



## Noise By-law Review - Proposed Amendments to Chapter 591, Noise

Date: March 22, 2019

To: Economic and Community Development Committee

From: Interim Executive Director, Municipal Licensing and Standards

Wards: All

### SUMMARY

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This report proposes substantial amendments to the Noise By-law (Toronto Municipal Code Chapter 591), after a comprehensive review. The Noise By-law provides standards for noise, and applies to all properties in Toronto. The existing By-law was last updated in 2010, but has not been comprehensively reviewed since 2002.

The proposed changes to the Noise By-law address several specific noise issues such as amplified sound, the general prohibition, and noise from construction, power devices, and motor vehicles. These changes contribute to simplifying the Noise By-law by aligning time constraints between similar activities, and otherwise clarify the standards set for noise, by introducing decibel limits for amplified sound and motorcycles. Additional changes, such as providing Municipal Licensing and Standards (MLS) the authority to request noise monitoring and noise mitigation plans as part of the exemption permit process, support the proactive mitigation of noise. Where noise contravenes what is permitted, MLS proposes increasing fines and penalties.

In a city as large and diverse as Toronto, managing and regulating noise is a complex undertaking. Residents wish to enjoy their homes and environments. For some, this may mean relaxing in a lounge in the backyard, for others it may be having a meal on a café patio, and for others still it may be attending outdoor concerts. A Noise By-law must balance these desires with many other factors. The city is also experiencing a high volume of construction activity as housing and transportation infrastructure is being built to meet the needs of the city's growing population. According to public opinion research conducted on behalf of the City, 64% of residents believe that noise levels in Toronto are reasonable and reflect life in a big city, while 36% of residents believe that more needs to be done to restrict noise because of potential negative health consequences. There is a growing awareness of the health impacts of environmental and ambient/background noise, highlighted by international bodies, such as the World Health Organization (WHO).

At the City, Toronto Public Health (TPH) is currently working with City partners, including MLS and City Planning, to develop a Noise Action Plan to identify potential environmental noise mitigation strategies. By comparison, the City of Toronto's Noise By-law, Toronto Municipal Code Chapter 591, regulates episodic types of noise, which are generally related to the day-to-day activities of residents and businesses.

MLS began reviewing the Noise By-law in 2015. In 2016, with direction from the Licensing and Standards Committee, a Noise Working Group (NWG) was convened with stakeholders from resident associations, business improvement areas, the music and entertainment industry, the construction and building industry and other City divisions and agencies. The NWG met nine times and concluded in 2017. The group reviewed current and proposed amendments to the Noise By-law and highlighted issues for further research and consultation.

In April 2018, MLS reported to City Council with an update on the outcomes and lessons learned from the NWG. City Council directed MLS to complete additional work including third-party public opinion research, and technical reviews by acoustical engineering firms. City Council also directed MLS to engage a third-party facilitation firm to conduct an additional round of public consultations, which were completed in February 2019. MLS also consulted with industry and resident groups, and conducted additional research and analysis, including an expanded jurisdictional scan.

This report was prepared in consultation with Legal Services, Toronto Public Health, Economic Development and Culture, Engineering and Construction Services, and the Toronto Transit Commission.

## **RECOMMENDATIONS**

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The Interim Executive Director, Municipal Licensing and Standards recommends that:

1. City Council amend Toronto Municipal Code Chapter 591, Noise as follows:

### **Definitions**

1. Add a definition of "Ambient Sound Level" to mean "The sound level that is present in the environment, produced by sound sources other than the source under assessment."

2. Add a definition of "Amplified Sound" to mean "Sound made by any electronic device or a group of connected electronic devices incorporating one or more loudspeakers or other electro mechanical transducers, and intended for the production, reproduction or amplification of sound."

3. Remove the definition of "Commissioner" and add a definition of "Executive Director" to mean "the Executive Director of Municipal Licensing and Standards or their designate or successor."

4. Remove the definition of "continuous pouring of concrete."

5. Add a definition of "dB(A)" to mean "The sound level in decibels obtained when using a sound level meter with the A-weighting."
6. Add a definition of "dB(C)" to mean "The sound level in decibels obtained when using a sound level meter with the C-weighting."
7. Amend the definition of "Highway" to mean "Includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof."
8. Remove the definition of "Inhabitants."
9. Add a definition of "Leq" to mean "The energy equivalent sound level or the continuous sound level that would result in the same total sound energy being produced over a given period of time."
10. Remove the definition of "large crane work."
11. Add a definition of "Motorcycle" to mean "A self-propelled vehicle having a seat or saddle for the use of the driver and designed to travel on not more than three wheels in contact with the ground, and includes a motor scooter, but does not include a motor assisted bicycle."
12. Amend the definition of "Motor Vehicle" to mean "Includes an automobile, a motorcycle, a motor assisted bicycle and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car or other motor vehicle running only upon rails, a power-assisted bicycle, a motorized snow vehicle, a traction engine, a farm tractor, a self-propelled implement of husbandry or a road-building machine."
13. Remove the definition of "Necessary Municipal Work" and add a definition of "Government Work" to mean "Construction, rehabilitation or maintenance work conducted by the City, the Province of Ontario, the Government of Canada and any of its agencies or agents including the operation of motor vehicles and equipment actually engaged in the work."
14. Amend the definition of "Noise" to mean "A sound that a person finds disturbing to their peace, rest, enjoyment, comfort or convenience."
15. Add a definition of "Noise Mitigation Plan" to mean "A plan as required and approved by the Executive Director, Municipal Licensing and Standards that addresses the mitigation of sound not in compliance with the requirements of this chapter from planned events or activities."
16. Add a definition for "Persistent Noise" to mean "Any noise that is continuously heard for a period of ten minutes or more or intermittently over a period of one hour or more."

