

## REPORT

### Council

**Meeting Date: May 27, 2024**

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**FROM:** Municipal Enforcement Services Department

**DATE:** May 14, 2024

**SUBJECT:** Noise By-law Review – Proposed Noise By-law – 2024-079

**LOCATION:** Town-wide

**WARD:** Town-wide

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#### RECOMMENDATION:

1. That By-law 2024-079, a by-law to prohibit and regulate noise within the Town of Oakville, and to repeal By-law 2008-098, as amended, attached as Appendix A to the report from Municipal Enforcement Services dated May 14, 2024 be passed.
2. That Council request the Government of Ontario make our neighbourhoods quieter by establishing effective enforcement tools with requisite funding for police services to limit noise associated with loud performance and altered exhausts installed on motor vehicles by:
  - a. Establishing regulations setting limits on permitted decibel (dB) limits for motor vehicles and providing the authority to enforce the *Highway Traffic Act* using automated Camera-based Sound Level Meters;
  - b. Increasing fines for violations of modified exhaust and excessive vehicle noise under the *Highway Traffic Act*, and that a violation results in demerit points, and
  - c. Banning the sale of modified exhausts explicitly used to increase the sound output of a motor vehicle.
3. That new noise exemption permit fees listed in Appendix D to the Report from Municipal Enforcement Services department dated May 14, 2024 be approved, effective on November 25, 2024, and such fees be included in the Rates and Fees schedule

#### KEY FACTS:

The following are key points for consideration with respect to this report:

- At its Planning and Development meeting on December 4<sup>th</sup>, 2023 Council authorized staff to engage the public in further consultation and report back with a final version of the Noise By-law.
- Staff engaged the public with an online questionnaire between February 14-29, 2024.
- An open house for public engagement was conducted on February 28, 2024 at townhall.
- New changes resulting from the public consultation phase include:
  - Aligning the allowable hours for Residential Renovations (both permitted & unpermitted) with the current allowable hours for general construction.
  - Noise permit process was restructured enhancing the review process and messaging to the public.
  - Addition of a definition for Air Conditioner Device confirms the inclusion of heat pump units within the category.

**BACKGROUND:**

The *Municipal Act 2001*, S.O. 2001, c. 25 (the “Municipal Act”) empowers municipalities to pass noise control by-laws. Proposed Noise By-law 2024-079 included as Appendix A, is reflective of the principles and recommendations provided as guidance to municipalities by the *Ministry of the Environment, Conservation and Parks (MECP)* and takes into consideration public comments received through consultation. [Environmental Noise Guideline - Stationary and Transportation Sources - Approval and Planning \(NPC-300\)](#) in conjunction with Model Municipal Noise Control By-Law documents, international engineering standards (ISO 1996-2-2017 - Annex K) and common time/place restrictions adopted within neighbouring jurisdictions are reflected in the noise limits and restrictions within the by-law.

Typically, the impact of sound correlates with its magnitude, commonly measured by its sound pressure level (or sound level). A higher sound level (dBA) generally corresponds to a greater subjective perception of "loudness" and an increased potential for various disturbances like an impediment to vocal interaction, sleep disruption, distraction, and annoyance. There exists a threshold below which adverse effects are considered minimal or negligible. This threshold can be found within noise regulations and land use planning guidelines. The Noise By-law regulations are prescriptive, cover a variety of noise sources, establish decibel limits that are measurable for enforcement and define exceptions.

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**COMMENTS/OPTIONS:*****Public Feedback***

Staff received a myriad of responses with over 400 written submissions provided within the most recent questionnaire conducted between February 14-29, 2024 (Appendix C) which included links to the Proposed Noise By-law and the staff report (Appendix B) that was provided in support of the by-law. Additionally, an open house for public engagement was conducted on February 28, 2024 at townhall. Municipal Enforcement Services (MES) staff partnered with the Strategy Policy and Communications department to provide content in the questionnaire and were available for questions during the open house.

As a result of engagement efforts including direct correspondence with residents, questionnaire responses and in person discussions at the open house, several areas of concern were identified. The most common concerns can be summarized as follows, with staff comments below and discussed further in this report:

- *The by-law seems unnecessarily difficult for the casual reader to understand.*
  - The principle role of the by-law is to control and regulate noise.
  - The by-law is grounded in science including concepts and terms from mathematics and physics based on guidance from the MECP. These are admittedly complex but are required to authorize enforcement of the quantitative regulations (i.e. measurement of sound level limits).
  - In order to enforce the quantitative provisions of a noise by-law, enforcement staff need to undergo at least 40 hours of classroom education, which includes learning about acoustics, sound monitoring technology, and enforcement techniques. The technical concepts in the by-law have been simplified to the greatest extent possible for easier public comprehension and interpretation, while ensuring the requisite provisions to allow effective enforcement.
- *The by-law has failed to address the issue of airplane & boat noise.*
  - The Town of Oakville has no jurisdiction to regulate aircraft noise or noise resulting from boats & watercraft on the open water.
  - The federal government sets out national guidelines and regulations for various types of noise, including general guidelines for noise from aircraft.
  - The *Canada Transportation Act* includes regulations for aircraft noise management, aviation regulations for noise, as well as requiring airports to establish steering committees to manage noise concerns.
  - Toronto Pearson Airport has a steering committee that accepts and addresses [noise concerns](#).

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- Transport Canada is currently studying the Vessel Operation Restriction Regulations which regulate navigation of Canada's lakes, rivers, and waterways to ensure safe recreational boating and protect the marine environment. More information on the proposed changes can be [found here](#).
  - *The by-law does not address loud exhaust sound from automobiles.*
    - Most noise results from on road activity which is governed by the *Highway Traffic Act ("HTA")*. The HTA does not contain measurable noise limits for automobiles. The sections of the HTA that limit noise from automobiles are enforced by police services. MES staff do not have the authority to stop vehicles.
    - Recognized sound testing procedures for automobiles are limited and many require a closed circuit with a pass by test using several noise meters such as those employed by Canadian federal regulators.
    - Stationary roadside tests such as those found in publications by the Society of Automotive Engineers (SAE) do provide testing methodology but not measurable noise limits for automobiles.
    - SAE J2825 contains both testing methodology and noise limits for motorcycles only. The Town currently enforces these limits with assistance from the Halton Region Police.
    - Staff have included a resolution for Council consideration to request the Province establish effective enforcement tools with requisite funding for police services in Ontario to limit noise associated with loud performance and altered exhausts installed on motor vehicles.
  - *The by-law doesn't include noise limits (dBA) and / or a ban on some or all gas-powered domestic tools e.g. leaf blowers.*
    - Introducing a localized decibel limit (dBA) exclusive to Oakville, though feasible in theory, poses considerable challenges in enforcement due to the necessity of individually testing each piece of equipment for compliance. The associated demand on staff resources to address these concerns would be substantial.
    - The purpose of the by-law is to regulate noise rather than 'ban' the use of any particular tool. As such, no changes are proposed to the current method of using time of day restrictions to control noise from gas-powered domestic tools, which is consistent with the guidance from MECP.
    - In accordance with Council direction, a review of small gas-powered equipment has been conducted by the Strategy, Policy, and Communications Department that considers noise, climate change, air quality and human health impacts.

- A Federal or Provincial initiative would have a greater likelihood of success given the limited number of levers available to the Municipality.

## **RECOMMENDATIONS:**

As a result of public feedback and further information becoming available to staff, the following recommendations to the Noise By-law's general provisions are being proposed:

### ***New Time Limit for Residential Renovation***

The current Noise By-law permits noise from Residential Renovations (work that doesn't require a permit or the use of a contractor) to occur every day between the hours of 7am-9pm (9am-9pm Sundays/holiday) In contrast to these hours, Construction Noise is not permitted past 7pm Monday – Saturday and all-day Sunday/ statutory holidays. Equipment used in Residential Renovations is considered Construction Equipment as defined in the by-law.

Additionally, Residential Renovations that have/require a building permit are subject to the same hours as construction while those projects that don't require a permit have longer permitted hours during the evening (7pm vs. 9pm). This creates confusion for the public and enforcement challenges when determining compliance.

The operation of any tool for "domestic purposes" differs from Residential Renovation by the act of construction taking place.

Based on comments received in the survey, staff are recommending that the daily permitted hours for Residential Renovation more closely mirror those of Construction Noise primarily based on the elevated impact of items permitted in construction such as generators, pneumatic tools, air compressors or vacuums. Tools for domestic purposes are generally associated with yard maintenance such as trimmers, leaf blowers and lawnmowers.

The goal of streamlining the by-law is achieved by aligning similar noise categories by combining the allowable hours for all construction noise sources.

Lastly, the requirement to provide homeowners sufficient time to maintain lawns/gardens is not a consideration governing work performed on discretionary home improvement projects.

The recommendation is a reduction from the current 7am -9pm on Monday-Saturday to 7am-7pm and from the current 9am-9pm on Sundays/statutory holidays to 9am-7pm.

