

City of Mississauga

Corporate Report



12.8.

Date: June 12, 2020

To: Mayor and Members of Council

From: Geoff Wright, P.Eng, MBA, Commissioner of
Transportation and Works

Originator's files:

Meeting date:
July 8, 2020

Subject

Noise Control Program Review

Recommendation

1. That the report from the Commissioner of Transportation and Works, dated June 12, 2020 entitled "Noise Control Program Review" be approved.
2. That a by-law be enacted to amend the Noise Control By-law 360-79, as amended, to implement Phase 1 recommendations relating to the City's Noise Control Program Review as outlined in the report from the Commissioner of Transportation and Works, dated June 12, 2020 entitled "Noise Control Program Review."
3. That the Nuisance Type Noise By-law 785-80, as amended, be repealed.
4. That staff report back to Council at a future date on Phase 2 recommendations relating to the City's Noise Control Program Review as outlined in the report from the Commissioner of Transportation and Works, dated June 12, 2020 entitled "Noise Control Program Review."

Report Highlights

- Staff conducted a comprehensive review of the Noise Control Program Review, in order to identify and develop program improvements that will better meet the needs of the City.
- Community engagement on the Noise By-laws resulted in 130 residents attending in person sessions and 4,015 completing the online survey.
- The report identifies 25 recommendations for changes to the by-law, noise exemption periods, enforcement of vehicle noise and public awareness activities.
- Staff recommend implementing a priority response model to deliver onsite noise investigation services with existing resources.

- Given the financial pressures resulting from COVID-19, a phased implementation is recommended with the introduction of decibel limits and full implementation of service level changes occurring in Phase Two.

Background

Beginning in early 2019, several Councillor enquiries regarding matters related to noise were received by staff. In response to these enquiries a comprehensive review of the Noise Control Program was initiated.

COVID-19 Financial Constraints

The financial impact of COVID-19 on the City is an evolving situation. Given this financial uncertainty, staff have changed the original approach of this review and will be reporting to Council in two phases:

- Phase 1: All recommendations with no financial impacts such as by-law amendments, policy and process changes.
- Phase 2: All recommendations with a financial impact such as consulting services, changes to service levels and staffing levels.

This report includes all Phase 1 recommendations. The Phase 2 recommendations will be brought forward at a later date following the recovery phase of COVID-19.

By-laws and Legislation

There are two separate independent noise by-laws in the City: Nuisance Type Noise By-law 785-80 ("Nuisance Type Noise By-law") and Noise Control By-law 360-79 ("Noise Control By-law").

Noise is managed and regulated through municipal, provincial and federal laws, regulations and guidelines (See Appendix 1). *The Municipal Act, 2001* empowers municipalities to prohibit and regulate noise.

In response to COVID-19, the Province passed Regulation 70/20 on March 19, 2020 pursuant to s. 451.1 of the *Municipal Act, 2001*, which provides that a municipality does not have the power to prohibit and regulate with respect to noise made in connection with the delivery goods in a municipality. Regulation 70/20 is revoked on September 19, 2021.

The Province also passed Regulation 131/20 on April 7, 2020 pursuant to s. 451.1 of the *Municipal Act, 2001*, which 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. Regulation 131/20 is revoked on October 7, 2021.

Both Regulations 70/20 and 131/20 supersede the time periods noted in the City's Noise Control By-law in relation to delivery of goods and construction activities.

Present Status

Noise Control Program Elements

The Noise Control Program consists of four primary program elements:

1. By-Laws: This includes the legal and administrative activities related to periodic by-law amendments and assessment.
2. Enforcement Operations. This includes the receipt and investigation of public complaints as well as proactive and joint enforcement operations. There are currently 18 Municipal Licensing and Enforcement Officers (MLEOs) who enforce the Noise Control By-law and the Nuisance Type Noise By-Law.
3. Noise Exemptions. Noise exemptions are managed and administered by eight divisions and nine business lines within the City. Noise exemption types include construction, road and capital work, film, residential, community events and festivals, and events at City facilities such as Celebration Square.
4. Program Development and Awareness. This includes public education & awareness initiatives, performance metrics, reporting and continuous improvement projects.

Public Complaints

In 2019, there were 1,451 noise complaints and 631 inquiries about noise which did not lead to a service request. Noise complaints represented 13% of the total complaint volume in 2019. The most common noise complaints received by the City were about amplified sound, which received 463 service requests, barking dogs, which had 363, and construction equipment, which had 194 (See Appendix 2). However, it is important to note that it is likely that this does not represent the true scope of noise complaints in the City due to a lack of public awareness of the noise by-laws and service levels. Complaints do not always represent violations.

Comments

Review Methodology

Each of the four preceding program elements were assessed through a six step process:

1. Jurisdictional Scan
2. Community Engagement
3. Assessment of Current State
4. Options Development and Gap Analysis
5. Identification of Short Term Improvement Opportunities
6. Identification of Medium and Long Term Improvements Opportunities

Below are the key findings for steps one and two. Following that, each of the four program elements are addressed separately for steps three to six.

