

Date: 2023-06-23

Subject: **Supplementary Report – Regulating Motor Vehicle Noise and Power Device Nuisance Noise and Emissions**

Contact: Peter Fay, City Clerk, Legislative Services, peter.fay@brampton.ca

Report Number: Legislative Services-2023-588

Recommendations:

1. That the report from P. Fay, City Clerk, re. **Supplementary Report – Regulating Motor Vehicle Noise and Power Device Nuisance Noise and Emissions**, dated June 23, 2023, to the City Council meeting of June 28, 2023, be received;
2. That the following recommendations from the original staff report re. Regulating Nuisance Noises from Motor Vehicles and Power Devices (RML 28/2023), dated June 6, 2023, and attached as Appendix 1 to this report be approved:
 - a. 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
 - b. 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
 - c. 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
 - d. 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
 - e. 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 response to a Council direction from April 2023, a report was presented to Committee of Council at its June 21, 2023 meeting to**

propose by-law amendments to better regulate excessive noise and emissions from motor vehicles and power devices, including auto-shops licensed by the City.

- **Committee of Council referred the report back to staff, requesting further information regarding decibel-based enforcement mechanisms, citing the Town of Oakville Noise By-law, instead of time-based enforcement mechanisms as proposed by staff with the City by-laws.**
- **This report responds to Committee's request for information and continues to recommend the proposed by-law amendments for Council's consideration at this time.**

Background:

Appendix 1 to this report is the original report as presented to Committee of Council at its June 21 meeting date.

In response to Committee's request, staff have reviewed the Town of Oakville Noise By-law provisions, regarding decibel-based enforcement provisions. Other recent municipal reports and by-laws have also been reviewed with information presented in this report for Council's consideration.

Current Situation:

Town of Oakville Noise By-law:

[Town of Oakville Noise By-law 2008-098](#) sets out the town's noise regulations. The by-law does include decibel-based enforcement provisions summarized as follows:

- General prohibitions on the operation of any:
 - Combustion engine or pneumatic device without an effective exhaust or intake muffling device in good working order and in constant operation, or
 - construction equipment in a specified zone in the zoning by-law or residential area without effective muffling devices in good working order and in constant operation.
- Specific prohibitions on motorcycle operation at specified decibel (dBA) levels from the exhaust based on engine size and operational RPMs.
- Specific prohibitions on motorized conveyance (i.e., vehicle) operation other than on a highway or other place intended for operation between 7:00 pm and 7:00 am (9:00 am on Sundays).
- Prohibitions on the emission of sound from other defined activities within the by-law based on specified times and locations **or** dBA measurements at a point of

reception, excluding background or ambient noise levels, between 7:00 am – 7:00 pm, 7:00 pm – 11:00 pm and 11:00 pm – 7:00 am.

- Exemptions from the by-law for specific noises from emergency measures, for traditional, festive or religious activities and for other activities through a noise exemption permit application and appeal process.
- Enforcement by town enforcement officers and Halton Regional Police Services through an Administrative Penalty System (APS) by issuing a penalty notice, or through an Order to Comply process.

Enforcement and By-Law Services staff consulted with Town of Oakville enforcement staff and report the following:

- Before purchasing the sound level meters, the City of Oakville conducted industry market research and analysis, followed by months of consultations with sound engineers. Their study resulted in the purchase of four (4) sound level meters, two (2) for residential use and two (2) for motorcycle muffler noise. The instruments are used to accurately measure sound decibel levels to determine whether or not the pre-determined noise thresholds contained in the by-law have been exceeded.
- Staff indicated that the instruments are used to measure sound pressure levels (decibels) emitted by motorcycle exhaust pipes when the vehicles are in a stationary position. The tests are conducted when the motorcycle is idling.
- The cost of each unit is approximately \$10,000 plus a one-week certification program costing \$3500.00 per officer. The instruments are professionally calibrated annually, and specialized annual training is required for staff to calibrate and operate the instruments as well as performing noise tests.
- Under the Highway Traffic Act, police officers are authorized to stop moving vehicles on highways and determine whether any noises that are emitted from the vehicles would be considered “unreasonable.” City of Brampton Enforcement and By-Law Services Officers do not have the jurisdiction and the authority to stop moving vehicles.
- All vehicle inspections are conducted jointly with Halton Regional Police Services and By-Law Enforcement Officers. They conduct proactive enforcement blitzes based on complaints and known strategic locations, including “hot spots”.
- Enforcement actions consist of issuing Part I (Certificate of Offence under Provincial Offences Act) or penalty notices under the Administrative Monetary Penalty System. Under the AMPS program, the penalty is \$300 with escalating penalties for repeat offenders.

