



**STAFF REPORT  
ACTION REQUIRED**

**Amendments to Chapter 591, Noise**

<b>Date:</b>	January 11, 2015
<b>To:</b>	Licensing and Standards Committee
<b>From:</b>	Executive Director, Municipal Licensing and Standards
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2016\Cluster B\MLS\LS16002

**SUMMARY**

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This report proposes amendments to Chapter 591, Noise after a comprehensive review.

The scope of the review for Chapter 591, Noise is the entire by-law. The review intended to update the by-law to reflect the current City environment and includes 8 specific directives from Committee and Council. These directives require ML&S to identify recommendations to address construction, motorcycle and amplified sound more effectively, increase and escalate penalties and ensure that the noise by-law does not overlap with other existing legislation. The review also takes into account feedback from over 5000 residents and more than 15 external stakeholder meetings as well as other City divisions. These directives and the comprehensive public and stakeholder consultation has led to a number of recommended amendments to Chapter 591, Noise.

Proposed changes to the by-law intend to strike a balance in serving residents and enabling the economic and social vibrancy of the City. This balance is created by enabling greater flexibility under certain provisions in the by-law while increasing rigour in other provisions. Allowing certain levels of noise for construction, manufacturing, transit and events can improve the City's economic and social infrastructure and better serve the residents of the City.

However in doing so, other recommendations serve to increase rigour of proactive noise mitigation and enforcement, such as the authority to revoke exemption permits, impose conditions such as monitoring by ML&S and noise mitigation plan. These proposed changes will enable the City to more effectively use the by-law to limit and mitigate noise through adequate planning before it becomes disruptive to residents. Where the noise created exceeds what is permitted, recommendations have been made to increase

finer and penalties. The proposed changes also identify that each offence is designated a continuing offence and is subject to, for each day or part of a day that the offence continues, additional fines.

Overall, the proposed changes serve to make the by-law more objective, and easier to understand and interpret. Chapter 591, Noise has been amended with the proposed changes in Attachment 1. A table of the current noise by-law and proposed changes are reflected in further detail in Attachment 2-6.

Legal Services has been consulted in the preparation of this report.

## **RECOMMENDATIONS**

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### **The Executive Director, Municipal Licensing and Standards recommends that:**

1. City Council approve amendments to Chapter 591, Noise as described in attachment 1 of this report, subject to any stylistic refinements as may be identified by the Executive Director, Municipal Licensing and Standards and the City Solicitor.
2. City Council authorize the City Solicitor, in consultation with the Executive Director, Municipal Licensing and Standards, to make an application (as identified in Attachment 6 - Offences and Penalties) to the Regional Senior Justice of the Ontario Court of Justice for:
  - a. Increased set fines.
  - b. To establish a set fine for offences related to loudspeakers and other amplified sound.
3. City Council direct the Executive Director, Municipal Licensing and Standards to review options to increase penalties under Chapter 545, Licensing for businesses not complying with noise provisions.
4. City Council approve amendments to Chapter 441, Fees and Charges in order to allow for
  - a. The collection of one application fee even where an exemption to Chapter 591 is sought for multiple, similar events as outlined in this report.
  - b. A waiver of the Chapter 591 exemption application fee for events in the "Arts in the Parks" and "Music in the Parks" permit categories.
5. City Council authorize the City Solicitor to prepare the necessary bill(s) to make such by-law amendments as may be required to give effect to the recommendations in this report.
6. City Council direct that the changes come into force on July 1, 2016.

## **Financial Impact**

There is no financial impact beyond what has already been approved in the current year's budget.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

Licensing and Standards Committee requested the Executive Director, Municipal Licensing and Standards to report back with amendments to Chapter 591, Noise which addresses the following directives:

- Section 3.6 on Construction Vibrations of Chapter 363 as it pertains to Chapter 591, Noise <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.LS2.3>
- Options for improving regulations, management, and enforcement of excessive motorcycle noise  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.MM55.71>
- Review of Approval Processes for Outdoor Events seeking Liquor Licences and Noise Exemptions  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.MM55.21>
- Increasing and escalating fines and/or penalties and interpretation of residential zone  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.LS25.4>
- Strengthening the Noise Chapter Governing Loudspeakers and Other Amplified Sound Projected in Residential Neighbourhoods  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.LS17.5>

## **ISSUE BACKGROUND**

To mitigate noise, the City of Toronto has enacted Chapter 591, Noise. This By-law provides standards for noise and applies to all properties within the City of Toronto.

The existing noise by-law has not been updated since 2010 and over the years, an interest in making various changes has been raised. The interest in making specific changes has been identified by staff in ML&S, other City divisions including Engineering and Construction Services, Economic Development & Culture, City Planning and Toronto Public Health as well as by Councillors, stakeholders and the public, based on their experiences with noise.

Issues of concern include; increasing levels of construction and motorcycle noise as well as amplified sound, how noise is measured, a need for increased and escalated penalties and clarification of certain provisions in the By-law.

## COMMENTS

In preparation for this report, ML&S has completed comprehensive public and stakeholder engagement to understand how the existing noise by-law impacts residents and stakeholders, the issues experienced and suggestions for change. A review and analysis of existing data confirmed and validated noise concerns. In reviewing various municipalities, this report identifies other jurisdictions who have taken similar action as ML&S has been directed to address.

### Public and Stakeholder Engagement

#### Public Engagement

ML&S received over 5000 responses from the public through its noise survey, email and telephone. In addition to these responses, two public consultations were held and input was obtained from the approximately 75 participants who attended.