JURISDICTIONAL SCAN

Staff conducted a jurisdictional scan of noise control programs in 11 jurisdictions; Brampton, Burlington, Calgary, Edmonton, Hamilton, Newmarket, Oakville, Ottawa, Toronto, Vancouver, and Vaughan (Appendix 3).

The City of Mississauga's Noise Control By-law is the oldest dated by-law of all the jurisdictions benchmarked. Mississauga does not use a level of measurement to enforce types of noise emitted but does have prohibited times for noise types. This is not consistent with the jurisdictions benchmarked as seven of 11 jurisdictions have both a level of measurement and prohibited times to enforce noise related issues.

Six of nine jurisdictions equip officers with various forms of noise measuring devices. Mississauga is consistent with four jurisdictions which have a response rate greater than three days. However five jurisdictions aim to respond to noise complaints the same day or in less than three days, though the response window is dependent on the nature of the complaint.

After a four year review, the City of Toronto updated its Noise By-law (Municipal Code Chapter 591) in 2019. The revised by-law includes new and updated definitions to improve clarity and consistency in the interpretation of the by-law, and quantified noise level limits for amplified sound and motorcycles to enhance objectivity. The revised by-law also includes the introduction of an "Unreasonable and Persistent Noise" provision to be applied only when noise is not captured by a specific prohibition, and a more streamlined exemption permit process, with the ability to revoke permits and impose conditions when necessary.

In conjunction with the revised by-law, Toronto also made changes to the enforcement of noise such as the implementation of a priority response model, updating the policy and standard operating procedures for noise investigations, and changing the By-law enforcement hours of coverage to allow for 19 hour daily coverage and 21 hour daily coverage during peak season. To ensure effective implementation, the City of Toronto's Municipal Licensing and Standards Division introduced a dedicated noise team, composed of 24 By-law Enforcement Officers, along with management and administrative support.

COMMUNITY ENGAGEMENT

Between December and February 2020, staff conducted community engagement, which was composed of six facilitator lead community sessions, three targeted focus group sessions with key stakeholders from Ratepayer Associations, the construction industry and Business Improvement Areas (BIAs) and an online survey (See Appendix 4).

The facilitated sessions allowed residents to share their concerns with the current noise by-law program in a neutral setting. Participants were asked to provide their input on types of noise in their neighbourhoods, communication preferences, by-law provisions and service levels.

Several common themes emerged from the 105 residents who attended the community sessions and 23 community representatives who attended the focus group sessions. Vehicle and construction noise were identified as the most common kind of noise impacting residents. Residents expressed that there is a need for increased enforcement and investigation of noise complaints, increased service levels and quantitative measurement. Participants were generally supportive of updating the permitted periods.

The online survey was completed 4,015 times. Respondents were asked about their knowledge of the current noise by-laws, and for their opinions on potential changes to the permitted periods and noise categories and the introduction of quantitative measures (Appendix 5). Responses were polarized with few strong conclusions, although a number of questions highlighted a lack of awareness of the current Noise Control By-law and permitted periods.

Key results included:

- Respondents said that they were most impacted by noise from motor vehicles, construction, and music.
- There was little awareness of current by-law provisions: 49.6% didn't know where to look to find out when noise is permitted.
- There was support for simplifying the by-law: 60% of respondents supported simplifying the by-law by consolidating periods.
- There was opposition to expanding the hours when construction is permitted. 62% of respondents didn't support extending the time frame when construction is permitted.
- There was limited support for allowing additional noise on Sundays: 52% of respondents strongly disagreed or disagreed with aligning Sunday construction to the rest of the week.

These results demonstrate the need for broader public awareness and taking a balanced approach to updating the Noise Control by-law.

PROGRAM ASSESSMENT AND IMPROVEMENT OPPORTUNITIES

Each of the four program elements are assessed below and recommendations are provided.

PROGRAM ELEMENT #1 – BY-LAWS

In addition to the proposed housekeeping amendments, which are summarized in Appendix 6, the following changes are recommended:

a. Consolidation of By-laws

The Noise Control By-law contains the general prohibitions, noise categories and outlines the exemption process. The Nuisance Type Noise By-law is intended to supplement the Noise Control By-law and identifies three specific prohibitions. Thus, it does not stand on its own.

Recommendation 1 – That the Nuisance Type Noise By-law be repealed and consolidated into the Noise Control By-law.

b. Introduction of Persistent Sound Provision

Nuisance Type Noise causes confusion since the provisions in the Nuisance Type Noise By-law prohibit certain activities at all times but are similar to the categories of noise in the Noise Control By-law, which have permitted periods of time. A more objective and consistent means to address these issues is required in the by-law.

