

REPORT

PLANNING AND DEVELOPMENT COUNCIL

MEETING DATE: DECEMBER 4, 2023

FROM: Municipal Enforcement Services Department

DATE: November 21, 2023

SUBJECT: Noise By-law Update

LOCATION: Town wide

WARD: Town wide

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RECOMMENDATION:

1. That staff be authorized to engage in further public consultation to seek input on the draft Noise By-law attached as Appendix A to the staff report dated November 21, 2023, from Municipal Enforcement Services, and report back with a final version of the Noise By-law by the first quarter of 2024.

KEY FACTS:

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

- Municipalities in Ontario have the authority to prohibit and regulate noise by passing and enforcing by-laws that regulate noise disturbances
- Noise By-law 2008-098 is over 15 years old and does not adequately address current community expectations, changing noise control guidelines issued by the Province, and recent changes to the Municipal Act that have changed the authority for municipalities to control noise.
- Significant changes to the Municipal Act provide that a municipality does not have the power to prohibit and regulate with respect to noise made in the municipality in connection with the delivery of goods to retail business establishments, restaurants (including cafes and bars), hotels, motels and goods distribution facilities
- Staff held public consultation with key stakeholders to gather information for input into a new Noise By-law, including:
 - A public questionnaire which ran from April 1-15, 2022, results are attached as Appendix C
 - An open house public engagement conducted on April 14, 2022

- Key considerations that guided the drafting of the new by-law include:
 - Purpose and scope
 - Noise Definitions
 - Permissible Noise levels
 - Exemptions and Special Circumstances
 - Enforcement and Measurement Mechanisms

BACKGROUND:

The *Municipal Act 2001*, S.O. 2001, c. 25 (the “Municipal Act”) empowers municipalities to pass noise control by-laws. The current Noise By-law 2008-098 is over 15 years old and requires review and is outdated as it does not accurately reflect changes to the *Ministry of the Environment, Conservation and Parks (MECP)* guidelines or amendments to the Municipal Act recently passed by the Province of Ontario.

In maintaining its goal of continuous improvement, Municipal Enforcement Services has identified the current Noise By-law requires significant updates. Repealing and replacing the current Noise By-law is required to ensure effective control of noise while meeting the needs of a changing community. This report sets out the direction that staff proposes for the Noise By-law review.

Environmental Protection Act Considerations

In addition to municipal authority to regulate noise, the Province regulates noise from industrial sources through the *Environmental Protection Act*, R.S.O. 1990, Chapter E.19 (“EPA”). Sound that causes or may cause an adverse effect is defined as a contaminant and requires an Environmental Compliance Approval as established in the EPA. The Province has [guidelines](#) for the proper control of sources of noise emissions to the environment and prevention of potential adverse effects. The guidelines include noise limits for different situations, including:

- indoor and outdoor
- daytime and nighttime
- urban, semi-urban and rural zones

Noises are considered to be at an acceptable level if they are between 40 and 60 decibels, or match the ambient background noise – whichever is higher. Any sound above acceptable levels is generally considered noise pollution. The Province provides the following examples of typical noises and their decibel levels:

Faint to moderate sounds

- 20 decibels – watch ticking
- 30 decibels – whispering
- 40 decibels – refrigerator
- 50 decibels – moderate rainfall
- 60 decibels – dishwasher

Loud sounds

- 70 decibels – city traffic
- 80 decibels – noisy restaurant

Very loud sounds

- 90 decibels – lawn mower
- 100 decibels – chainsaw
- 110 decibels – car horn
- 120 decibels – rock concert
- 130 decibels – jet engine 100 feet away
- 140 decibels – shotgun blast

Facilities that emit noise must obtain a provincial [Environmental Compliance Approval](#) (ECA). Facilities not subject to Environmental Compliance Approval are either registered on the Ministry of the Environment and Climate Change's Environmental Activity and Sector Registry (EASR) or exempted from provincial approval as per [Ontario Regulation 524/98](#). The Province can issue orders requiring a facility or operation to take steps to reduce noise if it is not in compliance.