17. Amend the definition of "Point of Reception" to mean "Any location on the premises of a person where sound originating from other than those premises is received. The following locations are points of reception:

- (1) An outdoor area that is:
  - (a) near the façade of a building, at a height of 1.5 metres above ground, typically in backyards, front yards, terraces or patios; or
  - (b) on a balcony or elevated terrace (for example, a rooftop) provided it is not enclosed; or
- (2) An indoor area that is inside a building with windows and doors closed."

18. Amend the definition of "Power Device" to mean "Any equipment driven otherwise than by muscular power used in the servicing, maintenance or repair of lawns, including chainsaws, lawn mowers, leaf blowers, grass trimmers or any other similar equipment. A power device does not include equipment used to remove snow or ice."

19. Remove the definition of "Publication."

20. Remove the definition of "Regular business hours."

21. Add a definition for "Sound Level Meter" to mean "An instrument that measures levels of sound as approved for use by the Executive Director."

22. Add a definition for "Unreasonable Noise" to mean "Any noise that would disturb the peace, rest, enjoyment, comfort or convenience of a reasonable person in the circumstances. Unreasonable noise does not include commonplace household or workplace sounds such as sound from furniture being moved, children playing or people engaging in conversation."

23. Remove the definition of "Zones."

### **Specific Prohibition - Amplified Sound**

24. Delete section 591-2.1, prohibiting amplified sound from being projected beyond the lot line into any street or public place.

25. Remove the differentiated time and place prohibition for amplified sound, and add a provision for the specific prohibition of amplified sound, establishing quantitative limits for amplified sound as follows: "No person shall emit or cause or permit continuous amplified sound, measured with a sound level meter at a point of reception in an outdoor living area, that has a sound level (expressed in terms of Leq for a ten-minute period), exceeding 50 dB(A) or 65 dB(C) from 11 pm to 7 am or 55 dB(A) or 70 dB(C) from 7 am to 11 pm."

26. Add a provision for the specific prohibition of amplified sound that "if, during the course of an investigation, a Provincial Offences Officer such as a By-law Enforcement Officer, determines that it is not reasonable to measure from a point of reception in an outdoor living area, then no person shall emit or cause or permit continuous amplified sound that, measured with a sound level meter at a point of reception in an indoor living area, has a sound level (expressed in terms of Leq for a ten-minute period), exceeding 45 dB(A) or 60 dB(C) from 11 pm to 7 am or 50 dB(A) or 65 dB(C) from 7 am to 11 pm."

27. Add a provision that despite the specific prohibitions for amplified sound where the ambient sound level at a point of reception exceeds the maximum sound level under those subsections, no person shall emit or cause or permit continuous amplified sound that, when measured with a sound level meter at a point of reception, has a sound level (expressed in terms of Leq for a ten-minute period) that equals or exceeds the ambient sound level.

### **Specific Prohibition – Animals**

28. Remove the differentiated time and place prohibition for animals and add a specific prohibition for animals as follows: "No person shall cause or permit persistent noise, including barking, calling or whining or other similar persistent noise, to be made by any animal kept or used for any purpose."

### **Specific Prohibition - Construction**

29. Remove the differentiated time and place prohibition in section 591-2.1 subsection B(1) for construction and set a specific prohibition of construction as follows: "No person shall emit or cause or permit the emission of sound resulting from any operation of construction equipment or any construction that is clearly audible at a point of reception from 7 pm to 7 am the next day, except until 9 am on Saturdays; and all day on Sundays and statutory holidays."

30. Remove section 591-2.1 subsection B(2) to remove the exemption for continuous concrete pouring and large crane work.

### **Specific Prohibition – Loading and Unloading**

31. Remove the prohibition by time and place for loading and unloading and add a specific prohibition as follows: No person shall emit or cause or permit the emission of sound resulting from loading, unloading, delivering, packing, unpacking, otherwise handling any containers, products or materials from 11 pm to 7am the next day, except until 9 am on Saturdays, Sundays and statutory holidays."

### **Specific Prohibition - Motor Vehicles**

32. Remove the provisions in section 591-3, and add a provision prohibiting sound resulting from unnecessary motor vehicle noise, such as the sounding of a

horn, revving of an engine, squealing of tires, banging, clanking or any like sounds, if the sound is clearly audible at a point of reception.