‘Persistent sound’ will be defined as noise continuously heard for a period of at least ten consecutive minutes or intermittently over a period of at least one hour. This will capture the types of noise that the Nuisance Noise By-law was intended to address, while also providing the flexibility for it to address other types of noise not captured in the other categories or unreasonable noise that occurs during the permitted periods.

Recommendation 2 - That a new definition for ‘persistent sound’ be added to the Noise Control By-law to replace the current types of noises included in the Nuisance Type Noise By-law.

c. Introduction of Decibel Limits

Decibel levels provide a quantifiable measurement of sound, allowing for a more objective approach. It is recommended that decibel limits be adopted for select noise types that can be appropriately measured. This is consistent with Toronto’s approach.

Recommendation 3 - That decibel limits for “Amplified Sound” and “Stationary Motor Vehicles” (formerly “The operation of any motorized conveyance” other than on a highway or other place intended for its operations”) be introduced in the second phase of implementation.

d. Changes to the Exemption Process

This section of the By-law allows for the issuance of exemptions for any source of sound or vibration outside of the permitted periods. The current noise exemption process has no automatic exemption for City work and the process does not have the flexibility to meet the needs of the City.

There are eight divisions within the City that are responsible for administering Noise Control by-law exemptions, each with varying levels of administration. It is proposed that a provision be added to the Noise Control By-law to allow divisions not covered by Schedule Three to have their own noise exemption procedures. (See Program Element #3 - Noise Exemptions).

Recommendation 4 - That Section 7 of the Noise Control By-law be updated to outline the updated exemption application process and application requirements.

e. Fines and Penalties

The current fines in the Noise Control and Nuisance Type Noise By-laws, which are set under the *Provincial Offences Act*, are a fine of no more than \$5,000 and a set fine of \$305 respectively. When the By-laws are consolidated, new fines and penalties will be required to be established. Staff recommend that the same fine amounts be included in the new Noise Control By-law.

Recommendation 5 - That staff apply to the Ministry of the Attorney General for permission to establish a fine in the Noise Control By-law of no more than \$5,000 and a set fine of \$305 in the By-law pursuant to the provisions of the Provincial Offences Act.

f. Changes to Schedule One- Vehicle Noise

In order to conduct joint vehicle enforcement with Peel Regional Police, staff need to have the ability to charge motorists under the By-law. In the interim, staff will use the Nuisance Type Noise By-law, but it is recommended that Schedule One be updated with a provision addressing loud engine noise (See Program Element #2-Enforcement Operations).

Recommendation 6 - That Schedule One of the Noise Control By-law be updated to include a provision prohibiting drivers from making unreasonable or unnecessary noise: "A person having the control or charge of a motor vehicle shall not sound any bell, horn or other signalling device so as to make an unreasonable noise, or install a modified muffler or exhaust with the express intention to create unreasonable noise, nor shall the driver at any time operate or cause the motor vehicle to make any unnecessary noise or noise likely to disturb an inhabitant of the City of Mississauga."

g. Changes to Schedule Two- Prohibited Periods of Time

Schedule Two of the Noise Control outlines the activities included in the by-law and their prohibited periods of time. The current provisions are summarized in Appendix 7 and proposed revisions, including housekeeping amendments, are highlighted in Appendix 8.

Recommendation 7 - That redundant categories in Schedule Two of the Noise Control By-law be removed and other categories consolidated.

h. Amplified Sound

Amplified Sound refers to sound made by any electronic device or a group of connected electronic devices incorporating one or more loudspeakers or other electro mechanical transducers, and intended for the production, reproduction or amplification of sound. The current permitted period for amplified sound is from 7:00 a.m. to 5:00 p.m.

Based on the community engagement, jurisdictional scan and other permitted periods, it is recommended that the permitted period for Amplified Sound be updated to 9:00 a.m. to 7:00 p.m. Monday-Thursday, Sunday and Statutory Holidays and 9:00 a.m. to 10:00 p.m. on Friday and Saturday. This approach aligns with the permitted periods for other common noise categories while also allowing for flexibility on weekends. It is also more in line with resident expectations.

***Recommendation 8** - That the permitted period for Amplified Sound in Schedule Two of the Noise Control By-law be updated from 7:00 a.m. to 5:00 p.m. to 9:00 a.m. to 7:00 p.m. Monday-Thursday, Sunday and Statutory Holidays and 9:00 a.m. to 10:00 p.m. on Friday and Saturday.*

i. Auditory Signalling

Auditory signalling refers to the operation of auditory signalling devices, such as the ringing of bells or gongs and the blowing of horns or sirens or whistles. It is recommended that this permitted period be aligned with the permitted period for Amplified Sound since they are similar noise types.

