

**Date:** 2023-06-04

**Subject:** **Regulating Nuisance Noises from Motor Vehicles and Power Devices (RML 28/2023)**

**Secondary Title:** Public Nuisance By-law and Business Licensing By-law Amendments

**Contact:** Peter Fay, City Clerk, Legislative Services

**Report Number:** Legislative Services-2023-375

**Recommendations:**

1. That the report from P. Fay, City Clerk, Legislative Services, titled: Regulating Nuisance Noises from Motor Vehicles and Power Devices (RM 28/2023) – Public Nuisance By-law and Business Licensing By-law Amendments, to the Committee of Council meeting of June 21, 2023, be received; and
2. That an amendment to Public Nuisance By-law 136-2018, as amended, to regulate nuisance noises from motor vehicles and power devices, as substantially set out in Appendix 2 to this report, be adopted; and
3. That an amendment to Administrative Penalties (Non-Parking) By-law 218-2019, as amended, to replace the current penalty amounts with a graduated penalty system as set out in Appendix 3 to this report, be adopted; and
4. That an amendment to Business Licensing By-law 332-2013, as amended, to amend Schedule 4 to the By-law relating to Automobile Service Stations and Parking Lots, as substantially set out in Appendix 4 to this report, be adopted; and
5. That the City initiate a communication campaign with licensed Automobile Service Stations and Parking Lots to increase awareness regarding the new City regulations and compliance with provincial legislation and regulations regarding nuisance noise and emissions from motor vehicles.

**Overview:**

- **In April 2023, Council directed that appropriate by-law amendments be drafted to better regulate excessive noise and emissions from motor vehicles and power devices, including auto-shops licensed by the City.**
- **This report presents proposed by-law amendments to the following by-laws to give effect to Council's direction:**

- **Public Nuisance By-law 136-2018**
- **Administrative Penalties (Non-Parking) By-law 218-2019**
- **Business Licensing By-law 332-2013**

- **Staff are also developing communications to be provided to all City-licensed auto-shops reminding businesses about legislation prohibiting excessive vehicle noise, emissions and emission control system modifications and testing.**

### **Background:**

In April 2023, Council requested staff to report back on proposed amendments to its by-laws and programs to:

1. Capture complaints specific to excessive vehicular noise and lawn maintenance equipment.
2. Limit hours and distance of auto-shops that emit excessive vehicular noise generated from the testing of modified vehicles.
3. Amend licensing requirements for auto-shops as it relates to the modification of vehicles causing excessive noise as per prevailing provincial legislation and regulation (i.e., *Highway Traffic Act*, s. 75.1).
4. Work together with the Peel Regional Police launch of “Project Noisemaker” to implement a communications plan to increase awareness and notice of respective changes to the City of Brampton’s by-laws.
5. Communicate with all City-licensed auto-shops the Peel Regional Police’s Project Noisemaker and the City’s updated by-laws.

A copy of Council’s Resolution is found in Appendix 1 to this report.

This report proposes amendments to the City’s Public Nuisance By-law and Business Licensing By-law to address Council’s direction, as well as identifies communication tactics planned to communicate with licensed auto-shops regarding prevailing provincial legislation and City by-laws regarding excessive vehicular noise and emissions.

### **Current Situation:**

#### The Highway Traffic Act:

Sections 75 and 75.1 of the [Highway Traffic Act](#) (“HTA”) and [Regulation 169/22 \(Vehicle Emissions\)](#) regulate noise, smoke, bells, horns and emissions from motor vehicles. The HTA specifies that:

- Every motor vehicle shall be equipped with a muffler to prevent excessive or unusual noise and excessive smoke and no person shall use a muffler cut-out, straight exhaust, gutted muffler, hollywood muffler, by-pass or similar device upon a motor vehicle.

- No person having control or charge of a motor vehicle shall not sound any bell, horn or other signaling device so as to make an unreasonable noise, and a driver of any motor vehicle shall not permit any unreasonable amount of smoke to escape from the motor vehicle, nor shall the driver at any time cause the motor vehicle to make any unnecessary noise.
- No person shall drive or cause or permit to be driven on a highway a motor vehicle that does not comply with the regulations (*O. Reg. 169/22*) respecting emissions, including:
  - A motor vehicle must retain the whole emission control system that was originally installed by the manufacturer and the system must operate as originally intended, or has been replaced in whole or part or repaired and is in good working order.
  - The motor vehicle must not have a visible emission for more than five seconds in any one-minute period.
  - The motor vehicle and the motor vehicle's emission control system must not have been tampered with in any of the ways described in HTA;
  - A person who performs a repair or replacement to a vehicle emission control system does not tamper, or cause or permit tampering, for the purposes of the HTA.
- No person shall tamper, or cause or permit a person to tamper, by removing, bypassing, defeating or rendering inoperative all or part of a motor vehicle's emission control system, or modifying a motor or motor vehicle in any way that results in increased emissions from the level to which it was originally designed or certified by the manufacturer of the motor or motor vehicle; and no person shall sell or offer for sale a system or device the main purpose of which is to carry out any of the actions described above.

