



# REPORT

## Council

Meeting Date: November 18, 2024

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**FROM:** Municipal Enforcement Services Department

**DATE:** November 5, 2024

**SUBJECT:** Noise By-law Review – Amendments to Proposed Noise By-law

**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 November 5, 2024 be passed.
2. That new noise exemption permit fees attached as Appendix D to the report from Municipal Enforcement Services dated November 5, 2024 be approved, 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 meeting on May 27, 2024, Council considered draft Noise By-law 2024-079 and identified several concerns
- Council directed staff to consider and report back on options for commercial areas, Business Improvement Areas and mixed-use areas regarding time restrictions for amplified music
- Staff engaged with the Boards of each Business Improvement Area (BIA) to share ideas and consider adjustments to the proposed noise regulations to complement the use of restaurant patios in BIAs
- An open house meeting invitation was sent to all licensed bars and restaurants, BIAs, resident associations and all members of the public who participated in previous engagement efforts. The invitation highlighted the purpose of the meeting and encouraged interested parties to attend on September 11, 2024

- As a result of the review, changes to the proposed noise by-law, as set out in this report, are applicable only for businesses located within BIAs and do not include restaurant patios located outside of a BIA
- That new noise exemption permit fees listed in Appendix D to the Report from Municipal Enforcement Services department dated May 14, 2024 have been brought forward to be approved with the recommended by-law amendments
- An effective date for the new by-law and fees of April 1, 2025 is necessary to allow staff adequate time to provide training, obtain equipment, implement short-form language, and collaborate with impacted departments to ensure that initiatives like the patio permits program align seamlessly with the forthcoming changes

**BACKGROUND:**

At its meeting on May 27, 2024, Council considered draft Noise By-law 2024-079 and identified several concerns. Staff was directed to review these concerns and develop a plan to address the impacts the new noise regulations would have on BIAs, with the specific goal of enhancing vibrancy within the districts and supporting local businesses.

Additionally, Council asked staff to consider whether these options might be applied in Mixed Use and Commercial areas that are imbedded within or abutting residential zones.

To provide a context and for comparison, the following assists to define and differentiate between the Commercial and Mixed Use land-use designations:

**Commercial areas:** Across Oakville, there are a range of locations designated and developed for concentrations of retail and service commercial uses. As per Section 13 (Commercial) of the Livable Oakville Official Plan, commercial land-use varies in location and function from 'core commercial' that serves a broader regional community, to 'community commercial' as local nodes at major intersections, to 'neighbourhood commercial' serving local convenience needs.

**Mixed Use areas:** Mixed use development is focused on lands located within Oakville's Growth Areas and along identified corridors. As per Section 12 (Mixed Use) of the Livable Oakville Official Plan, these areas allow for a diversity and integration of residential, commercial and office uses in a compact urban form at higher development intensities. Mixed Use areas are to be pedestrian-oriented and transit-supportive.

**Business Improvement Area (BIA):** BIAs represent a defined geographic area where local businesses, commercial property owners and tenants join together, with the support of the municipality, to organize, finance, and carry out physical

improvements and promote economic development in their district. There are currently three BIAs in Oakville – Downtown Oakville, Kerr Village and Bronte Village. Each of these areas are designated as Mixed Use and Growth Areas.

It is important to note that future BIAs can be created in Oakville in mixed use and commercial areas should the business community wish to organize to coordinate improvements to and promotion of the area.

To address Council's direction provided at its meeting May 27th, 2024, staff held two meetings with the Board of Directors of each BIA during the month of June 2024. The goal of these meetings was to identify changes to the proposed noise regulations that would permit background music on restaurant patios to enhance the dining experience.

A public meeting was held on September 11, 2024, identifying changes being considered by staff to address this matter. Members of the public in attendance thought supporting the businesses and restaurants in the BIA areas was reasonable.

All restaurants in Oakville were informed of the date and purpose of the public meeting. No concerns were received by staff as a result of this consultation.

In addition to the above-noted consultation, staff undertook a scan of comparable Ontario municipalities to identify how amplified music is considered and regulated.

In 2023, the City of Mississauga introduced a pilot program to allow live amplified music on patios within BIAs. The program limits music performances from Thursday-Saturday to 11pm. The program was extended by Mississauga Council for two additional years to allow for further data collection and analysis on the outcomes of the pilot; including collecting and analyzing data to determine impacts, complaints, and risks associated with the pilot. While staff note there is a difference between live and recorded music, this example demonstrates that a neighbouring community permits amplified music to enhance the vibrancy of their BIAs in the evening.

