



REPORT FOR INFORMATION

Supplementary Report - Noise By-law Review - Additional Stakeholder Meetings

Date: April 15, 2019

To: City Council

From: Interim Executive Director, Municipal Licensing and Standards

Wards: All

SUMMARY

At its meeting on April 3, 2019, the Economic and Community Development Committee adopted, as amended, EC3.6 Noise By-law Review - Proposed Amendments to Chapter 591, Noise. The Committee directed Municipal Licensing and Standards to meet with stakeholders, prior to the April 16 and 17, 2019, City Council meeting, to discuss concerns and provide clarification on the item. This supplementary report provides City Council with further information regarding the stakeholder meetings on April 10 and 11, 2019.

The comments and concerns shared by stakeholders at these meetings, and via email, were consistent with feedback heard by staff throughout the Noise By-law Review, and have been considered as part of EC3.6.

This report does not recommend any changes to the Committee-adopted by-law amendments.

This report was prepared in consultation with Legal Services.

FINANCIAL IMPACT

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

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

DECISION HISTORY

On April 3, 2019, the Economic and Community Development Committee adopted the recommendations in the report "[Noise By-law Review - Proposed Amendments to Chapter 591, Noise](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EC3.6)" (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EC3.6>), dated March 22, 2019, and directed the Executive Director, Municipal Licensing and Standards, to meet with stakeholders, prior to the April 16 and 17, 2019 City Council meeting, to discuss concerns and to provide clarification on the proposed Amendments to Toronto Municipal Code, Chapter 591, Noise.

COMMENTS

As directed by Economic and Community Development Committee, Municipal Licensing and Standards (MLS) hosted two stakeholder meetings in advance of the April 16 and 17, 2019 City Council meeting. MLS met with stakeholders to discuss concerns and provide clarification on the Committee-adopted amendments to Toronto Municipal Code, Chapter 591, Noise. The meeting on April 10, 2019 was open to all stakeholders who had previously engaged in the Noise By-law Review, but was focused on resident concerns, particularly those raised by the Toronto Noise Coalition. The meeting on April 11, 2019 was focused on specific concerns raised by the construction industry, in particular, concerns related to the removal of the blanket exemption for continuous concrete pouring and large crane work. Approximately 50 stakeholders participated in the meetings.

To guide discussion, participants were provided with a document explaining the differences between the current by-law and the Committee-adopted amendments, the rationale for each amendment, as well as other considerations identified during the Noise By-law Review (see Attachment A). Following a brief introduction of each by-law topic, participants were provided with an opportunity to request clarification on the amendments and to express any concerns. Summarized below are comments heard by stakeholders as well as clarifications provided by MLS.

Residents and Toronto Noise Coalition

At the April 10th meeting, MLS staff met with residents, including the Toronto Noise Coalition. Participants noted concerns considered during the Noise By-law review including the concerns about the general prohibition, noise from motorcycles, and noise from leaf blowers. Participants also inquired about the use of dB(Z) for measuring noise, which was identified during deputations at the April 3, 2019 meeting of the Economic and Community Development Committee.

Concerns about changes to the general prohibition

Residents expressed concern regarding the "general prohibition" in the current by-law and the Committee-adopted provision intended to replace it (prohibition against "unreasonable and persistent noise").

Participants felt that the amended provision would not adequately protect residents from noise at all times. MLS staff explained that the use of "likely to disturb" in the current by-law creates a volume of service requests that is difficult to enforce or prosecute. For example, some service requests ask the City to investigate roommates who walk too loudly on the stairs, or children playing too loudly in a backyard. These are considered reasonable uses of space, but technically may be violations of the current by-law. By clearly defining unreasonable and persistent types of noises, MLS can focus resources on noise issues that occur with greater frequency and have a more significant impact on individuals and/or the community.

Currently, where the source of sound is subject to more than one provision of the by-law, the most restrictive provision applies. This has often been misinterpreted to mean that the general prohibition applies since it states that no noise, at any time of day, shall disturb an inhabitant. However, when a specific prohibition exists, the general prohibition should not be used. All the recommended specific prohibitions, except the prohibition on disturbing a religious ceremony, are more restrictive than the new general prohibition because they do not require that any person be disturbed. The new provision on unreasonable and persistent noise clarifies that the provision would not apply if a specific prohibition is in place.

Motorcycle Noise

At the meeting, some stakeholders noted their concern with the Committee-adopted proposed decibel limit for motorcycles (92 dB(A), measured at idle, 50 cm from the exhaust). They believe it is too high, and should instead be 82 dB(A). The decibel limit and test procedures are a standard set by the Society of Automotive Engineers in 2009. They have also been adopted by several other Canadian cities, including Caledon, Oakville, Edmonton, and Vancouver, as well as some US states.

Staff clarified that while some US states utilize a decibel limit of 82-86 dB(A) for motorcycles, the measurement is taken while the motorcycle is in motion, 50 feet behind the centre lane in which it is traveling. This would not be enforceable in Toronto, as by-law enforcement officers do not have the authority to require moving vehicles to stop. In jurisdictions that use this decibel limit, it is exclusively done by police services. It was also noted that it is difficult for police officers to respond to as the vehicle has typically left before police may arrive and measure the noise.

Leaf Blowers

Some residents noted their continued concern with noise from leaf blowers, renewing requests to ban the equipment. One resident noted that the jurisdictional scan did not include relevant city comparators for leaf blowers. Staff clarified that an expanded and comprehensive jurisdictional scan was conducted for leaf blowers, and considered during the review. The scan included examples mentioned by residents, including Westmount, Vancouver, Victoria, Winnipeg, Portland, and New York.