While general enforcement of the HTA for moving vehicles is within the exclusive jurisdiction of law enforcement, there are some situations where municipal by-laws and enforcement can be used to regulate excessive vehicular noise and emissions.

### Public Nuisance By-law 136-2018

The City has in effect both a [Noise By-law](#) and [Public Nuisance By-law](#). While the Noise By-law is generally designed to regulate continuous or persistent unwarranted noises, the Public Nuisance By-law is more appropriate for regulating excessive and intermittent unwanted noises as a nuisance, attributable to an individual, as a community standards enforcement mechanism.

Staff reviewed a number of municipal by-laws regulating noise and emissions in developing this report. A proposed amendment to Public Nuisance By-law 136-2018 is set out in Appendix 2 to this report. The proposed by-law amendments will regulate against excessive noises and emissions from the following sources:

- the exhaust of any motor vehicle except through a muffler or other device, which effectively prevents loud or explosive or unreasonable noises;

- a modified muffler or exhaust with the express intention to create unreasonable noises;
- unnecessary motor vehicle noise such as the sounding of the horn, or revving of engine, or the squealing of tires of any motor vehicle, which does not include back-up beepers or similar devices used by vehicles for safety purposes
- the grating, grinding or rattling noise or sound caused by a condition of disrepair or maladjustment of any motor vehicle, motorcycle, or other vehicle whatsoever or part or accessory thereof;
- any sound made by power devices such as leaf blowers, chain saws, lawnmowers, grass trimmers, drills, sanders, grinders or similar devices out of doors within a residential area between the hours of nine o'clock in the evening (9:00 pm) and seven o'clock in the morning (7:00 am) the next day, except until nine o'clock in the morning (9:00 am) on Saturdays, Sundays and Statutory Holidays;
- the operation of heavy equipment, machinery or tools used in construction, drilling or demolition, between the hours of seven o'clock in the afternoon (7:00 pm) and seven o'clock in the forenoon (7:00 am) the next day, except until nine o'clock in the forenoon (9:00 am) on Saturdays, Sundays and Statutory Holidays;
- repairing, rebuilding, modifying or testing out of doors any motor vehicle, motorcycle, motorboat, outboard motor or recreational vehicle within a residential area between the hours of nine o'clock in the afternoon (9:00 pm) and seven o'clock in the forenoon (7:00 am) the next day, except until nine o'clock in the forenoon (9:00 am) on Saturdays, Sundays and Statutory Holidays

The proposed by-law amendment includes definitions for “Construction”, “Motor Vehicle”, “Person”, “Power Devices”, “Residential Area” and “Statutory Holidays” in terms of by-law applicability.

City staff will adjust its noise and public nuisance complaint tracking system to more precisely track excessive noise and emission public nuisance complaints from vehicles and power devices.

City enforcement of the proposed Public Nuisance By-law amendments for excessive vehicular noise and emissions is limited to individuals and stationary vehicles parked or stopped on a property. Vehicles moving or stopped on a public highway (City or Regional road) will continue to be enforced through law enforcement (Peel Regional Police) in accordance with the *Highway Traffic Act*. Enforcement and By-law Services staff will enforce the by-law based on excessive noise and emissions from stationary vehicles located on a property, based on time of day, and not moving on a public highway. The use of noise monitoring devices by City staff is not recommended due to their costs and complexity for calibration requirements for source-receptor measurement for a point-in-time assessment.

Peel Regional Police recently launched its 2023 “Project Noisemaker” campaign, which directly addresses street racing related activities, and the noise pollution from excessively loud vehicles. Enforcement staff will work with Peel Regional Police on joint

and/or complimentary enforcement efforts to implement the HTA and proposed City by-law amendments to regulate excessive vehicle noise and emissions.

