax 705-671-8118

Sir;

Please be advised we would like a variance to the noise by-law at the New Sudbury Centre 1349 LaSalle Blvd. Sudbury On.

We are the contractors of the new Wal-Mart and with the very tight time lines as the mall requires transfer and demolition to the existing Wal-Mart before winter 2005, we find it necessary to extend our hours of operation. This would include starting equipment early enough as to warm it up for a 6:00am start, including Saturdays and working till dark.

Related equipment is an excavator, pile drivers, fork lifts and we will have a 35 k.w. Silenced generator on site running continuously to supply power to the new the new building and miscellaneous other equipment for hoisting and finishing.

We would need this variance till July 1,2005. At this time we will be turning the building over to Wal-Mart.

Please consider this as a formal request to a variance to the noise by-law.

I look forward to hearing from you in the near future.

Thank you  
Martin Lask  
705-560-7303  
705-560-9070 fax

AD 4