If a municipal bylaw conflicts with guidance provided by the EPA, the EPA guidance prevails. Municipalities may refer to the Provincial [noise guidelines](#) and the Model Municipal Noise Control By-Law documents for assistance in drafting noise bylaws ([Noise in our environment | ontario.ca](#)).

Review Goals and Principles

The primary goals of a noise by-law is to address issues related to:

- Health and wellbeing of persons
- Establishing regulations for permissible times and levels of sound
- Regulating and controlling excessive noise;
- Greater clarity through simplified language and format

Considering these goals, staff have established the following guiding principles, which are in line with accountable governance, to further direct the review:

- Noise Reduction - reduce allowable noise levels both outdoors and indoors creating a positive impact on personal living spaces
- Fiscal responsibility – leverage technology and streamline internal processes creating efficiencies
- Customer focused – new quantitative methods of conducting impact studies will promote a fair/objective assessment of noise while allowing staff to keep up with current demands

Consultation

The public consultation phase of a project provides an opportunity for feedback, informs, and educates the public, and can help prevent conflicts and disputes from members who feel their needs were not considered. In addition, it allows for the inclusion of diverse perspectives and ensures a wide range of voices are heard and considered during the decision-making process. To leverage the town's diverse perspectives, the noise by-law review included significant engagement that began in 2022, and as will be discussed, intends to continue into 2024 to ensure we achieve a noise by-law that is reflective of both the public's input and legislative requirements.

The engagement process, including discussions with the public and businesses began with public open house sessions on April 14, 2022 to provide input into a new noise by-law. In addition to the public meetings, an online questionnaire was introduced by engaging residents associations, distributing information postcards at Town facilities and online/web blasts which ran for a period of two weeks beginning on April 1st, 2022. Staff also created a landscape industry focused questionnaire and worked with Oakville's BIA's and Landscape Ontario to inform stakeholders about the online questionnaire running parallel to the general questionnaire. General results are provided in Appendix C.

To ensure the validity of all changes being considered by staff, a well-established acoustical engineering firm was engaged to leverage their extensive experience in understanding, analyzing and mitigating noise pollution sources. Additionally, staff had the opportunity to collaborate with the MCEP gaining valuable insight into the division of roles between the Province and the municipality.

Involving members of the public during the drafting phase enhances transparency and demonstrates a commitment to open governance and accountability while allowing staff to tap into the knowledge and expertise of its well-informed residents. Given the significant public interest and changes in the proposed draft Noise By-law, staff are proposing Council receive the draft by-law for the purposes of authorizing staff to engage in further public consultation on the new Noise By-law and report back to Council with a final version in 2024. The final round of consultation will help

create a more effective and equitable set of regulations which contributes to the cycle of continuous improvement.

COMMENT/OPTIONS:

Noise By-law 2008-098 was passed by Council on July 7th, 2008 and has been amended several times since then. Over the intervening years, there have been significant amendments to the Municipal Act and *the Environmental Protection Act*. These amendments taken in conjunction with changes to the *Ministry of the Environment, Conservation and Parks (MECP)* guidelines require significant updates to the current by-law. As such, staff recommends repealing and replacing the current Noise By-law to ensure compliance with related Acts and Provincial guidance.

The following additions and updates to the Noise By-law's general provisions are being considered:

New Decibel and Time Limits

The updated Provincial guidance for acceptable outdoor noise levels (NPC-300) are not reflected in the current by-law. The median noise limit of 47dBA occurring from 7p.m.-11p.m. found in the previous regulations has been removed from the updated Provincial guidelines. Currently, the MCEP provides noise limits for all ECA and EASR entities based on their class designation (either 50 dBA or 45 dBA based on Class 1 or 2 designation). The MCEP informs us that the class designation is applied individually per industry based on their location within the municipality. The MCEP has informed us that both Class 1 and Class 2 industries exist within the Town. The ability for the municipality to mirror the limits provided for in NPC-300 and broadly apply them town-wide is compromised by the individuality of the designation. Staff are recommending maintaining the current limits which will only be applied to "Sound Sources" (noise from residential properties). NPC-300 specifically refers to the MOE (now MECP) as the regulatory authority responsible for enforcement of commercial/industrial noise complaints when it states:

"In addition, these sound level limits apply to noise-related incidents reported to MOE, which are investigated to determine the potential for an adverse effect, which may contravene section 14 of the Environmental Protection Act."