During April 2015, the City's Transportation Services had commissioned Ipsos-Reid to collect feedback from Toronto residents about construction and traffic-related issues. ML&S requested noise-related questions to be added to their interview questions to obtain additional data, apart from its own online survey. From April 6 to 13, 2015, 1000 interviews were conducted, by Ipsos-Reid, among a representative sample of Toronto residents.

The following issues were raised about the existing noise by-law during the public engagement. The existing noise by-law:

1. is **outdated and confusing**, the wording needs to be clearer and align with existing standards
2. there are **no objective measures for amplified sound**, changes should include decibels limits and address low frequency (bass) noise
3. **lot line measurements don't reflect a residents noise experience**, changes should consider points of reception
4. allows **too may exemptions**, construction companies are using the exemption for concrete pours to continue noisy work during prohibited times
5. has **limited enforcement authority (e.g., motorcycles)** and not enough officers to investigate
6. has **penalties that are not deterring** individuals or businesses from offending
7. **is not flexible and does not consider the economic impact of noise** (e.g., fewer events, and more companies leaving, increased traffic congestion for delivering goods in the daytime, longer timelines for construction)
8. **lack of communication about exemptions granted**, the public should be able to easily determine where and when exemptions have been granted

#### Stakeholder Engagement

ML&S engaged with organizations and industries that are cited as those that create the noise that is disruptive to the City's residents. The stakeholders engaged include organizations from the music, construction, transit and manufacturing industries.

Stakeholders included Toronto Association of Business Improvement Associations, Live Nation, Fort York and Ontario Place, Building Industry and Land Development (BILD) and RESCON, Alcohol and Gaming Commission of Ontario, Ontario Ministry of Transportation, Ontario Ministry of Environment, Toronto Industry Network, TTC, Toronto Fire Services and Toronto Police Services, as well as acoustic specialists including SS Wilson Associates, Aerocoustics, Engineering Harmonics, and GHD (formerly Conestoga-Rovers).

The Toronto Music Industry Advisory Council (TMAC) assisted ML&S by hosting approximately 50 participants and moderating a music industry consultation. Summaries of the survey and public consultations are provided in Attachments 7 and 8.

Stakeholder engagement identified concerns some of which overlapped with those of the public. Stakeholders identified the following concerns about the existing noise by-law:

1. it is **unclear**, certain terms or provisions **such as necessary municipal work and the general prohibition need to be clarified**
2. **it is subjective**, it does not **refer to decibel limits for amplified sound** which are easier to understand and comply with
3. it **does not align with provincial standards**, such as NPC-300 or allow exemptions for organizations that have met noise compliance standards set by the province
4. there needs to be **greater flexibility to balance the noise by-law with other City initiatives** (e.g., Music city, reducing traffic congestion, city-led infrastructure maintenance)
5. the **exemption application process is not streamlined**, it does not enable one exemption application for multiple events or activities
6. there is **no effective way to communicate noise exemptions to residents**, the City needs to develop a mechanism for this

In addition, staff at ML&S met with several internal divisions to discuss the issues and potential changes to the current noise by-law. Staff consulted with Engineering and Construction Services, Toronto Building, City Planning, Environment and Energy Division, Economic Development and Culture, Special Events, Toronto Youth Cabinet and Legal Services.

### **ML&S Data on noise complaints**

A review of noise complaints history shows that the total number of noise complaints consistently increased each year since 2011. Previous total numbers for noise complaints were: 3273 complaints in 2011, 4139 complaints in 2012, 5442 complaints in 2013, 6477 complaints in 2014 and 9037 complaints in 2015.

This data shows that residents are consistently reporting more noise concerns than in previous years and in areas consistent with public engagement. The complaints are consistent to the issues raised through the public engagement.

The largest numbers of noise complaints in 2015 were identified as construction (3611), loud music (2535), animal noise (2267) and mechanical noise (819). According to the ML&S noise survey the largest noise concerns were construction, amplified sound and motorcycle noise.

In reviewing its data, ML&S has also seen the need for additional flexibility and a lessening of time of day restrictions through exemptions data. There has been a growing number of requests for exemptions from the noise by-law. Of the 612 applications received in 2015, ML&S granted 567 exemption permits from the noise by-law. In fact, the number of granted exemptions has increased since 2011 (334 exemptions). Exemptions made for loud music have increased the most From 181 granted permits for music in 2011 to 311 granted permits in 2015.

Increases in exemption requests may indicate that provisions in the noise by-law are too restrictive. Many of the noise exemption applications received were for noise occurring during prohibited hours, such as early marathons, music events extending after 11pm or on Sundays, and overnight construction work. It may also indicate that the existing by-law is not aligned with current City priorities as stakeholders expressed an interest regarding increased flexibility and identified concerns related to the exemptions provisions in the by-law.

### **Jurisdictional Scan**

To address the directives and the concerns identified through public and stakeholder engagement, staff examined some larger North American cities comparable to Toronto and neighbouring municipalities that have taken similar action to what ML&S was directed to address in this report. Areas of focus included enforcement, motorcycle and other noise measurement provisions.

Attachment 10 is a summary of a jurisdictional scan of noise legislation for:

- larger cities comparable to Toronto such as, Vancouver, Chicago, Los Angeles, Austin and New York City and
- smaller cities such as:
  - Edmonton, Caledon and Oakville: primarily included for their approaches to motor vehicle noise
  - Guelph and Vaughan: primarily for their approach to exemptions for municipal and government led work and
  - Ottawa: primarily for its approach to fines and penalties.