***Recommendation 9** - That the permitted period for Auditory Signalling in Schedule Two of the Noise Control By-law be updated from 7:00 a.m. to 7:00 p.m. to 9:00 a.m. to 7:00 p.m. Monday to Saturday and on Sundays and Statutory Holidays.*

j. General Prohibition for Amplified Sound and Auditory Signalling

Amplified Sound and Auditory Signalling differ from most noise types because they have the potential to disrupt many people and with the exception of signalling for safety purposes, the volume of noise can be adjusted by the group or individual(s) making the noise. It is recommended that amplified sound or auditory signalling for the purpose of reaching an audience outside of the property be prohibited in the By-law.

***Recommendation 10** - That the use of devices to amplify sounds for the purpose of reaching persons outside of the property from which the sound is originating, be prohibited.*

***Recommendation 11** - That the use of auditory signalling devices for the purpose of reaching persons outside of the property from which the sound is originating, be prohibited.*

k. Sports Related Noise

Sports related noise refers to noise from organized sport activities including whistling, shouting and cheering. The use of whistles to referee a game is considered to be a reasonable aspect of this activity, and is covered under auditory signalling. However, to reflect the multi-faceted nature of sport activities, it is proposed that this noise type be

included under the Yelling and Shouting Category. This aligns with the permitted periods and approved use of sports fields.

Recommendation 12 - That noise from sports activities be added to the category of Yelling and Shouting in Schedule Two of the Noise Control By-law.

I. All Selling or Advertising by Shouting or Amplified Sound

Selling or advertising by shouting or amplified sound refers to individuals operating a business who promote their business verbally, such as newspaper sellers. This category can be addressed through the Amplified Sound and Yelling and Shouting categories.

Recommendation 13 - That the category of Selling or advertising by shouting or amplified sound be removed from Schedule Two of the Noise Control By-law.

m. Loading, Unloading and Deliveries

Due to Ontario Regulation 70/20, this permitted period is not enforceable until September 19, 2021. At this time, it is recommended that the permitted period for loading and unloading return to 7:00 a.m. to 7:00 p.m. Monday to Saturday.

Recommendation 14 - That the permitted period for loading and unloading noise in Schedule Two of the Noise Control By-law return to 7:00 a.m. to 7:00 p.m. Monday to Saturday once O.Reg 70/20 expires.

n. Construction

During the Review, residents were vocal about the prevalence of construction noise and expressed a desire to maintain the permitted period of 7:00 a.m. to 7:00 p.m. Monday to Saturday, with no construction permitted on Sundays. Due to Ontario Regulation 131/20 this is not enforceable until October 2021. At that time, it is recommended that the permitted period for Construction noise return to 7:00 a.m. to 7:00 p.m. Monday to Saturday.

Recommendation 15 - That the permitted period for construction noise in Schedule Two of the Noise Control By-law return to 7:00 a.m. to 7:00 p.m. Monday to Saturday once O.Reg 131/20 expires.

o. Firearms

It is recommended that this category be removed as firearm use is better addressed through the Criminal Code.

Recommendation 16 - That the Firearms category be removed from Schedule Two of the Noise Control by-law.

p. The operation of any powered or non-powered tool for domestic purposes other than snow removal

This category allows for the use of power tools, including loud devices like lawn mowers and leaf blowers until 11:00 p.m., which is more permissive than the construction noise category. Based on the community engagement, jurisdictional scan and other permitted periods, it is recommended that the permitted period for this category be updated to 7:00 p.m. to 7:00 a.m. (9:00 a.m. Sundays).

Recommendation 17 - That the permitted period for “The operation of any powered or non-powered tool for domestic purposes other than snow removal” be changed from 7:00 a.m. to 7:00 p.m. (9:00 a.m. Sundays) to 7:00 a.m. to 7:00 p.m. (9:00 a.m. Sundays) in Schedule Two of the Noise Control By-law.

q. Persistent barking, calling or whining by a domestic pet

The current permitted period of “at any time” creates unrealistic expectations since it is not possible for dog owners to completely eliminate barking since it is a method of communication for dogs. It is recommended that permitted periods be added to address barking in the evening and early morning.

Recommendation 18 - That the permitted period for “Persistent barking, calling or whining by a domestic pet” in Schedule Two of the Noise Control By-law be changed from “at any time” to 7:00 a.m. to 10:00 p.m.

The preceding recommendations will make the Noise Control By-law easier to understand and interpret, which may result in higher compliance.

PROGRAM ELEMENT #2 – ENFORCEMENT OPERATIONS

Current Service Levels

Noise complaints are rarely investigated by an MLEO. When a complaint is reported, a letter is sent to the person(s) creating the noise advising them that they are required to restrict the noise. A letter and package is also sent to the complainant which includes a noise log sheet to document the time the noise starts and ends, the dates and type of noise for three to four weeks. If the matter proceeds to legal action, the complainant is often required to serve as the witness to the violation.