As such, provisions will be included in the by-law which will specify that in the event of any conflict "Stationary Sources" will be governed by the sound level limit prescribed by the ECA or otherwise applicable by the EPA.

Oakville's noise questionnaire included comments from respondents asking the Town to consider opportunities to reduce sound levels where practical. Staff are recommending reducing the allowable outdoor decibel level of music/tv (electromagnetic transducers/speakers) sources from its current 55dBA to 50dBA which is in keeping with the daytime limit of all other noise sources. Additionally, staff are also recommending increasing the allowable time from the current 7am-5pm to 7am-7pm. This new limit would align itself with the time limits currently proposed for all other "Sound Sources" while also mirroring that which was recently passed in the neighbouring municipality of Mississauga. The main difference between music/tv noise and all other "Sound Sources" is that after 7p.m. the threshold for music/tv noise becomes a time/place consideration and is governed by the more restrictive "Unreasonable Noise" clause.

Additionally, staff are recommending removal of the 45dBA threshold for interior living spaces as it is deemed to be unacceptably high. Practical experience has demonstrated that a typical interior living space would register a decibel reading in the mid to high 30dBA range. Staff studied indoor sound levels in an effort to quantify "Clearly Audible" and determined that 5dBA was a reasonable approximation especially within an indoor environment where ambient is low. Staff discussed their findings with an acoustical engineering firm and were provided additional research conducted by the firm that supported this conclusion. Staff are recommending a model which would establish an acceptable noise level based on ambient as the baseline plus additional 4 decibel of sound introduced from an outside source. If the outside source exceeded ambient by 5 decibels or greater it would be deemed to be in non-compliance.

Delivery Noise

The Municipal Act was amended as of September 19, 2021, to permit noise specifically from deliveries to a broad range of businesses. The proposed by-law includes updates to align with this new legislation. The types of businesses impacted by the legislation include:

- retail business establishments;
- restaurants, including cafes and bars;
- hotels & motels; and
- goods distribution facilities

To reduce the impact of increased volumes of deliveries on traffic congestion during the day, the Province has removed the authority for municipalities to control noise generated by deliveries to these business types. The by-law will be updated to reflect this change.

Motor Vehicle Noise

Navigating the challenges posed by increasing levels of motor vehicle noise within our community will require a comprehensive and collaborative approach. The Town of Oakville has been actively addressing the issue of loud motorcycle exhaust noise since 2012. Motorcycle testing conducted under the quantitative noise standards set out in SAE J2825 has resulted in multiple charges every year since the standard was incorporated into the current noise by-law. There are no significant changes recommended in the new by-law relating to motorcycle noise enforcement.

Motor vehicle noise (excluding motorcycles) has not been part of any noise enforcement strategy. Most noise complaints regarding loud motor vehicles occur on public road allowances within the municipality which are governed by the *Highway Traffic Act* ("HTA"). To address the increased level of concern and complaints from the public, an intergovernmental brief has been forwarded to the Province of Ontario.

The brief has requested the Province of Ontario consider strengthening the enforcement mechanisms to penalize vehicles that exceed an established noise limit. Additionally, Town of Oakville has asked the province to consider investing in advanced noise monitoring systems to track and assess motor vehicle noise in urban areas.

Small Outdoor Equipment Noise

Using Natural Resource Canada 2019 figures, staff conducted a review of the prevalence of small outdoor gas-powered equipment use within the average Canadian household. Just over one in five (21%) of Canadian households indicated they had a leaf blower. Seven out of ten of the households that had a leaf blower owned an electric or battery-operated blower, and just over 3 out of 10 had a gas-powered blower. Put into context, this means approximately 6 in 100 (6.3%) of households in Oakville own a gas-powered leaf blower. For comparison purposes, 60% of Canadian households have a lawn mower of which 80% are gas-powered which would equate to an average of 48% of Oakville households owning a gas-powered lawnmower. Additionally, 20% of homes nationally own a gas-powered snowblower.