Despite similarities between municipal by-laws, there are a few points of interest. Broadly speaking, noise by-laws in larger municipalities reviewed have similar types of noise, identify time frames for when noise is prohibited or limited and identify how noise is to be measured based on the type of noise. For example, to address concerns about motorcycle noise occurring within the municipality, Caledon, Oakville and Edmonton set decibel limits enforced by police services. Most jurisdictions surveyed set decibel limits for a variety of types of noise. For measuring amplified sound, such as music only two of the jurisdictions reviewed (Vancouver and New York City) identify dB(C) measurements

in addition to the more common dB(A) measurement to address bass or low frequency sounds.

All municipalities reviewed, except Los Angeles, have the authority in the by-law to grant an exemption. While it is common to include exemptions for emergency work, Vaughan's by-law includes a broader exemption for municipal, provincial and federal government and their agents when the emission of sound is connected to work undertaken for the immediate health, safety and wellbeing of inhabitants of the City.

With regard to seeking exemptions from the noise by-law, five of the municipalities reviewed (Guelph, Oakville, Vaughan, New York City and Austin) include in the by-law the authority to grant and revoke or suspend an exemption permit. In these jurisdictions, the authority is used in cases where there has been a breach of the terms and conditions of the permit.

Based on staff's findings, recommendations for by-law amendments are being proposed. These changes aim to strike a balance between nurturing the City's economic and infrastructure development and ensuring that residents are able to enjoy their neighbourhood.

Proposed changes to the by-law intend to ensure the by-law is easier to understand and interpret. The recommendations include revisions to:

1. Definitions - Attachment 2
  - a) Ensuring the terms in the by-law are easy to understand and interpret
  - b) Reviewing residential area
2. General Prohibition - Attachment 3
  - a) Setting time periods when noise is prohibited
  - b) Removing vibration from the general prohibition
3. Specific Prohibition: Amplified Sound - Attachment 3
  - a) Setting decibel limits for amplified sound
  - b) Addressing 'bass' or low frequency amplified sounds
  - c) Enabling point of reception noise measurement
  - d) Maintaining 85 dB(A) limit for activities and setting a parallel dB(C) limits for events granted an exemption permit
4. Specific Prohibition: Construction - Attachment 3
  - a) Removing "continuous pour concrete" construction exemption
  - b) Identifying a broad exemption for Municipal, Provincial and Federal government
5. Specific Prohibition: Motor vehicles - Attachment 3
6. Specific Prohibition: Animal Noise - Attachment 3
7. Manufacturing and Industry Stationary sources - Attachment 4
  - a) Removing reference to NPC-205
  - b) Align with the Ontario Ministry of Environment and Climate Change NPC-300 guidelines for noise by adding an exemption for Environmental Compliance Approvals

8. Exemption process - Attachment 5
  - a) Enable notice of exemption application to Councillors of impacted wards to respond to application for exemption
  - b) Add the delegated authority for the Executive Director to revoke noise by-law exemption permit
  - c) Enable an applicant to apply for one permit to cover multiple events
9. Offences and Penalties - Attachment 6
  - a) Increase minimum fines
  - b) Increase penalties for businesses guilty of a noise offense

Next steps:

- a) Improving communications with residents
- b) Events in parks

## 1. Definitions – Attachment 2

The following amendments to 591-1 Interpretation will ensure the by-law is easier to understand and modernized to address concerns and priorities identified through the review.

The specific changes can be found in Attachment 2. In summary the recommended changes include:

### a. Ensuring the terms in by-law are easy to understand and interpret

There are some terms that were identified in the review as requiring greater clarity or need to be revised to address proposed changes to the by-law. To do this recommendations include:

- Replacing Commissioner with Executive Director, Municipal Licensing and Standards.
- Adding definitions for terms which are not referenced in the by-law for the following:
  - noise mitigation plan
  - sound level
  - officer
  - Leq
  - approved sound meter
  - dB(A) and dB(C)
- Removing definitions for continuous concrete pour and business hours which will no longer need to be referenced in the by-law.
- Revising the definition of necessary municipal work to increase clarity.

Revisions to the term necessary municipal work are also proposed to increase clarity. The existing definition of necessary municipal work describes the activities performed but does not include what types of organizations do this work such as, the City, the province of Ontario, the Government of Canada and its agencies or agents. The effect of making these revisions will provide clarity to those organizations that rely on this definition for conducting their work. Revisions are aligned with a request for increased clarity of this term by stakeholders and staff from other City divisions.



## **b. Reviewing residential area**

Currently, Chapter 591 distinguishes between quiet zones and residential areas. Quiet zones mean any property within the municipality used as a hospital, retirement home, nursing home, senior citizens residence, or other similar use. Residential area means any property within the municipality which is zoned for residential uses by an applicable zoning by-law or which is used in whole or in part for human habitation. These definitions were last amended in 2007.

One of the directives from the Licensing and Standards Committee was to review these definitions, in particular the interpretation of residential zone or "residential area" to determine whether any changes to the definition were needed/

After staff review of "residential area" the review concluded that the definition in the by-law is sufficiently broad and broader than is identified in the zoning by-law. It does include areas which are mixed-use for example wards in the downtown core in which residential dwellings are adjacent to restaurants, bars, buildings or current construction sites. Therefore, at this time, staff are not recommending any proposed changes to these two definitions.

## **2. General Prohibition - Attachment 3**

### **a. Setting time periods when noise is prohibited**

Under Chapter 591, Noise "no person shall make, cause or permit noise or vibration, at any time, which is likely to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the inhabitants of the City."