One of the strongest themes that emerged from the community engagement sessions was a desire for increased enforcement and investigation of noise complaints. Residents are dissatisfied with the current service levels and indicated that they would like quicker response times and on-site investigation of complaints.

Increasing the current service level to provide MLEO onsite response and investigation services would require a significant financial investment. The current staff (18 MLEOs) and coverage (weekday business hours) would be required to be expanded to allow for evening & weekend coverage as well as a 10% increase in case file volume. Given the current financial impacts resulting from COVID-19, investment opportunities will not be recommended or pursued at this

time. The short term result will be that service levels will not fully satisfy the public demand for enforcement services.

***Recommendation 19** - That staff report back in Phase 2 with the staff requirements necessary to expand the current service levels.*

However, introducing a Priority Response Model will partially satisfy the public demand for onsite noise enforcement services. The model will also inform future resourcing needs to be included in a Phase 2 report.

Priority Response Model

Prioritizing complaints rather than treating all noise complaints the same will allow for the introduction of onsite investigation services in a gradual and measured approach. With a priority response model and improved data management practices, MLEOs will begin to conduct more onsite complaint investigations with existing resources. The proposed response model is summarized below:

Priority Level	Description	Response Time	Example
Priority One	An urgent matter that requires an MLEO to conduct an on-site investigation. This is a matter that it outside of the permitted hours. <ul style="list-style-type: none"> • HIGH Likelihood of reoccurrence; AND • HIGH impact to residents 	Within 24 hours	<ul style="list-style-type: none"> • Construction excavation creating noise outside of permitted hours. • Commercial and industrial loading/unloading noise.
Priority Two	A non-urgent matter that requires an MLEO to conduct an on-site investigation. It is a matter that is either outside of the permitted hours or an instance of persistent noise. <ul style="list-style-type: none"> • HIGH Likelihood of reoccurrence; OR • HIGH impact to residents 	Within 5 Business Days	<ul style="list-style-type: none"> • Noise occurring from a malfunctioning air conditioner. • Persistent amplified sound from a residence within the permitted times. • Dog barking – multiple complaints from multiple residents.
Priority Three	An non-urgent matter that does not require an on-site investigation by an MLEO. <ul style="list-style-type: none"> • LOW Likelihood of reoccurrence; OR • LOW impact to residents 	Letter may be sent out to the subject of the complaint.	<ul style="list-style-type: none"> • An isolated noise event such as a backyard wedding where a complaint is entered on the following business day.

Council	2020/06/12	12
---------	------------	----

Priority Level	Description	Response Time	Example
			<ul style="list-style-type: none"> • Dog barking – single complaint.

It should be noted that the subject of a complaint may progress through all three priority levels over time. As the number of complaints and the number of complainants increases, so will the priority level. For example a house party, on a first occurrence, would typically be a priority three complaint. However, if the location had a second house party, with multiple complainants in each instance, the occurrence would be escalated to a priority one or two depending on the impact level.

Data collection and analysis will be a critical factor in tracking and classifying complaints. If done properly, patterns of non-compliance will emerge over time and an appropriate level of enforcement action will be more likely to occur.

Priority Response Model Implementation

In order to assess the feasibility of adopting the priority response mode, staff analyzed 2019 service request data to determine how the 2019 complaints would have been classified using the recommended priority response model:

Category	Projected Number of Complaints
Priority One	389 (21.5%)
Priority Two	573 (31.7%)
Priority Three	847 (46.8%)

Based on historical data, it is estimated (conservatively) that 1,000 annual onsite noise investigations would be required. This represents 10% of the total annual complaint volumes for Compliance and Licensing Enforcement. On average, a priority one or two complaint will require four to eight hours of total staff time.

Achieving a 100% service level for onsite response service will not be possible with the existing staff level. However, establishing the response model and service levels will allow staff to establish a baseline and at least begin to deliver services where staff capacity exists.

Recommendation 20 - *That staff implement the priority response model and begin to deliver onsite investigative services with existing resources.*

Decibel Limits

Another common theme that emerged through the community engagement was objectivity. Objective rules, noise thresholds and investigative processes were all identified as areas that should be addressed.

Decibel limits are recommended to be added to a future noise by-law for “Amplified Sound” and “stationary motor vehicles” (Formerly “The operation of any motorized conveyance other than on a highway or other place intended for its operations”) noise categories as they are best suited to a quantifiable measure. However, as a first step, technical expertise is required to establish the appropriate decibel limits, determine investigative practices, identify equipment needs and train staff.

Many residents communicated a vision of Enforcement Officers responding to a location equipped with sound level meters. If the sound meter reading exceeded the threshold stated in the by-law, fines or charges would be issued. Unfortunately, there are many steps required to implement this vision. Taking an accurate and consistent decibel reading that would be admissible as court evidence is highly technical and must be conducted by properly trained individuals under precise circumstances. Further consulting, equipment and training is required prior to equipping MLEOs with sound level meters for field enforcement operations.