The City of Markham permits the use of sound amplifying devices throughout the entire City on Fridays and Saturdays until 11pm with a 50dBA threshold, and Sunday-Thursday until 7pm capped at a limit of 50dBA.

**COMMENTS/OPTIONS:**

Based on the research and consultation, staff reevaluated the new Noise By-law provisions for amplified music and offer the following considerations. It is important to note that the changes under consideration are focused on increasing permissions for businesses with patios located within BIAs. Considerations for Commercial and Mixed Use areas are covered in the next section ('Recommendations').

**Changes Under Consideration**

1. To extend the permitted time for amplified music on patios later into the evening throughout the week.

The following chart compares permitted hours of noise from music produced by electromagnetic sources (speakers) between the current Noise By-law, the proposed new noise by-law and the changes to the new noise by-law requested by the BIAs to enhance business activity and to further promote vibrancy within their boundaries.

<b>Regulation for music from electro-magnetic sources (speakers)</b>	<b>Permitted decibel levels from music (speakers) source</b>	<b>Time period permitted from Residential sources *</b>	<b>Time period permitted from mixed-use &amp; commercial sources*</b>	<b>Time period permitted from BIA sources* (previously Controlled Area)</b>
Current Noise by-law 2008-098	55 dBA	7am-5pm	7am-5pm	7am-7pm
Proposed Noise By-law 2024-079	50 dBA (reduced by 5 dBA)	7am-7pm (2 hours later into the evening)	7am-7pm (2 hours later into the evening)	7am-7pm
New Changes to Proposed By-law 2024-079	50 dBA (no change to proposed reduction)	7am-7pm (no change to proposed extension)	7am-7pm (no change to proposed extension)	7am-10pm (3 hours later into the evening from current and proposed by-laws)

\* Sources of sound are those that impact residential properties at a Point of Reception (POR). Residential sound sources can impact other residential properties like the impact of BIA, Mixed-Use and Commercial sound sources. The above chart details the time and decibel limits permitted when sound is emitted from these different sources impacting a residential POR.

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2. To extend the permitted time for amplified music on patios later into the evening on limited days of the week.
    - As in Mississauga and Markham, permit an extension to the time limit on Thursday, Friday and Saturday evenings to 10pm. A pilot of this change could be undertaken in order to collect and assess data on potential impacts, complaints and any risks prior to formalizing the permission.
  3. To remove the Noise Exemption Requirement for BIAs.
    - Members of the BIA boards asked staff to reconsider the requirement for BIAs to obtain a noise exemption for events or activities endorsed by its Board of Directors. Subsection 8(h) of current Noise By-law 2008-098 states:

*Notwithstanding any other provision of this By-law, this By-law does not apply to a person who emits or causes or permits the emission of sound in connection with any religious or charitable activities, including without limitation the following:*

*(h) any Business Improvement Area activity or event approved by its Board of Directors, unless Council determines that the activity would not be in the greater public interest.*
    - In the new noise by-law, BIAs will have the same exemptions granted under the current noise by-law and would retain the option to request that event organizers obtain a noise exemption permit if necessary.
  4. To modify the Seasonal Commercial Patio Program agreement/permit.
    - The Town of Oakville's Seasonal Commercial Patio Program provides an opportunity for businesses to operate a temporary patio or bistro on municipal property, including on municipal sidewalks and within on-street parking spaces. All patios, bistros, and outdoor displays must have a valid Town of Oakville permit/patio agreement prior to installation and operation on municipal land.
    - While the current patio agreements restrict the use of music on patios, these agreements/permits, issued by staff in Economic Development and Parks/Open Space, will be updated to permit amplified music on patios and will ensure alignment with any new regulations related to extended hours.
  5. To remove Conflicting Language from the Proposed Noise By-law
    - Subsection 4(1)(e) of the proposed Noise By-law 2024-079 states:

*No person shall:*

*permit unreasonable noise from or created by any instrument, radio, amplification device, loud speaker, public address system, equipment or device that emits sound when the same is used or operated for the purpose of advertising or for attracting attention to any performance or sale, show or display of goods or services to be projected into any street or other public place.*

- The removal of this section will allow for music (speakers) to be audible in public places but to not exceed 50dBA as measured at the point of reception of a residence.