The current general prohibition is not subject to a standard that enables consistent interpretation. Instead the current general prohibition is subject to whether or not the noise "is likely to disturb" which can result in multiple interpretations and is subject to the sensitivity of a resident to noise.

The current general prohibition is more restrictive than the other provisions in the noise by-law and more restrictive than the provincial standards in Ontario. The other provisions in Chapter 591, Noise and provincial standards allow some noise but set limits on noise level by area and time of day.

Some of the larger municipalities reviewed in Attachment 10 identify various criteria to help clarify noise "likely to disturb" such as specifying certain times of day that noise is deemed disruptive.

Without set time periods, the City's resources may be spent on investigating noise occurring during hours when noise is permitted except under the general prohibition. Public and stakeholder engagement revealed that having a provision that prohibits noise that is 'likely to disturb' at any time is at odds with other provisions in the by-law that only prohibit certain types of noise during certain time periods.

The change proposed is to define the following time periods under the general prohibition, which prohibits noise in a:

- Residential area from 11:00 p.m. to 7:00 a.m. on weekdays and before 9:00 a.m. and after 11:00 p.m., on Saturdays, Sundays and statutory holidays and
- Quiet zones from 7:00 p.m. to 7:00 a.m. weekdays and before 9:00a.m. and after 7:00 p.m. on Saturday, and all day Sunday and statutory holidays.

This change is aligned with public feedback. The majority of those consulted generally understood that noise is prohibited only during certain times of day. Often during the public engagement, staff needed to clarify that in the existing by-law noise is prohibited any time rather than only during certain time periods. By adding in time periods the by-law is easier to understand and comply with.

Currently, in addition to the general prohibition there are different rules for 11 different types of noise could be subject to the same prohibited times under the general prohibition. Adding time periods in the general prohibition reduces the need for the time periods for 11 types of noise, as it can be worded more simply under the general prohibition. The effect of this change simplifies the by-law and is intended to facilitate compliance.

For additional clarity, this proposed revision will also identify that the time periods under the general prohibition will not apply to bells and sirens required for public safety reasons when operated by Police Services, Fire and Paramedic Services or bells operated by transit or rail services.

#### **b. Removing vibration from the general prohibition**

The general prohibition currently includes reference to the word "vibration". This was noted during the review as an area of confusion for the public and potential duplication with Section 3.6. Chapter 363 Toronto Municipal Code. The noise by-law should be amended to include only provisions which specifically address noise rather than vibration by adding in the "use decibel limits (dB(C))" to address low frequency bass sounds as detailed later in this report.

The Licensing and Standards Committee requested that the Executive Director, Municipal Licensing and Standards review the construction vibration provisions as they pertain to the impacts on residential neighbourhoods.

In 2008, Toronto City Council included vibration control requirements in (Section 3.6) Toronto Municipal Code Chapter 363. Section 3.6 introduced a proactive approach to vibration control on buildings adjacent to sites where construction and demolition activities are taking place, rather than relying solely on enforcement through nuisance by-laws, which was the case prior to 2008. Toronto Building enforces Toronto Municipal Code Chapter 363 under the authority of *the Building Code Act, 1992*.

Section 3.6 requires building permit applicants to identify construction activities that may produce vibrations. Where there is likelihood for vibrations, applicants are required to

hold a public meeting, develop a monitoring program and conduct precondition surveys of surrounding buildings and structures. Construction activities are not permitted that exceed the vibration levels set out in the by-law. Where construction related vibrations are not anticipated but are in fact produced, Toronto Building inspection staff undertake enforcement action in accordance with established protocols. Toronto Building and MLS do not recommended any changes be made to the vibration control by-law at this time.

Vibration that occurs as a result of amplified sound will be addressed by adding in the use decibel limits (dB(C)) to address low frequency bass sounds as detailed later in this report.

### **3. Specific Prohibition: Amplified Sound - Attachment 3**

To respond specifically to Council direction this report has reviewed the City's approach to addressing amplified sound. Amplified sound is one of the greatest sources of noise disruption according to public feedback and has resulted in a number of complaints.

Currently, Chapter 591, Noise 2.1 (A) sets out restrictions for loudspeakers and other amplified sound projected on streets or public places. The existing by-law prohibits individuals from causing or permitting amplified sound that projects beyond the lot line of the property and into any street or public space.

Amplified sound and music are enjoyed by many City residents and tourists. Toronto officially declared its intention to become a world-leading music city and enacted (October 3, 2013) a formal Music City Alliance with the City of Austin, Texas. Since positioning itself as the "live music capital of the world", Austin has experienced impressive growth and Toronto seems keen to follow suit, as Council has requested a Music Strategy from its recently established Toronto Music Industry Advisory Committee (TMAC).

#### **a. Setting decibel limits for amplified sound**

Currently, Chapter 591, Noise sets *qualitative* measures for noise (e.g., clearly audible) as opposed to *quantitative* measures with the exception of setting an 85 dB(A) limit for noise where a noise by-law exemption permit has been granted.

Feedback during consultations, identified that using quantitative noise limits such as, decibels would be perceived as a way of increasing objectivity within the noise by-law as it sets a limit that can be monitored by business, industry and the public (through noise meters) easily and readily.

Businesses (including music venues) currently have no way of objectively knowing if they are operating within the legal boundaries concerning noise limits. Ultimately, the music industry stakeholder group would favour a reasonable amount of noise to be permissible but subject to specific decibel limits.