Recommendation 21 - That staff seek the consulting services of an acoustical engineering firm through the Phase 2 report in order to determine appropriate decibel limits and enforcement practices.

Joint Enforcement: Vehicle Noise

Throughout the community engagement, loud vehicles were cited by many residents as the noise that most impacts them. While MLEOs can address noise from stationary vehicles, moving vehicles are regulated through the *Highway Traffic Act* and are the responsibility of Peel Regional Police. Historically, Peel Regional Police have conducted enforcement blitzes in response to community concerns regarding excessively loud vehicles in Mississauga, but it is not a top priority.

Staff have engaged Peel Regional Police and are currently developing a joint enforcement strategy which will see Peel Officers and Bylaw Officers riding together and utilizing the *Highway Traffic Act* as well as the Noise Control and Nuisance Type Noise By-laws as tools to educate and enforce in an effort to reduce vehicle noise within the city.

Recommendation 22 - That Municipal Licensing Enforcement Officers participate in joint enforcement actions with Peel Regional Police Road Safety Services, where Municipal Licensing Enforcement Officers will ride in police cars with Peel Officers and utilize the Noise Control By-law to enforce unnecessary vehicle noise.

Vehicle Noise Enforcement: Technology

Although some jurisdictions, such as Edmonton, have piloted the use of automatic technology to enforce vehicle noise, it is not recommended at this time. The current technology being utilized cannot identify the particular vehicle emitting the noise, resulting in officers having to be present to identify the non-compliant vehicle.

Vehicle Noise Enforcement: Decibel Limits

Decibel limits are not recommended for vehicle noise because acceptable decibel limits for vehicles are not included in the *Highway Traffic Act*. The *Highway Traffic Act* relies on the observations and opinion of the Officer completing the investigation.

Additionally, many fleet vehicles such as buses or work trucks would be above the typical dBa range of 85-90 dBa implemented by other jurisdictions.

PROGRAM ELEMENT #3 – NOISE EXEMPTIONS

Noise exemptions are required to be sought by residents or organizations that are planning on making noise outside of the permitted periods. The current noise exemption process was identified by stakeholders as being onerous and difficult to navigate.

Noise Exemption Types

There are six divisions, eight sections and ten types of noise exemptions administered by the City:

Division and Group	Noise Exemption Type	Example
Culture, Culture Services, Creative Industries	Film permit exemptions	Film shoots outside of City facilities
Culture, Meadowvale Theatre and Celebration Square	Automatic (Schedule Three) exemption	Events at Celebration Square
Culture, Museums and Small Arms Building	Automatic (Schedule Three) exemption	Events at museums or the Small Arms Building
Recreation, Sport and Community Development, Community and Neighbourhood Development	Automatic (Schedule Three) exemptions, Parks exemptions	Community events and festivals
Parks and Forestry, Parks Operations	Parks booking permits	Organized events in City parks
Enforcement, Compliance and Licensing Enforcement	Commercial construction exemptions	Construction noise exemption for condominium construction
Enforcement, Compliance and Licensing Enforcement	Residential exemptions	Amplified sound exemption for a backyard wedding
Enforcement, Compliance and	Other noise category	Amplified sound

Council	2020/06/12	15
---------	------------	----

Division and Group	Noise Exemption Type	Example
Licensing Enforcement	(Schedule Two) exemptions	exemption for a restaurant patio
Infrastructure Planning and Engineering, Capital Works Delivery	Capital works construction exemptions (facilitated through Traffic Operations)	Water main construction project outside of the permitted period for construction
Traffic Management and Municipal Parking, Traffic Services and Road Safety	Road construction exemptions	Road re-paving outside of the permitted period for construction

Due to the number of processes and the wide variety of activities they encompass, there are inconsistencies between processes and deviations from the prescribed by-law provisions, which in many instances are limiting to the Divisions. Therefore, it is recommended that the Noise Control By-law allow Divisions to have their own exemption procedure. These procedures will adhere to the requirements outlined in the Noise Control By-law, but be determined, and administered by Divisions. This will allow Divisions the flexibility to create procedures that work for their clients and prevent inconsistencies. Noise exemptions will be centrally tracked through 311.

***Recommendation 23** - That City Divisional Directors be delegated the authority by the Commissioner T&W to create and administer noise exemption procedures specific to their respective lines of business.*

Noise Exemption Application Process and Requirements

Directors will be delegated the authority to grant exemptions by the Commissioner of Transportation and Works. All of the divisional procedures will, at a minimum, be required to detail the following in their applications:

Activity and Type of Exemption Required:

Applicants will be required to provide a description and location of the activity as well as the sources of sound that an exemption is being sought for. For instance, a community street festival may include amplified sound, loading and unloading and yelling and shouting. This requirement will allow applications to be directed to the appropriate Division for review and approval.