33. Remove the differentiated time and place prohibition for vehicle repairs, and add a specific prohibition as follows: "No person shall emit or cause or permit the emission of sound resulting from the repairing, rebuilding, modifying or testing of a vehicle if the sound is clearly audible at a point of reception from 9 pm until 7 am the next day, except until 9 am on Saturdays, Sundays and statutory holidays."

34. Add a provision prohibiting sound from a motorcycle if it emits any sound exceeding 92 dB(A) from the exhaust outlet as measured at 50cm, while the motorcycle engine is at idle.

### **Specific Prohibition - Power Devices**

35. Remove the differentiated time and place prohibitions for power equipment, and set a single time prohibition of 7 pm until 7 am the next day, except until 9 am on Saturdays, Sundays, and statutory holidays.

36. Add an exemption for any power device used for the purpose of maintaining a golf course or a public park.

### **Prohibitions by time and place**

37. Remove section 591-4 "Prohibitions by time and place."

### **General Limitations on Stationary Sources and Residential Air Conditioners**

38. Amend section 591-5 as follows: "No person shall cause or permit the emission of sound from a stationary source or residential air conditioner that, when measured with a sound level meter a point of reception, has a sound level (expressed in terms of Leq for a one-hour period) exceeding 50 dB(A) or the applicable sound level limit prescribed in provincial noise pollution control guidelines."

39. Add a provision that the general limitations on stationary sources shall not apply to stationary sources where the emission of sound is in compliance with a provincial environmental compliance approval.

### **Limitation on Sound Levels for Residential Air Conditioners**

40. Remove section 591-6 "Limitation on Sound Levels for Residential Air Conditioners."

## **Unreasonable and Persistent Noise**

41. Remove section 591-2 and add a provision for "Unreasonable and Persistent Noise" as follows "No person shall make, cause or permit noise, at any time, that is unreasonable noise and persistent noise."

42. Add a provision that the section on unreasonable and persistent noise only applies to sound or noise that is not described in § 591-2.1 through § 591-2.8.

## **Exemptions**

43. Remove section 591- 9 and add a provision for "Safety and Government Work" as follows "Despite any other provision of this chapter, it shall be lawful to emit or cause or permit the emission of sound from:

- A. Bells or sirens required for the purposes of public safety including sirens when operated by Police Services, Fire and Paramedic Services, or bells or whistles operated by rail or transit services.
- B. Measures undertaken for the immediate health, safety or welfare of the inhabitants of the City under emergency circumstances.
- C. Government work.

## **Exemption Permits**

44. Add a provision to allow exemption permit applicants to apply for an exemption permit from a noise prohibition or noise limitation provision in connection with one or more events or activities for no more than a three month period.

45. Add that the Executive Director, Municipal Licensing and Standards, may request any relevant additional information as part of the exemption permit application process, to the satisfaction of the Executive Director, including reasons supporting an exemption permit; a noise mitigation plan; a statement certified by a professional engineer or acoustical consultant for any sounds that are not technically or operationally feasible to control.

46. Add a condition requiring exemption permit applicants to post notice of noise exemption in a visible location where the event or construction will occur 7 days prior to the event. This condition may be altered or waived by the Executive Director, Municipal Licensing and Standards.

47. Add a provision that the Executive Director, Municipal Licensing and Standards, may request, as a condition of approval, a noise mitigation plan, or that the sound levels resulting from each event or activity shall be monitored by City staff with the applicant paying the charges for this monitoring as set out in Chapter 441, Fees and Charges.

48. Add that the Executive Director, Municipal Licensing and Standards, may revoke a permit, with or without notice, if there is non-compliance with any terms.

### **Offences**

49. Amend section 591-11 to:

- Increase the maximum fine to \$100,000;
- Add a special fine in an amount equal to any economic gain obtained from non-compliance;
- Designate each offence as continuing offence with a maximum daily fine of \$10,000 and a total fine which may exceed \$100,000;
- Include offences for obstruction and failure to provide information as required;
- Include authority to enter to inspect, to make orders to comply and to take remedial action.

### **Transition**

50. Add provisions for "Transition" as follows:

"The provisions of this Chapter do not apply to exemption permits granted before October 1, 2019 provided that the holder of such permits continue to comply with the conditions of their original permits and that such permits are not revoked, terminated and do not expire."

"All prosecutions and other enforcement processes commenced under this chapter which have not been completed on October 1, 2019 shall be completed as if the chapter had not been amended on that date."

### **Set Fines**

2. City Council direct the Executive Director, Municipal Licensing and Standards to apply to the Ontario Court of Justice for any new set fines, or to increase the current set fines.

### **Implementation**

3. City Council authorize the City Solicitor and the Executive Director, Municipal Licensing and Standards to make such technical and stylistic amendments to Chapter 591, Noise as required to give effect to City Council's decision.

4. City Council direct that the changes to Toronto Municipal Code Chapter 591, Noise, come into force on October 1, 2019.



## FINANCIAL IMPACT

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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

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On April 24, 2018, City Council adopted LS 24.1 Noise By-law Review - Update (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.LS24.1>) and directed the Executive Director, Municipal Licensing and Standards to complete additional research and consultation for the review of Chapter 591, including engaging independent professional facilitators to refine the consultation process, and report back to the Licensing and Standards Committee by the third quarter of 2019 with recommended changes to the By-law.