Decibel limit which uses an "A" weighting is also referred to as dB(A) and is a measurement of sound that is weighted for human hearing, while dB(C) is a measure of sound using a "C" weighting and includes frequencies not audible but can be felt. dB(C) is used to measure bass or low frequency sound.

Federal and provincial legislation on workplace noise gives noise exposure limits in dB(A). Ontario's NPC guidelines also use dB(A) noise limits. According to the Canadian Centre for Occupational Health and Safety decibel measures using an A-weighting serves two important purposes:

- gives a single number measure of noise level by integrating sound levels at all frequencies
- gives a scale for noise level as experienced or perceived by the human ear

The proposed revisions to the noise by-law align with the hours proposed in the general prohibition and include decibel limits using dB(A) and dB(C) to measure amplified sound. Both a dB(A) and a parallel dB(C) limits are proposed to ensure that all amplified sound is captured including bass or low frequency amplified sounds. The proposed revisions are as follows:

No person shall operate or permit the operation of a sound device if when measured on an approved sound meter for a period of three minutes at a point of reception:

(a) in a residential area:

- [1] before 7:00 a.m. and after 11:00 p.m. Monday through Friday, the sound level exceeds a rating of 45dB(A) or 65 dB(C);
- [2] after 7:00a.m. and before 11:00 p.m. Monday through Friday, the sound level exceeds a rating of 85 dB(A) or 105 dB(C);
- [3] before 9:00 a.m. and after 11:00 p.m. on Saturdays, Sundays and Statutory Holidays, the sound level exceeds a rating of 45 dB(A) or 65 dB(C);
- [4] after 9:00a.m. and before 11:00 p.m. on Saturdays, Sundays and Statutory Holidays, the sound level exceeds a rating of 85 dB(A) or 105 dB(C);

(b) in a quiet zone:

- [1] before 7:00 a.m. and after 7:00 p.m. Monday through Friday, the sound level exceeds a rating of 45 dB(A) or 65 dB(C);

- [2] after 7:00 a.m. and before 7:00 p.m. Monday through Friday, the sound level exceeds a rating of 50 dB(A) or 70 dB(C);
- [3] before 9:00 a.m. and after 7:00 p.m. on, Saturdays, the sound level exceeds a rating of 45 dB(A) or 65 dB(C);
- [4] after 9:00 a.m. and before 7:00 p.m. on, Saturdays, the sound level exceeds a rating of 50 dB(A) or 70 dB(C);
- [5] All day on Sundays and Statutory Holidays, the sound level exceeds a rating of 45dB(A) or 65 dB(C).

The report's recommendation of 45 dB(A) during the hours listed above are equivalent to the provincial standard for road noise when measured in a living room. Other examples of 45 dB(A) sound level are; a library, bird calls, lowest limit of urban ambient sound, or a refrigerator's hum (33-53dB(A)).

The existing by-law sets out a limit of 85 dB(A) and proposes that 85dB(A) or 105 dB(C) as the sound level limit for daytime noise (as identified above). Other examples of 85 dB(A) include an electric lawn mower, a ringing alarm clock at 3 feet, and noise from a bus or heavy truck at 50 feet.

For quiet zones the by-law sets out a limit of 50 dB(A) for daytime noise. Other examples of noise at 50 dB(A) are a conversation at home or a dishwasher in the next room.

#### **b. Addressing 'bass' or low frequency amplified sounds**

Public engagement revealed concerns that the dB(A) measurement is not accurately capturing low frequency (bass) sound which is a source of disruption of residents.

There are a few jurisdictions that use dB(C) measurement for amplified bass sound, such as Vancouver, New York City and Brisbane. The City of Vancouver Council, in 2001, adopted a number of changes to its Noise Control by-law to address impacts in the community from entertainment venues. Including the increasing level of bass sound in many of these establishments. City of Vancouver staff concluded that an internal dB(C) level was required paralleling the dB(A) level adopted for amplified sound. More detailed information about the noise measurement limits used in Vancouver can be found in the attached jurisdictional scan in Attachment 10.

ML&S is capable of measuring low frequency 'bass' sounds using existing equipment. ML&S staff have dB(C) on the noise meters that they currently use to measure amplified sound for events granted exemption permits.

**c. Enabling 'point of reception' noise measurement**

Those who work in the live music industry in Toronto were concerned that the manner in which the by-law is applied and enforced is inconsistent and unfair. Specific concerns were raised with the noise limits being "clearly audible" beyond the property line. Sidewalk measurements are particularly problematic for business owners because most small venues are not separated from the sidewalks.

Measurements should be taken at the point of reception (e.g., the complainant's residence when permitted) rather than from the lot line. The lot line, according to both members of the public and venues often are not valid measures of the noise experienced by the complainant.

**d. Maintaining 85 dB(A) limit for activities and setting a parallel dB(C) limits for events granted an exemption permit**

In the existing by-law for events (e.g., concerts) where an exemption permit has been granted an 85 dB(A) limit is enforced.

Those who attended the music industry stakeholder meeting felt that 85 dB(A) is unreasonably low and makes it difficult for outdoor event organizers to create successful events and festivals.

However, the decibel limit for exemption permit holders is consistent with Ontario's Occupational Health and Safety Act regulation 851. The American Speech Language and Hearing Association notes that sounds that are louder than 85 dB can cause permanent hearing loss. As a reference point, other examples of noise which are also 85 dB(A) are a noisy restaurant, heavy traffic, or a blender.

In the interest of public safety, this report proposes maintaining the existing noise limit at 85 dB(A). However, this 85 dB(A) limit may not address the low frequency noise (bass) emitted.