Period of time:

Divisions will be allowed to determine the period of time the exemption will be valid for, but it will be limited to no more than six months.

Public notification process:

This requirement will be determined by the Divisions and will allow them to identify a process that works with their exemption type and stakeholder group. Requirements may include distribution of a flyer to all residents within a 500 metre radius, posting a notification in a local paper for two consecutive days or displaying the notification at the exemption location in advance of the exemption date. For instance, for filming exemption permits, it may only be necessary to notify residents on the street where the filming is taking place, but for water main construction a larger notification area may be required.

Application Fees:

Divisions will have the authority to determine their fees and charges, based on the amount of work required to process an application. Fees will be added to the User Fees and Charges By-law.

Application Evaluation Process:

Divisions will determine criteria to evaluate applications on a case by case basis, enabling them to use their discretion and determine what is reasonable for their exemption type. This criteria may include, depending on the exemption type: consultation with the affected Ward Councillor, consideration of proximity of the sound to a residential area, and identification of noise mitigation measures. Regardless of whether the local Ward Councillor is consulted, they must be notified in advance of the exemption date. However, they will not be required to approve the exemption application unless the Division deems it necessary.

Criteria will be tailored and proportional relative to the potential impact of the noise. For instance, a low impact, one-time event application would only require notifying the direct area around the application site, while a high impact, high frequency event application would require a study by a Sound Engineer, a sound mitigation plan, distribution of notices within 500 metres of the application site and consultation with the Ward Councillor.

Terms and Conditions:

Directors will have the authority, as delegates, to determine whether terms and conditions should be imposed on an exemption. Terms and conditions could include noise mitigation strategies, time restrictions and exemption revocation processes.

Automatic (Schedule Three) Exemptions

The Noise Control By-law has a schedule of community events and festivals and City facilities which receive automatic exemptions to the Schedule Two permitted periods. Council approval in the form of a corporate report from the Division administering the exemption will be required for addition to the Schedule.

PROGRAM ELEMENT #4 – PROGRAM DEVELOPMENT AND AWARENESS

This includes public education & awareness initiatives, performance metrics, reporting and continuous improvement projects.

Public Education and Awareness

Community engagement activities revealed that residents have a limited understanding of the current by-law provisions and permitted times. It is recommended that awareness and education activities be undertaken to improve public awareness of the permitted periods and complaint process, and to encourage residents to be courteous of their neighbours.

These activities will take a phased approach and begin with digital materials, then printed materials and if necessary, materials specific to certain activities, such as vehicle noise or weekend construction. Activities in Phase One will be undertaken using existing budget.

Recommendation 24 - That free or low cost public awareness activities be undertaken to improve awareness of the new Noise Control by-law, with more comprehensive activities introduced in Phase Two as required.

Continuous Improvement

During the Review it was determined that more detailed data is required to obtain a better understanding of current noise service requests. Staff are in the process of implementing changes that will allow for better data collection. With increased data on types of complaints and complaint locations, staff will be able to use this data to make service level decisions, inform their response and conduct targeted public education.

Enforcement staff also reviewed existing processes related to noise investigations and enforcement to streamline efforts and to ensure consistency in response. Changes being implemented include changing the language and process of submitting noise complaints to make it more straightforward and easier to do online, updating standard operation procedures for closing complaints and updating the noise Knowledge Base so complaints are properly directed.

Mediation

Mediation is a form of alternative dispute resolution where individuals or groups resolve a dispute with the help of a neutral third party who serves as a mediator. Since 2012, the City has funded a Community Mediation Service run through the Dixie Bloor Neighbourhood Centre. In 2019, the Centre mediated 420 cases on a wide variety of subjects using volunteer mediators. Mediation is often an appropriate tool to address noise complaints, particularly when the noise is occurring during permitted periods, or in the case of disputes between neighbours. Currently, information about mediation is included in the package that is sent to the complainant, but there is often low uptake because both parties need to be willing to participate.

***Recommendation 25** - That staff promote the Community Mediation Service to residents as a method of resolution, when appropriate.*