On June 12, 2017, the Board of Health adopted, with amendments, HL20.5 Health Impacts of Environmental Noise in Toronto (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.HL20.5>). The Board of Health requested the Medical Officer of Health to forward the report to the Executive Director, Municipal Licensing and Standards for consideration in the review of the Noise By-law. In addition, the Board of Health requested the Medical Officer of Health to develop and report back on a noise management action plan aimed at reducing exposure to ambient environmental noise over time.

On September 21, 2016, Licensing and Standards Committee referred LS13.1 Noise - Amendments after Further Consultation (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.LS13.1>) to the Executive Director, Municipal Licensing and Standards to convene a NWG and report back with proposed amendments to Chapter 591 after the NWG has completed its review and Toronto Public Health has completed its Noise Monitoring Study.

On May 19, 2016, the Licensing and Standards Committee deferred LS11.2 Noise - Amendments after Further Consultation (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.LS11.2>) with the request that the Executive Director, Municipal Licensing and Standards establish a working group with representatives from the Toronto Noise Coalition, Residents' Associations, construction and entertainment, business associations, BIAs, and other relevant stakeholders, and report back on September 21, 2016. Noise By-law Review: Update

On January 22, 2016, the Licensing and Standards Committee referred LS9.1 Amendments to Chapter 591 (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.LS9.1>) to the Executive Director, Municipal Licensing and Standards for further community consultation. MLS was directed to report back on eight motions, including additional

consultation, enforcement of motorcycle and amplified sound, adequate staffing for enforcement, expanding prohibited times for construction noise, options to ban or restrict leaf blowers and additional amendments to the exemption process.

## **COMMENTS**

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### **Purpose of the Review**

This report proposes substantial amendments to the Noise By-law (Toronto Municipal Code Chapter 591), after a comprehensive review. The Noise By-law provides standards for noise, and applies to all properties in Toronto. The existing By-law was last updated in 2010, but has not been comprehensively reviewed since 2002. In that time, the city has continued to develop and evolve in many ways.

Since 2014, there have been 11 directives from Committees and City Council to conduct additional research and consultation on various topics within the By-law. Direction from City Council includes considering the Toronto Public Health (TPH) report on health impacts of noise, evaluating the staffing complement required to enforce noise and other By-laws, reviewing the noise exemption permit process, increasing fines for noise offences, and to explore regulations related to noise caused by leaf blowers, motorcycles, and construction activities, including continuous concrete pouring activities, and large crane work.

### **Overview of Noise Guidelines and Regulations**

Noise is managed and regulated through municipal, provincial and federal guidelines and regulations. There are also a number of noise guidelines from national and international bodies that provide advice on noise control and management. The following sections provide an overview of these different guidelines and regulations.

#### *Provincial*

The Province of Ontario provides regulations for workplace exposure to noise, as well as noise from transportation and stationary sources. For example, Ontario's Occupational Health and Safety Act sets out noise protection requirements for workplaces, including construction, health care, schools, and fire/police services. While the federal government sets national emissions standards for motor vehicles, the Highway Traffic Act includes provisions to manage noise from the operation of motor vehicles, including the authority for emergency vehicles to have sirens.

The Ministry of Environment, Conservation and Parks (MECP), under the authority of the Environmental Protection Act, also regulates environmental noise emissions by establishing sound level limits for stationary sources, and setting requirements for noise impact studies for land use planning decisions. These recommendations are contained in MECP's Environmental Noise Guideline - Stationary and Transportation Sources - Approval and Planning (NPC-300). Examples of noise under provincial jurisdiction include provincial infrastructure projects (e.g. Metrolinx), provincial railways (e.g. Go Transit) and highway developments as well as regulations for stationary sources and air conditioners.

### *Federal*

The federal government sets out national guidelines and regulations for various types of noise, including general guidelines for exposure in the workplace, noise from aircraft, transportation, federal infrastructure projects, federal railways, and wind turbines. The Canadian Centre for Occupational Health and Safety's Noise Occupational Exposure Limits provides regulations to manage noise exposure in the workplace for occupational safety. The Canada Transportation Act includes regulations for aircraft noise management, aviation regulations for noise, as well as guidelines for the resolution of complaints over railway noise and vibration. Other noise regulations from transportation sources include the Motor Vehicle Safety Regulations, which set noise emissions standards for motor vehicles. Health Canada also provides overall advice and guidelines for protection against environmental noise, and has provided advice on health impacts and management of wind turbine noise.

### *International*

The World Health Organization (WHO) directs international health within the United Nations and provides advice and guidance on global health responses. In 2018, WHO developed the Environmental Noise Guidelines for the European Region, based on growing research of the health impacts of exposure to environmental noise. The Environmental Noise Guidelines provide recommendations on exposure levels for environmental noise from sources such as transportation (road traffic, railway and aircraft), wind turbines and leisure, based on scientific evidence of the health effects.