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**Construction Noise / Construction Noise Exemption Permit**

In response to public concerns regarding the process for obtaining a noise exemption permit, staff have restructured the process to ensure applications receive a staff review prior to being released to the public for consideration. This adjustment aims to instill confidence in the process by ensuring applications have clear, concise, and consistent information that allows the public to make informed comments regarding the nature of the exemption being sought.

To further enhance transparency and understanding, adjustments to the title of the Notice of Noise Exemption Permit application will now read as "Notice of Application for a Noise Exemption Permit." This slight alteration is intended to offer greater clarity to members of the public by informing them that the application is being considered and a decision on whether or not to grant the exemption has not been rendered.

Due to the complexity and severity of construction noise offences, the fines have been increased from the current \$300 administrative penalty. Staff are proposing an administrative penalty of \$500 for a first offence. Further action may be taken for subsequent violations including escalated penalties of \$750 for a second offence and \$1000 for a third offence. Additionally, to address public input on the need for greater oversight of the construction industry in general, staff are recommending higher application fees to offset the additional time required for review (Appendix D).

**Noise ban and /or noise limit on gas-powered leaf blowers / all gas-powered domestic tools**

The City of Vancouver recently conducted a public questionnaire centred on identifying noise related concerns. Vancouver's staff identified that many respondents called for a ban on noise from landscaping equipment, specifically the use of gas-powered leaf blowers. The staff response to city council stated:

*"Gas-powered landscaping equipment operate at a lower sound frequency or pitch than their electric counterparts, which is a more significant public health and public nuisance concern because low-frequency sound waves travel further than high-frequency waves, and are blocked less by walls, doors, and windows. As a result, the City does have the authority to regulate the use of gas-powered leaf blowers, and potentially other gas-powered landscaping equipment, as disturbing noises, and Council could prohibit their use.*

*However, staff research as well as experience from the Park Board's transition from gas-powered landscaping equipment to electric options has shown that the market is not yet ready for a complete prohibition of gas-*

*powered equipment. While the Park Board has successfully converted 35% of its landscaping equipment to electric options, this work has highlighted challenges with electric equipment, particularly for commercial usage. Challenges have included limited battery-charge life, limitations with charging infrastructure, ergonomic issues, limits with power and torque levels, and delays in procuring equipment. A city-wide prohibition on all gas-powered landscaping equipment, or a specific prohibition on gas-powered leaf blowers, would encounter the same challenges, and likely would be unsuccessful.”*

The City of Vancouver also noted that the voluntary adoption of electric options is gaining momentum stating:

*“Public preference is also moving in this direction as the majority of non-commercial (for home use) landscaping equipment available at local retailers such as Home Depot and Canadian Tire are now electric and forecasts point to increasing market share for electric options.”*

The City of Vancouver report highlighted the difficulty in forcing a transition to electric when the market is not yet mature enough to allow for mass adoption of this technology. The City’s report does not touch on the enforcement challenge caused by the adoption of a noise limit. Integrating exceptionally unique and intricate regulations and exemptions for a specific instance leads to a by-law that is overly complex and impractical for use.

Most respondents to Oakville’s questionnaire agree with the Town’s current approach to regulating noise from domestic power tools.

No other jurisdiction in Ontario has banned or established decibel limits to control the impact of noise created by gas-powered domestic tools.

Staff recommend no changes to the current method of using time of day restrictions to control noise from gas-powered domestic tools. A related report drafted by the Strategy, Policy and Communications department on the noise, climate change, air quality and human health considerations of gas-powered equipment is also on the May 27, 2024 Council agenda.

## **CONSIDERATIONS:**

### **(A) PUBLIC**

Over 400 written submissions were received in the most recent questionnaire, conducted between February 14-29, 2024. Additionally, an open house for public engagement was conducted on February 28, 2024 at townhall. Municipal Enforcement Services (MES) staff partnered with the Strategy, Policy and Communications (SPC) department to provide content in the

questionnaire and SPC staff were available for questions during the open house.

**(B) FINANCIAL**

There are no significant financial impacts as a result of this report.

**(C) IMPACT ON OTHER DEPARTMENTS & USERS**

Multiple departments including Enforcement Services and Legal have been involved in this by-law review. Enforcement Services will support impacted departments in the implementation of the new noise by-law. Communications will be engaged to update the website assist with public notices.

**(D) COUNCIL STRATEGIC PRIORITIES**

This report addresses the corporate strategic goal(s) of: Accountable Government

**(E) CLIMATE CHANGE/ACTION**

Environmental impacts were considered in consultation with SPC Climate Action staff.

**APPENDICES:**

Appendix A – By-law 2024-079

Appendix B – Staff report dated November 21, 2023 supporting the draft by-law

Appendix C – Questionnaire results

Appendix D – Construction Exemption Permit Fee

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