For the reasons described earlier in the report, it is proposed that in addition to the 85 dB(A) noise limit that the by-law include a parallel 105 dB(C) limit for events that have been granted an exemption permit.

**4. Specific Prohibition: Construction –Attachment 3**

To ensure a balance of flexibility for industry and rigour towards minimizing resident disruption, the City is proposing changes to address construction.

**a. Remove "continuous pouring of concrete" construction exemption**

The City has many construction projects underway which can have long-term benefits but can subject residents to unnecessary and disruptive noise.

The existing noise by-law includes a "blanket" exemption from the identified prohibited hours for construction noise caused by the continuous pouring of concrete, and large

crane work. Large crane work is defined as the erection and dismantling of a crane or any other crane work that requires a road closure in order for the work to be started and finished. Continuous pouring of concrete is defined as slip-forming, deck pour or pre-pour operations that cannot be interrupted once the operations have commenced.

This exemption had been proposed in 2007 and effective January 1, 2008, construction noise from the operation of construction equipment is prohibited during identified time periods, excluding the continuous pouring of concrete and large crane work, necessary municipal work, and emergency work that cannot be performed during regular business hours.

However, since this exemption has taken effect, there has been a rise in the number of construction complaints from residents. In 2014, the City received 2853 complaints about construction noise and 1831 (64%) of these complaints were from noise occurring during the hours in which construction noise is prohibited.

The City is proposing the removal of the existing "blanket" exemption for concrete pours and large crane work. This change is based on a history of complaints for concrete pours and other construction work occurring during prohibited hours.

To accommodate the work, organizations would be required to apply for an exemption permit through the application process. There is no need to have a specific exemption for certain types of construction activities such as, continuous concrete pours and large crane work. In addition, the benefits of this approach are that it:

- allows for community input through the ward Councillor
- enables an agreement for noise mitigation
- can apply for a longer period of time of exemption

#### **b. Identifying a broader exemption for municipal, provincial and federal government**

There are exemptions in the existing noise by-law relied on by government their agents and agencies.

The existing by-law identifies the following exemptions:

- 591-2.1B(2) identifies the exemption from the prohibited hours for construction activities due to necessary and emergency municipal work that cannot be performed during regular business hours. This exemption is used by the City and transit services, such as the TTC and Metrolinx to for necessary municipal construction work.
- 591-2C in the existing by-law identifies an exemption for the listed major transit projects associated with the TTC and
- 591-11 also exempts (for emergency or public safety reasons) the use railway whistles in section 23.1 of the Railway Safety Act, R.S. 1985, c. 32 (4<sup>th</sup> Supp).

These provisions appear in the existing by-law and could be identified in a manner that is clearer and more concise.

In discussion with the TTC and transit partners these provisions use project titles that have changed and are a challenge to keep up-to-date (due to name changes in the Major Transit Projects list). TTC and Metrolinx identified a preference for a broader exemption to cover TTC activities that are not always emergencies but may be necessary to ensure compliance with municipal or provincial laws. TTC has suggested that broader wording that captures activities may be included without naming it. Metrolinx was also supportive of the removal of the list of major transit projects under 591-2C if a broader exemption meets the same goal.

Effective this year, there are certain City-led construction projects that Council has already approved (2015 PW1.3) which will extend construction hours into existing prohibited times including overnight work in order to manage traffic disruption and expedite completion.

Despite that these exemptions exist, there is no broad exemption in the by-law which specifically exempts municipal, provincial and federal governments or their agents from the noise by-law. A broad exemption has been applied successfully in the City of Vaughan and enables a clearer and more efficient approach for public service projects.

Proposed revisions broadens the exemption to identify that the prohibited times for construction do not apply to the City of Toronto, the Province of Ontario, the Government of Canada or any of their agencies or agents when the emission of sound is in connection with necessary municipal work, maintenance or the immediate health, safety or welfare of the inhabitants of the City. The effect of this revision intends to make the exemption clearer by identifying the organizations that would be subject to this exemption and for which activities.

## **5. Specific Prohibition: Motor Vehicle (Motorcycle) Noise**

Motor vehicle noise is regulated at the provincial and municipal levels. Unnecessary motor vehicle noise is identified in section 75 of the Ontario Highway Traffic Act (HTA) and is enforced by police services as they have the legal authority to stop motor vehicles on roadways.

Under section 75 of the HTA:

75. (1) Every motor vehicle or motor assisted bicycle shall be equipped with a muffler in good working order and in constant operation 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 or motor assisted bicycle.

75. (4) A person having the control or charge of a motor vehicle shall not sound any bell, horn or other signalling device so as to make an unreasonable noise, nor shall the driver at any time cause the motor vehicle to make any unnecessary noise, but this subsection does not apply to a motor vehicle of a municipal fire department while proceeding to a fire or answering a fire alarm call.



75. (6) No vehicle other than an ambulance, fire or police department vehicle, public utility emergency vehicle or vehicle operated by the Ministry shall be equipped with a siren horn or a device producing a sound which so nearly resembles that produced by a siren horn as to deceive or confuse.

These are similar to provisions in Chapter 591, Noise which acts as an additional tool for the Toronto Police Service. In discussions with the Toronto Police Service existing provisions under the HTA and Chapter 591, Noise are sufficient to address all types of motor vehicle noise issues including those created by motorcycles.

#### **6. Specific Prohibition: Animal Noise**

Animal noise, such as persistent barking, can be very disruptive to residents. Persistent animal noise can also indicate an animal in distress. In 2014, ML&S received 1693 complaints about animal noise.