The proposed approach to place stricter limits on the permitted hours of use of leaf blowers and other power devices strikes a balance between residents who are

disturbed by noise from leaf blowers and industry and consumers who use the equipment. Additional regulation would be overly restrictive due to the low volume of complaints and concerns from the general public (a small minority (11%) supported a ban on leaf blowers).

The Use of dB(Z) to Measure Noise

During the deputations at Committee, one deputant asked members of Committee to consider dB(Z) instead of dB(A) or dB(C) for measuring noise. At the resident meeting, participants followed up on this request. It was noted by staff that two third-party acoustical engineering firms provided technical reviews of the by-law and dB(Z) was not recommended by either firm. Following this request from residents, staff again consulted with an acoustical engineering firm. Staff were advised that capturing a combination of dB(A) and dB(C) weightings captures noise measurements more reliably than using dB(Z). Since dB(Z) is a linear measurement of sound, it is more difficult to measure in the field, as it can be heavily skewed by minor changes in the environment (for example, wind). Due to these challenges with the practical application of dB(Z), staff were advised not to adopt this measure in the Noise By-law.

Construction and Building Industry

Continuous Concrete Pouring

During the April 11th meeting with the construction and building industry, participants reiterated their concerns with the removal of the blanket exemption for continuous concrete pouring, citing challenges with the exemption permit process. The Committee-adopted Noise By-law proposal allows applicants to apply for an exemption permit in connection with one or more events or activities, for up to a three-month period. MLS may also request a Noise Mitigation Plan as a condition of an exemption permit. With respect to the review of exemption permits, the by-law maintains the current review process. Councillors have 14 days to review and issue or deny an exemption permit. If a Councillor denies an exemption permit, an applicant may appeal the decision to the community council that has jurisdiction for the location of each proposed construction project.

Industry participants stressed that the review and approval of exemption permits must be timely and efficient as delays threaten the timelines of construction projects, and by extension, may cause further disruption and noise to surrounding areas. In the event that exemption permits for continuous concrete pours are denied by the Ward Councillor, stakeholders are concerned that the appeal process will prolong project timelines and potentially result in cancellation of projects and job losses. The industry is concerned with the volume of items considered at Community Council meetings and fear they may not be placed on the next available agenda.

The construction industry has indicated that they differ from other noise exemption applicants, in that they already have significant engagement with the City through processes throughout the development application and site plan processes, the development of construction management plans, traffic management and building

permit processes. They take the position that adding a separate and distinct additional process is unnecessary.

To remedy this concern, City Council may consider providing an amended exemption permit process for these applicants, so that permits for continuous concrete pours and large crane work are reviewed by City staff, in conjunction with other City processes, such as the construction management plan, as referenced above. This could help to ensure expedient decisions on applications. A delegation of this authority would not impact other delegated authorities in the Committee-adopted by-law, including the ability to place conditions on exemption permits such as noise mitigation plans, and the authority for revocation in instances of consistently poor conduct and/or non-compliance.

Exemption Permit Time Restriction

The industry stated their concerns with the three-month time restriction on exemption permits and questioned its purpose. MLS staff clarified that exemption permit applicants are able to apply for a series of permits under the new Noise By-law in advance of their construction work. For example, an applicant may apply for a several three-month exemption permits to cover the duration of a project at once. Requiring an exemption permit for construction work outside of permitted times balances resident concerns about overnight construction noise while allowing flexibility in construction activity. The three-month limit is intended to strengthen the exemption permit by requiring applicants to consider the types of activities and timelines for those activities on a three month basis.

Unlike other exemption permit applications for community events or concerts, construction and development stakeholders noted that construction projects are already subject to a number of additional City screenings and approvals, including the requirement to develop approved construction management plans and acquire building permits before work can begin. Industry asked for assurances that any noise exemption permits be reviewed expediently. While the ability to apply for several permits at once eased industry concerns, they also maintained that the three-month time restriction on exemption permits should be prolonged or removed to better reflect the duration of construction projects.

Commercial Property Management – Interior Commercial Construction within a Commercial Property

During the review of the Noise By-law, the Toronto Financial District BIA identified concerns with removing the definition of inhabitant and making it an offence to disturb any person. While there is general support for this change within the BIA, as it allows their members to complain to the City (for example, to complain about noise disturbances outside of a commercial building), the BIA is concerned that construction noise within the interior of a commercial property without residents from 7 p.m. – 7 a.m. would then be subject to enforcement.

The BIA noted that construction in commercial buildings is conducted between 7 p.m. and 7 a.m., and on weekends, to minimize disruption to tenants. However, the

construction section of the by-law as written allows tenants and their employees to complain about this construction. The BIA has asked that construction work within the interior of a commercial property without residents be exempted as long as construction noise is not clearly audible at a point of reception beyond the property line. MLS clarified that enforcement officers would direct commercial tenant complaints related to interior construction noise to property management or the landlord. Given this enforcement approach, a blanket exemption is not considered necessary at this time.

Conclusion

This supplementary report highlights the most salient issues heard following the April 3rd meeting of the Economic and Community Development Committee. While it does not list all comments heard, the feedback shared during stakeholder meetings and via e-mail with staff are consistent with feedback heard throughout the review of the Noise By-law and was considered as part of the report EC3.6 Noise By-law Review - Proposed Amendments to Chapter 591, Noise.

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SIGNATURE

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ATTACHMENTS

Attachment A - Noise By-law Review - Comparison Chart