Based on their experiences, the Town of Oakville staff are putting forward recommendations to amendments to the Noise By-Law. A report to Council is scheduled for the end of 2023.

Staff conducted research into vehicle noises and loud mufflers in comparable jurisdictions. Staff surveyed 12 jurisdictions on whether they rely on decibel-based enforcement to lay charges. Of the jurisdictions surveyed, Oakville is the only municipality using decibel-based enforcement to regulate vehicle noises.

Other Municipal Reports and By-laws:

The City of Mississauga, during their 2020 noise by-law review and update, the possibility of decibel-based enforcement was identified but reserved for a future phase of noise control program improvement based on further research and analysis required. In June 2023, a further noise control program review update was provided by Mississauga staff to their Council, and recommended, based on community engagement undertaken, the introduction of “decibel limits for the noise category of amplified sound be introduced in the Noise Control by-law as soon as feasible, following the procurement of equipment and staff training.” Mississauga staff will be requesting \$120,000 as capital funding during their 2024 business planning and budget process to procure acceptable sound measuring equipment and provide appropriate staff training.

Decibel-based Enforcement:

Decibel-based enforcement can provide a quantifiable measurement of sound, assisting with a more objective regulatory approach. However, this requires technical expertise to establish reasonable decibel sound limits, procurement of appropriate sound measuring meters, defining enforcement practices and training staff.

The *Highway Traffic Act (HTA)* indicates that a person having control of a vehicle shall not *"make unreasonable noise, and a driver of any motor vehicle shall not permit any unreasonable amount of smoke to escape from their motor vehicle, nor shall such driver at any time cause the motor vehicle to make any unnecessary noise."*

The Public Nuisance By-Law is intended to prohibit and regulate unreasonable noise, including vehicle noises, within the City of Brampton. The HTA and its regulations do not rely on decibel readings to determine whether an offence has taken place. It relies on the observations and opinions of the Officer conducting the investigation.

To remain consistent with the HTA, decibel-based enforcement is not part of the proposed amendments to the Public Nuisance By-Law and is not recommended by staff. The proposed amendments provide staff with:

- Effective compliance and enforcement authority.
- Provides tools designed to make investigations of vehicle and muffler noises more successful and efficient.
- Increase procedure flexibility.
- Address residents' concerns.

City staff's approach to address Council's request for regulating excessive noise and emissions from motor vehicles and power devices, particularly motor vehicle noise and emissions in contravention of the *Highway Traffic Act* (HTA) and associated regulations, is through location, time of day, and source-based enforcement independent of specific decibel levels.

Introducing decibel-based enforcement into City by-laws to regulate noise will require further research and analysis to re-frame City by-laws, as well as establishing an updated sound-based enforcement program requiring sound measurement device procurement and staff training for officer enforcement. If directed by Council to proceed in this way, Council has the option to either:

1. Approve the recommended by-law amendments at this time to establish an AMPS-based excessive and nuisance noise and emissions enforcement regime until a decibel-based program can be properly investigated and presented to Council, along with required budget proposals for 2024 budget consideration; or
2. Not proceed with by-law amendments at this time, and direct staff to report back with a decibel-based enforcement program, including necessary budget proposals for 2024 budget consideration.

Corporate Implications:

Financial Implications:

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

Other Implications:

As referenced in the original staff report (Appendix 1), 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:

As requested by Committee, this report presents information regarding the Town of Oakville noise by-law and decibel-based enforcement. The report also references other municipal experiences. Decibel-based excessive noise enforcement can provide for an objective regulatory approach. However, it does require additional resources to

implement. At this time, staff continue to recommend the by-law amendments set out in the original staff report to implement Council’s direction to regulate excessive vehicular and power device noises. If Council desires to proceed with a decibel-based enforcement system for excessive nuisance noises, further research, analysis and budget requests will be required to ensure an effective enforcement system can be implemented.

Authored by:

Reviewed by:

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Approved by:

Submitted by:

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Marlon Kallideen,
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Attachments:

Appendix 1 – Staff 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.