## **How Does the City of Toronto Regulate Noise?**

Regulations and guidelines at the international, federal and provincial levels are typically concerned with health impacts of environmental noise (defined by WHO as noise from all sources with the exception of workplace noise) and ambient sound level. At the City, Toronto Public Health (TPH) is currently working with City partners, including MLS, to develop a Noise Action Plan to identify potential environmental noise mitigation strategies. By comparison, the City of Toronto's Noise By-law, Toronto Municipal Code Chapter 591, regulates episodic types of noise. Episodic noise is generally related to the day-to-day activities of residents and businesses, including temporary events and construction. Episodic noise in Toronto is regulated and enforced by MLS.

### *Toronto Public Health – Noise Action Plan*

In 2016, TPH conducted a noise monitoring study to identify the levels of noise in the City. The levels of noise in Toronto are similar to those in other cities, such as Montreal and Vancouver. The study found that nearly 60 percent of noise in Toronto can be attributed to road traffic noise. In addition, residents living near major arterial roads or in areas with mixed commercial and residential uses are especially vulnerable to environmental noise from traffic sources.

As directed by the Board of Health in June 2017, TPH is developing a Noise Action Plan, targeting completion in 2019, aimed at reducing exposure to ambient environmental noise over time. Environmental noise can include road traffic, railway lines, air traffic, and other sources. There is growing awareness about the health impacts associated with ambient environmental noise, including hearing loss, sleep disturbances, and annoyance. TPH will work with City partners, including MLS, City

Planning, Transportation Services, and others to identify environment noise mitigation strategies for the City. The basis for addressing this issue through the Health Protection and Promotion Act has not been established therefore this issue is appropriately enforced through MLS By-law and enforcement.

#### *Toronto Municipal Code, Chapter 591, Noise*

The Noise By-law provides standards for noise, and applies to all properties in Toronto. The By-law regulates a variety of noise sources including animals, amplified sound, construction, domestic power equipment, motor vehicles, residential air conditioners and other stationary sources. In some cases, noise guidelines set out by the provincial government are included in the Noise By-law for enforcement at the municipal level. Examples of this include stationary sources and residential air conditioners where regulations are set by the Province of Ontario, but enforcement is undertaken by the City's By-law Enforcement Officers (BEOs, formerly known as Municipal Standards Officers, or MSOs). The Noise By-law does not regulate environmental noise, noise in the workplace or noise from airports, airplanes, railway or wind turbines, as these are under provincial or federal jurisdiction.

#### *Toronto Police Transformational Task Force*

In 2018, the City's approach to the enforcement of noise underwent a review as a result of the work that arose from the Toronto Police Services' (TPS) Transformational Task Force. In an effort to refocus the TPS on priority responses, the Transformational Task Force recommended that all noise complaints that do not demonstrate a clear risk to public safety should be redirected to MLS. This recommendation was implemented in May 2018. The TPS continues to respond to noise complaints from large parties or events where there is a risk to public safety, and can work collaboratively with MLS to enforce noise from motor vehicles.

MLS has seen an increase in some types of noise complaints in 2018, including general complaints about noise from private residences. While this may be partially attributable to the redirection of noise complaints from TPS to MLS, the number of complaints is within the normal range of complaints that MLS has received over the years. As a result, MLS does not anticipate the need for additional BEOs.

## **Research and Consultation**

The proposed changes to the Noise By-law are based on updated research and consultation completed throughout 2018, and the beginning of 2019.

In April 2018, MLS recommended additional research and consultation to address the outstanding issues in the Noise By-law. This additional work included:

- Procuring an independent acoustical engineering firm to provide a technical review of the current and proposed Noise By-law as well as the feedback collected from members of the NWG;
- Conducting broad and statistically significant public opinion research on resident attitudes, experience and concerns with noise in the city of Toronto;
- Pursuing additional research and data analysis, including jurisdictional best practices/approaches; and

- Undertaking further consultation with internal and external stakeholders.

The results of this additional research are summarized below as well as incorporated into the analysis and rationale of each recommendation.

### *Complaints*

The annual number of noise complaints received by MLS has remained fairly consistent since 2015. Prior to 2015, 311 documented complaints by "event" (that is, multiple complaints about noise from a single concert would be recorded as one complaint). In 2015, 311 began documenting each call as a unique complaint. Due to this process change, data before 2015 is not comparable.

General noise complaints from private property can be further broken down by construction noise, loud music, general noise, mechanical noise and air conditioner noise. The highest complaint category under general noise complaints from private property is construction noise, followed by loud music.

Year	General Noise Complaints from Private Property	Amplified Sound from Licensed Establishments	Animal Noise	Total Noise Related Service Requests
2015	8,363	667	2,267	11,297
2016	7,402	640	2,004	10,046
2017	8,399	638	2,028	11,065
2018	10,154	761	2,059	12,974

Additional noise data is available in Attachment B.

### *Third Party Public Opinion Research*

To understand the general attitudes and opinions of residents towards noise, MLS procured third-party public opinion research. In February 2018, Ipsos Reid conducted 1,001 interviews with Toronto residents over the age of 18. Interview quotas, based on the 2016 Canadian Census, were used to ensure the sample size was representative of the general population by age, gender and region within the City. This enables the results to be projectable to the total population of adult Toronto residents, with an accuracy within +/- 3.5 percentage points.