The by-law currently identifies that animal noise is prohibited at all times which is adequate as animal noise can be especially impactful. It continues to result in a number of complaints and is the only type of noise that is restricted at all times.

Due to the significant disruption of animal noise as evidenced by the complaint history it is proposed that the by-law identify this type of noise as specifically prohibited at all times.

#### **7. Manufacturing and Industry Stationary sources - Attachment 4**

##### **a. Align with the Ontario Ministry of Environment and Climate Change NPC-300 guidelines for noise**

With respect to noise, industry is governed by both the City of Toronto Chapter 591, Noise and the provincial Environmental Protection Act (EPA) administered and enforced by the Ministry of Environment and Climate Change (MOECC). MOECC sets provincial guidelines for noise (NPC guidelines) which are also referenced in the existing Chapter 591, Noise.

Inconsistency with existing provincial standards can have significant adverse effects on industry. Currently, industry has two different standards of noise to adhere to (the NPC-300 and Chapter 591, noise). In addition, there may be duplication of efforts as staff at ML&S and staff at MOECC have roles in investigating complaints and monitoring compliance for industry.

However, having the NPC reference directly in the Noise by-law can be a challenge as the NPC guidelines are revised every few years which can mean that Chapter 591, Noise runs the risk of referencing an outdated NPC publication.

As such, the report proposes aligning with the NPC guidelines without directly referencing them. One way of aligning with the NPC is to identify an exemption for organizations that have an Environmental Compliance Approval.

**b. Exempt organizations that have an Environmental Compliance Approval**

Currently, the noise by-law does not have an exemption for industry and manufacturing organizations that have met provincial noise standards. This means that even though an organization may have received an Environmental Compliance Approval from the MOECC for meeting its NPC standard, an organization may not be in compliance with Chapter 591, Noise.

The proposed amendments to the by-law include an exemption for organizations that are complying with provincial noise standards. The effect of this exemption reduces unnecessary duplication for these organizations as well as City staff.

**8. Exemptions Process - Attachment 5**

Currently, Chapter 591-10 sets out that any person may apply for a permit for an exemption from a noise prohibition or noise limitation provision in Chapter 591, Noise, in connection with an event or activity. Applying for a permit for exemption is accomplished by filing an application in the form prescribed in the by-law.

**a. Enable notice of exemption application to Councillors of impacted wards to respond to application for exemption**

The Councillor(s) of the impacted wards are in the best position to bring issues and concerns to the attention of the Executive Director. The comments from the Councillor(s) for the impacted ward(s) provide information that the Executive Director considers in making application decisions and setting any terms or conditions on the permit.

As noise can travel beyond the boundary street, the City is proposing that a change be made to communicate to Councillor(s) where there is a potential noise impact to their ward even if the event or activity is occurring in a neighbouring ward.

**b. Create the delegated authority for the Executive Director to:**

**i. Impose conditions on a noise by-law exemption permit**

Currently, the Executive Director does not have the authority to impose any conditions on the exemption permit. It would be beneficial to nearby residents if the Executive Director had the authority to impose conditions on the permit holder (such as; a noise mitigation plan, noise monitoring, equipment placement, posting signs and communications which inform nearby residents of the exemption). The authority to impose conditions will help ensure that a permit holder(s) is(are) taking certain measures to proactively mitigate noise before it can become a source of disruption for residents.

**ii. Refuse a noise by-law exemption permit**

In the existing noise by-law, the Executive Director cannot refuse to grant a permit if an applicant has met the application requirements listed under 591-10. This means that if an applicant or an event that has been granted a permit has been the subject of complaints from residents or has been convicted of noise by-law offences in the past but meets the applicant requirements the permit will be granted.

If an application identifies an event or a previous permit holder for which there were resident complaints and noise offences committed, this authority would enable the Executive Director to refuse to issue a permit.

The effect of adding this authority expands on the opportunity to proactively address community concerns. Applications that are refused can be appealed to community council as is identified in the existing by-law.

**iii. Revoke noise by-law exemption permit**

It is beneficial to set out explicit grounds whereby the Executive Director can revoke an exemption permit, especially in circumstances where the applicant is not complying with the terms and conditions of the permit. Currently, this authority is not explicitly set out in the by-law.

Other jurisdictions, for example Vaughan, Guelph, Oakville, Austin and New York City have the authority under their noise by-laws to grant and revoke exemption permits. In most cases this authority enables the municipality to revoke an exemption in cases where the permit holder has violated the terms and conditions of their agreement. In New York City, the municipality has the authority to refuse to renew a permit if a permit holder was not compliant.

**c. Enable an applicant to apply for one permit to cover multiple events**

In connection with the explicit authority to revoke an exemption permit, ML&S recommends streamlining the application process to enable an applicant to apply for one permit to cover multiple events such as a series of concerts at the same venue hosted by the same organizer. This type of streamlining could enable a permit to cover the length of the activity or activities, for example with construction projects. Overall, this change could reduce an administrative burden for both ML&S staff, Councillors and the public. The authority to revoke, as outlined above is being sought to mitigate any noise concerns or issues from permitted events or activities, should they arise.

**9. Increasing and escalating fines and/or penalties –Attachment 6**

Staff were requested to report back on by-law amendments that would increase fines and escalate other penalties to encourage compliance with the noise by-law. Fines are set by the presiding justice after the justice convicts an individual. The City may apply for set fines for offences but these set fines will not ensure that higher penalties are always imposed. The fines for Chapter 591, Noise have not been updated since 2003.