The City's enforcement mechanism will be the Administrative Penalties (non-parking) By-law 218-2019, as amended, as it is currently in effect for the Public Nuisance By-law. Staff are suggesting a graduated penalty for the offences for habitual offenders. A proposed amendment to Administrative Penalties (Non-Parking) By-law 218-2019 is set out in Appendix 3 to this report. Enforcement staff will be able to issue a penalty notice for infractions, and may also rely on the *Provincial Offences Act* for enforcement, as warranted.

#### Business Licensing By-law 332-2013:

[Business Licensing By-law 332-2013](#) sets out the City's business licensing system. Motor vehicle service, repair and modification businesses are captured under Schedule 4 to the by-law titled "Automobile Service Stations and Parking Lots."

A proposed amendment to Business Licensing By-law 332-2013 is set out in Appendix 4 to this report. The proposed by-law amendments will further regulate Automobile Service Stations and Parking Lots against excessive noises and emissions from the following sources:

- the operation or testing of a motor vehicle, contrary to any provincial legislation or regulation or the City's Public Nuisance By-law or other such City by-law or policy, as may be established and amended from time to time, between the hours of nine o'clock in the afternoon (9:00 pm) and seven o'clock in the forenoon (7:00 am) the next day, except until eight o'clock in the forenoon (8:00 am) on Saturdays, Sundays and Statutory Holidays commonly observed within the municipality;
- any motor vehicle modification, including vehicle emission control systems, contrary to any provincial legislation or regulation or other such City by-law or policy, as may be established and amended from time to time; or
- repairing, rebuilding, modifying or testing out of doors any motor vehicle, motorcycle, motorboat, outboard motor or recreational vehicle within a residential area or within 150 metres of a residential property between the hours of nine o'clock in the afternoon (9:00 pm) and seven o'clock in the forenoon (7:00 am) the next day, except until nine o'clock in the forenoon (8:00 am) on Saturdays, Sundays and Statutory Holidays.

The current Business Licensing By-law also includes a provision that:

"An Automobile Service Station shall not be issued a Licence under this By-law unless the Licence Issuer is satisfied that all other applicable laws and any other regulations have been complied with."

This provision allows the City's Licence Issuer (City Clerk's Office) to require licensed businesses to comply with the requirements of the HTA.

The City Clerk's Office and Strategic Communications will develop a communications strategy to ensure all licensed categories of Automobile Service Stations and Parking Lots within the City (approximately 500 businesses) will be advised of the by-law amendments and receive a communication (digital and hard copy) reminding businesses about the prevailing HTA and City by-law provisions prohibiting excessive vehicle noise, emissions and emission control system modifications and testing contrary to the HTA.

City communications will also incorporate related information regarding Peel Regional Police's "Project Noisemaker" which launched May 1, 2023, to address street racing related activities and the noise pollution from excessively loud vehicles.

Staff will report back to Council in 2024 on the implementation of the recommended by-laws amendments and actions set out in this report.

### **Corporate Implications:**

#### Financial Implications:

There are no immediate financial implications from the recommendations contained in this report.

#### Other Implications:

The City Clerk's Office and Strategic Communications are developing a communication campaign directed at City-licensed Automobile Service Stations and Parking Lots regarding excessive vehicular noises, particular from modified emission systems.

### **Term of Council Priorities:**

This report furthers the term of Council priority of a Healthy and Safe City by implementing City by-laws regulating excessive nuisance noise sources from vehicles and power devices.

### **Conclusion:**

This report proposes amendments to City by-laws to implement Council's direction to regulate excessive vehicular and power device noises. Enforcement and By-law Services staff have updated noise complaint collection systems to more specifically monitor excessive vehicular noise complaints. The City Clerk's Office and Strategic Communications are creating a communication campaign directed at City-licensed Automobile Service Stations and Parking Lots regarding excessive vehicular noises, particular from modified emission systems.

Authored by:

Reviewed by:

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Peter Fay, City Clerk  
City Clerk's Office

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JP Maurice, Acting Director  
Enforcement and By-law Services

Approved by:

Submitted by:

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Paul Morrison, Acting Commissioner  
Legislative Services

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Marlon Kallideen,  
Chief Administrative Officer

**Attachments:**

Appendix 1 - Council Resolution C092-2023 / CW149-2023 Requesting Appropriate By-law Amendments to Regulate Nuisance Noises from Motor Vehicles and Power Devices

Appendix 2 – Draft By-law Amendments to Public Nuisance By-law 136-2018

Appendix 3 – Draft By-law Amendments to Administrative Penalties (Non-Parking) By-law 218-2019

Appendix 4 – Draft By-law Amendments to Business Licensing By-law 332-2013