Key findings include:

- Slightly fewer than half (46%) of residents are concerned about noise pollution. Other issues of concern to residents include traffic and congestion (77%), public safety (75%), overcrowding on public transit (74%), housing affordability (73%), and the environment (65%).
- Residents are most concerned about noise caused by construction and/or heavy equipment. Notably, residents are less accepting of construction noise caused by

residential and commercial building construction, compared to noise caused by municipal infrastructure construction.

- Overall, a majority (64%) of residents believe that noise levels in the city of Toronto are reasonable and reflect life in a big city. 36% of residents believe that more needs to be done to restrict noise because of potential negative health consequences.
- On average, residents prefer that noise be restricted before 8 am and after 7:30 pm on weekdays and before 9:30 am and after 7 pm on weekends.
- Residents are generally confused about rules and By-laws for restricting noise in the city of Toronto. They were only able to correctly identify existing By-laws and rules 57% of the time.

The full report by Ipsos Reid is provided in Attachment C.

#### *Technical Reviews by Acoustical Engineering Firms*

MLS retained the services of two acoustical engineering firms, Valcoustics Canada and SS Wilson, to provide technical advice on the review of Chapter 591, Noise. A full technical review was completed by Valcoustics, including:

- Identifying issues and areas of concern in the current By-law and 2016 proposed By-law;
- Reviewing the practicality of banning or setting decibel limits on leaf blowers; and
- Analyzing the noise codes or ordinances of three other comparable jurisdictions (New York City, Chicago and Portland) to determine possible best practices.

The final report provided by Valcoustics is provided in Attachment D. SS Wilson was additionally retained to review and validate quantitative limits for amplified sound and residential air conditioners. The advice provided by both firms was used in the development of proposed changes to the Noise By-law.

#### *Public Consultations*

Since 2015, MLS has conducted an online survey, hosted several public consultation and stakeholder meetings, and received hundreds of submissions from residents, resident associations and industry groups. The NWG held in 2017 also provided MLS with an opportunity to work more in-depth with stakeholders. The outstanding issues identified during the NWG process helped form the basis of the next round of consultations, led by a third-party facilitation team.

As part of the April 2018 staff report, City Council directed MLS to procure a third-party facilitation team to lead the next round of public consultations. Working with Swerhun Facilitation, MLS hosted five public consultation meetings from January to February 2019, with approximately 220 participants. Each public consultation meeting was based on an outstanding issue from previous rounds of consultations: Power Equipment, Motor Vehicles, Amplified Sound, Construction and General Noise.

The public consultation meetings were structured around small-group discussion. At the beginning of each meeting, MLS provided a brief presentation outlining contextual information, and proposed criteria and policy options. Participants were then asked to discuss the following questions:

- What are the most important criteria to consider when contemplating updates to the City's Noise By-law, and why? Are there any additional criteria to consider?
- What are 2-3 benefits and drawbacks of the options being considered?
- Do you have any other advice for City staff to consider as they develop their final recommendations to Council?

The feedback provided during these meetings was documented in summaries by Swerhun Facilitation, included in Attachment E. In addition to the public consultation meetings, MLS received over 300 written submissions to the MLS Feedback email account.

## **Proposed Changes to the Noise By-law**

Proposed changes to the Noise By-law are explained below. A proposed draft By-law is also provided in Attachment A. During the consultations, a number of related noise issues arose. Not all issues concerning noise could be addressed in the By-law due to the legal authority of the City of Toronto. The report outlines below the discussion on these issues, including any recommendations or potential operational changes to be considered.

### **1. Amplified Sound**

#### *Current Regulations*

The Noise By-law, under a specific prohibition, prohibits individuals from causing or permitting amplified sound, at any time, that projects beyond the lot line of the property and into any street or public space.

The By-law also includes a prohibition by time and place for amplified sound. Amplified sound is prohibited at any time in a quiet zone, from 11 pm to 7 am on Monday through Saturday and from 11 pm to 9 am on Sunday and statutory holidays, in a residential zone.

In previous consultations, MLS staff heard that the regulations were confusing and logically inconsistent, as there are two provisions addressing amplified sound: one prohibiting amplified sound at all times beyond the lot line, and the other prohibiting amplified sound during certain times.

#### *2016 Proposal*

In the January and May 2016 staff reports, MLS proposed removing the lot line provision for amplified sound, and adding decibel limits to the prohibition by time and place. MLS staff originally proposed daytime decibel limits of 85 dB(A) or 105 dB(C) and nighttime limits of 45 dB(A) or 65 dB(C), measured at the point of reception. Members of the public expressed concern that these initial daytime limits were too high. In response, MLS staff proposed in the May 2016 staff report, residential daytime decibel limits of 50 dB(A) or 60dB(C) and residential nighttime limits of 50-55 dB(A) or 65-70 dB(C), when measured at a point of reception, indoors or outdoors. MLS staff also proposed new rules for ambient sound levels to account for noisier neighbourhoods (due to traffic, density, and local businesses), where noise is not in compliance if it is 5 decibels (measured in dB(A) or dB(C)) above the ambient sound level.