There are a few enforcement related options that individually or in combination could enhance compliance with the noise by-law. They are: increased minimum fines, and for

businesses who are guilty of a noise offence recommending increased penalties under Chapter 545, Licensing.

**a. Increase minimum and maximum fines**

Toronto's current noise by-law fines are lower than some other jurisdictions reviewed including Oakville, Ottawa, New York City and Chicago.

Ontario municipalities commonly reference provincial legislation to align with existing provincial standards, including the Provincial Offences Act when setting fines and penalties. However, there is variety among fines and some establish higher fines. For example Oakville sets minimum \$400 and maximum fines of \$25,000 for a first offence and \$50,000 for a subsequent offence and Ottawa sets minimum \$500 fines and maximum fines of \$10,000 and a total of daily fines is not limited to \$100,000. While the City of Toronto is governed under the City of Toronto Act as opposed to the Municipal Act, it has a similar authority to set higher fines.

This report proposes that the following provisions be added:

- A. Every person who contravenes any provision of this chapter is guilty of an offence and on conviction is liable to a fine of not less than \$500 and no more than \$100,000.
- B. Every person who contravenes any provision of this chapter may be liable, in addition to the fine provided for in Subsections A, to a special fine of not less than \$500 designed to eliminate or reduce any economic advantage or gain from contravening this chapter.
- C. In addition to offences referred to in Subsection A, every person is guilty of an offence under this chapter who:
  - (1) Hinders or obstructs or attempts to hinder or obstruct any person exercising a power or performing a duty under this chapter;
  - (2) Neglects or refuses to produce or provide any information or thing to any person acting pursuant to an order made under section 378 of the City of Toronto Act, 2006;
  - (3) Knowingly makes, participates in, assents to or acquiesces in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this chapter.
- D. Where a corporation contravenes any of the provisions of this chapter, every director or officer who concurs in such contravention is guilty of an offence and on conviction is liable to a fine not exceeding \$25,000.
- E. Each offence is designated as a continuing offence and is subject to, for each day or part of a day that the offence continues, a minimum fine of no less than \$500 and a maximum fine of no more than \$10,000. The total of all of the daily fines imposed for each offence may exceed \$100,000.

The report also recommends that the City Solicitor apply to the Regional Senior Justice of the Ontario Court of Justice to establish a set fine for offences related to loudspeakers and other amplified sound. This would enable by-law officers who investigate noise complaints at licensed establishments to issue tickets under Part I of the Provincial Offences Act, where a set fine has been approved.

These changes are contained in Attachment 6 address direction from Council to increase penalties and special offences in certain circumstances.

It is important to note that the presiding justice has the authority to impose the fine amount and may under certain circumstances lower the fine amount.

**b. Increase penalties for businesses guilty of a noise offense**

Currently, Chapter 545, Licensing, Appendix K, Schedule B sets out that businesses are given 1 demerit point for noise by-law convictions. During the review of Chapter 545, Licensing ML&S staff will review options to increase penalties for businesses not complying with noise provisions.

**Next steps**

**a. Improving communication with residents**

Public and stakeholder engagement identified that there is a need to improve communications about the noise by-law and in particular about the exemptions to the noise by-law.

ML&S plans to revise its existing materials to improve communications with the public about the noise by-law. Revisions will:

- explain the by-law in plain language
- identify who to contact for noise concerns
- identify the steps in the application for noise by-law exemption permit process
- identify the steps in the noise complaint investigation process

The intended effect would be ensure that the noise by-law is easy for everyone to access and understand.

ML&S also plans to develop:

- a search tool to enable the public to search for exemptions granted in their area
- stakeholder specific information (such as, what the changes to the by-law will mean for the construction, music, transit and manufacturing industries)

The intention of stakeholder specific information is to ensure that the revisions to the by-law are clear for various industries. The search tool intends to be a resource for the public to easily search exemption permits granted by the City.

**b. Events in Parks**

Many of the City's special events take place in public spaces such as parks. These events require a Special Events permit if it meets one or more conditions. The listed conditions include the use of amplified sound or the use of a generator, both of which emit noise.

Parks permits are issued under the agreement that the permit holder will comply with all noise by-laws. This may include application for a noise exemption permit where there is a request that the sound extend beyond the provisions in the noise by-law.

During the course of the review, individuals who have organized special events in parks have indicated that the process for acquiring a noise exemption permit in addition to a parks permit could be more efficient. In addition Parks Forestry and Recreation is reviewing its permitting procedures and recommending changes to support "Arts in the Parks". As such, this report proposes a change to ensure that a separate fee of \$0 is applied to applicants for these new permit categories identified.

ML&S plans to engage with Parks Forestry and Recreation to ensure alignment in procedure and timelines for issuing permits for events in City parks.

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## **SIGNATURE**

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Tracey Cook, Executive Director  
Municipal Licensing and Standards

## **ATTACHMENTS**

**ATTACHMENT 1:** Chapter 591, Noise  
**ATTACHMENT 2:** Definitions  
**ATTACHMENT 3:** General and Specific Prohibitions  
**ATTACHMENT 4:** Stationary sources  
**ATTACHMENT 5:** Exemptions  
**ATTACHMENT 6:** Offences and penalties  
**ATTACHMENT 7:** Summary of online survey  
**ATTACHMENT 8:** Summary of public consultation meetings  
**ATTACHMENT 9:** Summary of music industry consultation  
**ATTACHMENT 10:** Summary of jurisdictional research