Summary of Recommendations

Program Element	Recommendation
By-law	1- That the Nuisance Type Noise By-law be repealed and consolidated into the Noise Control By-law.
	2- That a new definition for 'persistent sound' replace the current 'nuisance' definition in the By-law.
	3- That decibel limits for "Amplified Sound" and "stationary vehicles" (Formerly "The operation of any motorized conveyance other than on a highway or other place intended for its operations") be introduced in the third phase of implementation.
	4- That section 7 of the Noise Control By-law be updated to outline the updated exemption application process and application requirements.
	5- That staff apply to the Ministry of the Attorney General for permission to establish a fine in the Noise Control By-law of no more than \$5000 and a set fine of \$305 in the By-law pursuant to the provisions of the Provincial Offences Act.
	6- That Schedule One of the Noise Control By-law be updated to include a provision prohibiting drivers from making unreasonable or unnecessary noise: "A person having the control or charge of a motor vehicle shall not sound any bell, horn or other signalling device so as to make an unreasonable noise, or install a modified muffler or exhaust with the express intention to create unreasonable noise, nor shall the driver at any time operate or cause the motor vehicle to make any unnecessary noise or noise likely to disturb an inhabitant of the City of Mississauga."
	7- That redundant categories in Schedule Two of the Noise Control By-law be removed and other categories consolidated.
	8- That the permitted period for Amplified Sound in Schedule Two of the Noise Control By-law be updated from 7:00 a.m. to 5:00 p.m. to 9:00 to 7:00 p.m. Monday-Thursday, Sunday and Statutory Holidays and 9:00 a.m. to 10:00 p.m. on Friday and Saturday.
	9- That the permitted period for Auditory Signalling in Schedule Two of the Noise Control By-law be updated from 7:00 a.m. to 7:00 p.m. to 9:00 a.m. to 7:00 p.m. Monday to Saturday and on Sundays and Statutory Holidays.
	10- That the use of devices to amplify sounds for the purpose of reaching persons outside of the property from which the sound is originating, be prohibited.
	11- That the use of auditory signalling devices for the purpose of reaching

Program Element	Recommendation
	persons outside of the property from which the sound is originating, be prohibited.
	12- That noise from sports activities be added to the category of Yelling and Shouting in Schedule Two of the Noise Control By-law.
	13- That the category of Selling or advertising by shouting or amplified sound be removed from Schedule Two of the Noise Control By-law.
	14- That the permitted period for loading and unloading noise in Schedule Two of the Noise Control By-law return to 7:00 a.m. to 7:00 p.m. Monday to Saturday once O.Reg 70/20 expires.
	15- That the permitted period for construction noise in Schedule Two of the Noise Control By-law return to 7:00 a.m. to 7:00 p.m. Monday to Saturday once O.Reg 131/20 expires.
	16- That the Firearms category be removed from Schedule Two of the Noise Control By-law.
	17- That the permitted period for "The operation of any powered or non-powered tool for domestic purposes other than snow removal" be changed from 7:00 a.m. to 11:00 p.m. (9:00 a.m. Sundays) to 7:00 a.m. to 7:00 p.m. (9:00 a.m. Sundays) in Schedule Two of the Noise Control By-law.
	18- That the permitted period for "Persistent barking, calling or whining by a domestic pet" in Schedule Two of the Noise Control By-law be changed from "at any time" to 7:00 a.m. to 10:00 p.m.
Enforcement Operations	19- That staff report back in Phase 2 with the staff requirements necessary to expand the current service levels.
	20- That staff implement the priority response model and begin to deliver onsite investigative services with existing resources.
	21- That staff seek the consulting services of an acoustical engineering firm through the Phase Two report in order to determine appropriate decibel limits and enforcement practices.
	22- That Municipal Licensing Enforcement Officers participate in joint enforcement actions with Peel Regional Police Road Safety Services, where Municipal Licensing Enforcement Officers will ride in police cars with Peel Officers and utilize the Noise Control By-law to enforce unnecessary vehicle noise.
Noise Exemption Permits	23- That City Divisional Directors be delegated the authority by the Commissioner T&W to create and administer noise exemption procedures specific to their respective lines of business.
Awareness and Development	24- That free or low cost public awareness activities be undertaken to improve awareness of the new by-law, with more comprehensive activities introduced in Phase Two as required.
	25- That staff promote the Community Mediation Service to residents as a method of resolution, when appropriate.

Timeline for Noise Control By-law Amendment

Staff intends to bring forward the proposed Noise Control By-law amendment recommended as part of Phase 1 to the September 16, 2020 Council meeting for Council approval.

Financial Impact

There is no financial impact associate with the current recommendations. Staff will provide a future Phase 2 report at a later date with financial impacts.

Conclusion

The primary purpose of the Noise Control Program Review was to identify and develop program requirements to better meet the needs of Council and the community. Thorough community engagement revealed that noise is a significant issue for many residents. A modernized by-law will provide clarity and allow for more effective enforcement. Enhanced service levels are required to fully meet resident expectations but there are many short and medium term actions that can be implemented to improve the program model in the interim.

Attachments

Appendix 1: Federal and Municipal Noise Regulations

Appendix 2: 2019 Noise Complaints

Appendix 3: Noise Control Jurisdictional Scan

Appendix 4: Community Engagement Summary

Appendix 5: Online Survey Key Results

Appendix 6: Summary of Proposed Housekeeping Amendments to Noise Control By-law 360-79

Appendix 7: Current Schedule Two: Permitted Periods

Appendix 8: Recommended Changes to Schedule Two: Permitted Periods



Geoff Wright, P.Eng, MBA, Commissioner of Transportation and Works

Prepared by: Alexandra Schwenger, Policy Analyst, Enforcement