### *Research and Consultation Findings*

During the NWG meetings, participants identified that using quantitative sound limits (decibel limits) could increase the objectivity of the Noise By-law as it sets a limit that can be monitored by business, industry and the public (through sound level meters and measurement guidelines). Businesses (including music venues) stated that they have limited ability to determine if they are operating within the "clearly audible" limit set by the current Noise By-law due to the subjective nature of the requirement. Ultimately, stakeholders from the music industry would favour a reasonable amount of noise to be permissible but subject to specific decibel limits. They also supported point of reception measurement, or measurement at the property line of the complainant. Members of the Toronto Noise Coalition (TNC) are generally concerned about point of reception measurement as they believe it is onerous and intrusive for complainants. Industry and members of the public also supported recent planning improvements, such as the "Agent of Change" principle.

Agent of Change is now applied in many jurisdictions around the world, and promotes the idea that a business or entity responsible for local change is also responsible for managing the impact of this change. In 2018, to help preserve Toronto's live music culture and economy, the City's Economic Development and Culture division's Music Office began reviewing and commenting on development applications situated within a 120-metre radius of an existing live music venue or an outdoor or indoor non-traditional space used for live performances. Comments are provided to the applicant via the community planner. The Music Office also notifies live music venues located within 120 metres of development sites about these proposed developments and offers to connect the venue owners/operators with City Planning staff responsible for the application. This process is intended to reduce the likelihood of future conflict between music industry stakeholders and the residents in new developments.

At the 2019 public consultations, MLS presented three policy options: status quo, updated time constraints, and updated time constraints with decibel limits. Participants generally supported updated time constraints with decibel limits. It was noted that using quantitative limits is also in line with comparable jurisdictions, such as Calgary, Edmonton and Ottawa in Canada, and Austin, Nashville, New York and San Francisco in the USA. This is summarized in Attachment F. In the public opinion research, a majority (77%) of residents agree that decibels should be used to measure how loud an event or object (e.g. machinery, equipment) is, and that they are comfortable with a By-law officer entering their property to assess the noise (73%). Point of reception measurement is also supported by both Prosecutions in Legal Services, and by acoustical engineers as local environmental contexts can vary greatly. For example, a restaurant or bar may be in a relatively quiet and secluded industrial area, unlikely to disturb any residents, or it can be located in a dense residential neighbourhood. Therefore, determining the level of disturbance at the point of reception, rather than at source, is paramount.

Decibel limits proposed by MLS are in line with recommendations from the technical reviews of the Noise By-law. They are also reflective of what is set out in the provincial noise guidelines (NPC-300). To be consistent with provincial guidelines, the acoustical engineers also recommended the use of the Leq (energy equivalent sound level)



descriptor, which is a sound level average over time. Compared to some other Canadian cities like Calgary, Edmonton and Vancouver, the proposed sound limits are low. However, they are higher than those set by New York, another large and densely populated city.

The use of Leq (energy equivalent sound level) as a descriptor is supported by both acoustical engineering firms, and used in the provincial noise guidelines. Leq is very sensitive to high sound level events, even if the sound event lasts for a short period of time, and is therefore sensitive to potential impacts on residents.

### *Proposed Changes*

MLS recommends two sets of quantitative limits for amplified sound, both using Leq as a descriptor. The first set of quantitative limits would be measured at the point of reception, in an outdoor living area. This satisfies the need to measure the level of disturbance at the point of reception, while also considering the impact on residents. The proposed decibel limits, 50 dB(A) or 65 dB(C) at night (11 pm – 7 am) and 55 dB(A) or 70 dB(C), during the day (7 am – 11 pm) are also consistent with the provincial noise guidelines. If it is not reasonable to measure in an outdoor living area at the point of reception, then MLS proposes a second set of quantitative limits, in an indoor living area: 45 dB(A) or 60 dB(C) at night and 50 dB(A) or 65 dB(C) during the day.

MLS proposes measuring for a minimum period of 10 minutes. The use of a time period and descriptor (Leq) was supported by both acoustical engineering firms as it provides additional objectivity. Without a time period or descriptor, the measurement of noise may be subject to different interpretations. Acoustical engineering consultants did not support the 2016 proposal of 5 minute measurements, as this was deemed too stringent. They recommended taking a series of 10 minute measurements to capture an accurate reading.

During investigations, to account for the ambient sound level, two sound measurements are required, close in time, both preferably at the point of reception; one measurement with the source off which would yield the ambient sound level and one measurement with source on which would give the cumulative sum of ambient sound level plus the source sound level. Subject to what the difference is, a calculation may need to be done to determine the source sound level [(source + ambient) – ambient = source]. The ambient sound level is primarily determined by traffic noise. When the ambient sound level exceeds the proposed limits for amplified sound, it is recommended that the sound level of amplified sound should not exceed the ambient sound level.

## **2. Construction Noise**

### *Current Regulations*

The existing Noise By-law sets out prohibited time periods for construction noise; in a residential area or quiet zone from 7 pm to 7 am the next day; before 9 am and after 7 pm on Saturdays and all day Sunday and Statutory Holidays. Large crane work, continuous concrete pouring and necessary municipal work are currently exempt from the time prohibitions. If construction activities need to occur outside permitted hours, individuals or businesses may apply for a noise exemption permit.