Small outdoor equipment including leaf blowers, lawnmowers, power washers and snowblowers are categorized as domestic power tools both within the current noise by-law and the Ministry of the Environment, Conservation and Parks (MECP) guideline NPC-300. The MECP guidelines state that domestic power tools are not defined as a "Stationary Source" and should be treated in a qualitative manner. As such, small outdoor equipment is not regulated by quantitative noise limits in the

Noise By-law. They are currently governed by time and place restrictions where the noise from such domestic tools is deemed 'clearly audible' (qualitative assessment). More broadly, the current by-law permits domestic power tools to be operated during the permitted times (7am-9pm Mon-Sat & 9am-9pm Sun and holidays). An offence occurs when a domestic tool is operated outside of the allowable times and is identified as being clearly audible to an affected resident.

Responses within the noise questionnaire indicate a low desire among respondents to support a total ban on leaf blowers. Most respondents appreciate there is a need for leaf blowers but want tighter controls on the permitted hours. The landscape industry has argued that gas-powered leaf blowers are the most efficient way to remove large volumes of leaves from properties.

Small combustion engines are embedded within our daily lives. To handle the downsides of small combustion engines, a comprehensive strategy will need to be developed. A multifaceted approach that covers technology (switching power sources), behaviour (encourage alternatives), policies and education is the best option to support change. As part of the policy change, staff are recommending impacts and any limitations to the use of small combustion engines be considered as part of the environmental review and report being conducted by the town's Strategy Policy and Communications department.

CONCLUSION

After a comprehensive analysis and evaluation of existing noise by-laws and Provincial legislation/policies, along with the input gathered from various stakeholders and the community, it is evident that the current noise by-law requires significant adjustments to effectively address the evolving needs of our municipality. The findings highlight the necessity for a balanced approach that considers both the protection of residents' well-being and the allowance for reasonable and necessary activities that contribute to a vibrant urban environment.

In light of the research conducted and the concerns expressed, we are pursuing a series of targeted amendments to be incorporated into a new noise by-law. By redefining and modernizing the noise by-law, we aspire to create an environment where urban activities can coexist seamlessly with the peace, comfort and tranquility expected by its residents. This report serves as a roadmap for enhancing our noise by-law which will incorporate feedback from Council and the public in the final draft.

To provide context to Council with respect to the complexity of noise investigations, staff have provided Council a summary brief of the noise investigation process

attached as Appendix B.

(A) PUBLIC

Public meetings were held on April 14, 2022. Staff reached out to businesses with the assistance of the Landscape Ontario, the BIA's and the public with the assistance of residents' associations for information and comment through an online public engagement questionnaire conducted April 1-15th, 2022. As a result, staff received almost 1500 responses to the questionnaire and 800 additional comments in the open comments field.

Staff will hold an additional public meeting in January, 2024 to receive further comments. The meeting will be posted in the local paper and on social media. Additionally, the draft by-law will be hosted online where comments can be posted.

Staff will then review any additional comments received during this consultation period and present a by-law for approval in Q2 2024.

(B) FINANCIAL

Pending Council direction financial impacts will be provided in the final 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 continue to engage impacted departments in the development and review of a new noise by-law. Communications will be engaged to update the website assist with public notices.

(D) CORPORATE STRATEGIC GOALS

This report addresses the corporate strategic goal(s) to:

- enhance our economic environment
- continuously improve our programs and services
- provide outstanding service to our residents and businesses
- be accountable in everything we do
- be the most livable town in Canada

(E) CLIMATE CHANGE/ACTION

Enforcement Services will consider environmental impacts with the development of noise regulations.

APPENDICES:

Appendix A – Draft Noise By-law

Appendix B – Noise complaint investigation procedure

Appendix C – Questionnaire results

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