### ***Potential Benefits of extending hours of amplified music within BIAs***

1. Economic Boost for Businesses and the overall district
  - Extended hours of amplified music on patios will allow businesses, specifically restaurants, to enhance the outdoor dining experience later into the evening, attract more customers during favourable weather, and contribute to the overall vibrancy of the traditional commercial districts
2. Enhanced Community Atmosphere
  - Extended hours of amplified music on patios can contribute to a lively atmosphere within BIAs making them more attractive to residents and visitors alike. These areas are hubs of activity, fostering social interaction and enhancing a community feel
  - A vibrant street life with people dining and socializing contributes to a more welcoming and potentially safer environment due to increased foot traffic
3. Tourism and Economy
  - Extended hours of amplified music on patios can enhance the economy by attracting tourists and local residents seeking evening dining options
  - Cultural activities, such as live music in public spaces, are supported by this activity which can add to the overall appeal of these spaces

### ***Potential Challenges and Concerns with amplified music***

1. Noise Complaints
  - Residents living within BIAs may raise concerns about noise if patios remain open late into the evening. Alcohol consumption or lively social gatherings may exacerbate these issues leading to tension between residents and businesses
  - Increased noise complaints would have a direct impact on Municipal Enforcement Services' (MES) service levels and staffing requirements

## 2. Impact on Residents

- Residents who live near patios may experience a decrease in quality of life due to extended activity in what is supposed to be a mixed-use, liveable neighborhood.
- It may be necessary to find a balance between supporting businesses and preserving a peaceful living environment for residents, such as enforcing strict end times for outdoor service.

## **RECOMMENDATIONS:**

As a result of public feedback and additional information available to staff, the following recommendations to the Noise By-law 2024-079 general provisions are being proposed:

### **Within Business Improvement Areas**

In the current Noise By-law, BIA's have been defined as "Controlled Areas" which means those areas of the Town designated C3R in the Zoning By-Law. While this definition/term is no longer applicable due to changes in the Zoning By-law, it is important to note that the by-law permitted extended hours for music in these areas.

Noise limits in the current by-law for music within a Controlled Area is 7am-7pm daily at a maximum of 55dBA. As a result of direct consultation with the BIA Boards, staff recommend extending the time for amplified music on commercial patios to 10pm daily, however, with a reduction in the allowable decibel limit from 55dBA down to 50dBA at a point of reception on a residential property.

### **Within Mixed Use Areas (outside of BIAs)**

Staff do not recommend extending the hours for amplified music on patios in these areas beyond the current general provision of 7am-7pm at 50dBA.

At this time, the Mixed Use areas throughout the town are still emerging and taking shape over time with new development proposals designed to accommodate a mix of uses on the site. These areas are either dominated by commercial and employment uses (Midtown), dominated by residential uses (Palermo Village), or where different land-uses are separated and buffered (Uptown).

Of note, as the Mixed Use areas start to intensify and offer a diversity of uses, the business community may seek BIA status, in which the noise limits governing BIA areas would then retroactively apply.

### **Within Commercial Areas**

In the proposed new Noise By-law, time limits for patios in commercial areas are extended from the current 7am-5pm limit to 7am-7pm daily, but incorporate a reduction from 55dBA down to a 50dBA threshold at a point of reception within a

residential area. This was a recommendation made in the initial draft of the new Noise By-law and demonstrates that each area in Town has benefitted from extended hours of music permitted.

There are four categories for commercial land-uses in the Livable Oakville Official Plan and each reflects the intended function and intensity (from regional to local neighbourhood draw) and location (removed and buffered from residential areas to embedded within neighbourhoods). Given the range of site configurations and existing contexts/conditions, it is difficult to recommend increase permissions as-of-right for this land use given the potential proximity of abutting residential neighbourhoods and absence of adequate buffers to mitigate negative impacts from amplified music on patios.

Staff do not recommend extending hours for amplified music on patios beyond 7pm as-of-right in these areas.

**CONSIDERATIONS:**

**(A) PUBLIC**

Staff held two meetings with the Board of Directors of each BIA during the month of June. An open house public meeting was held September 11, 2024, where staff was available to answer questions and discuss the proposals under consideration. An email invitation to the public meeting was sent to every restaurant in the town including a brief explanation of the purpose of the meeting.

**(B) FINANCIAL**

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

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

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

**(D) COUNCIL STRATEGIC PRIORITIES**

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**

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

**APPENDICES:**

Appendix A – By-law 2024-079

Appendix B – By-law 2024-079 redline version

Appendix C – Staff report dated May 14, 2024, supporting the draft by-law

Appendix D – Construction Exemption Permit Fee

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