### *2016 Proposal*

In the May 2016 staff report, staff recommended retaining these time prohibitions but removing the blanket exemption for continuous concrete pouring and large crane work. The report also proposed requiring certain conditions as part of the noise exemption process, including public notice and noise mitigation plans. At the time, residents, industry, and other stakeholders were divided on the time constraints, and the components of the noise mitigation plan. Industry was not supportive of removing the blanket exemption for continuous concrete pouring or large crane work.

### *Research and Consultation Findings*

Toronto is a rapidly growing city, leading North America with the highest number of construction cranes. According to the July 2018 crane index from Rider Levett Bucknall, Toronto had 97 cranes, compared to 20 in New York City, 40 in Chicago, and 65 in Seattle. Many construction projects are occurring across the city which aid City goals, such as maintaining and improving existing municipal infrastructure, expanding the transit network, and addressing the shortage of housing.

With the high level of construction activity, construction-related noises are one of the main sources of noise complaints, representing about one-third of all general noise complaints. Through the public opinion research, it was determined that residents are generally more understanding of transportation infrastructure construction activities that need to be completed overnight to avoid daytime disruptions (for example, road closures), and construction activities that cannot stop once they have started (for example, continuous concrete pouring). Residents are generally less understanding of commercial and residential overnight construction activities. Overall, industry stakeholders prefer the flexibility that the current By-law offers, while residents would like to see more conditions that can help manage the impact of noise on local communities. There is a need for the By-law to ensure flexibility for construction activity, while providing rigour in minimizing resident disruption.

MLS presented four proposed policy options during the public consultation process: the status quo, updated time constraints and the removal of the blanket exemptions for continuous concrete pouring and large crane work, additional requirements for construction noise exemptions, and the ability to require noise mitigation plans for all construction activities.

Research and consultations revealed that while there is common ground on some issues, residents and industry remain divided on others. Although the public opinion research demonstrated a general preference for noise to begin after 8 am, overall, there was support for maintaining the existing time constraints for construction, understanding the potential traffic disruptions and delays. Residents support removing the blanket exemption for continuous concrete pouring and large crane work, while industry was concerned about the additional time and effort required for noise exemption permits. There was discussion about introducing quantitative noise limits for construction activity, which received support from some residents. However, this option was not supported by industry, enforcement representatives, or by the third-party acoustical engineers, due to the feasibility of setting standards for construction equipment.

### *Proposed Changes*

The recommended amendment maintains the time constraints and removes the blanket exemption for continuous concrete pouring and large crane work. Any construction work that may need to be completed outside of the permitted times, including continuous concrete pouring and large crane work, would require a noise exemption permit, as well as additional information and conditions at the discretion of the Executive Director, MLS. This recommendation allows for flexibility for construction activity, while balancing resident concerns about excessive noise. It also manages the volume of administrative work and potential project delays, and simplifies and increases clarity for compliance and enforcement.

## **3. Motor Vehicles**

### *Current Regulations*

The existing Noise By-law sets out restrictions for motor vehicle noise, prohibiting noise from the following acts:

- a) Racing a motor vehicle outside of a regulated racing event;
- b) Squealing tires;
- c) Operating a motor vehicle without an effective exhaust, intake-muffling device or other sound attenuation;
- d) Banging, clanking, squealing or other sounds due to an improperly secured load; or
- e) Using a horn or other warning device except where required or authorized by law.

The current motor vehicle regulations duplicate provisions in the provincial Highway Traffic Act. Currently, enforcement officials, like BEOs, who are Provincial Offences Officers, do not have the authority to pull over a vehicle. Section 216(1) of the Highway Traffic Act grants police officers the specific authority to pull over a vehicle "in the lawful execution of his or her duties and responsibilities."

The Noise By-law also includes prohibitions by time and place for vehicle repairs as well loading, unloading, delivering, packing, unpacking, and other otherwise handling containers, products or materials.

### *2016 Proposal*

In the May 2016 staff report, MLS proposed maintaining the current motor vehicle regulations as it was determined through discussions with TPS that existing provisions under the Highway Traffic Act and Chapter 591, Noise were sufficient to address all types of motor vehicle noise, including noise created by motorcycles. Staff also recommended removing the prohibitions by time and place for vehicle repairs, and deliveries, as they could be considered under a general prohibition with time constraints. Removing the prohibitions by time and place for vehicle repairs and deliveries was not supported by residents.

### *Research and Consultation Findings*

During the 2019 consultations, MLS presented three proposed policy options for consideration and discussion, including the status quo, an option providing opportunity for targeted joint enforcement with TPS, and an option to improve enforceability by MLS BEOs. Status quo provisions are a challenge for BEOs, not only because they do not have the authority to pull over a moving vehicle, but also because the By-law includes statements that are difficult to enforce (e.g. “racing of a motor vehicle”). The Transformational Task Force has also directed TPS to focus on issues of public safety, making the enforcement of motor vehicle noise challenging. Some of the conditions within the status quo are also difficult for BEOs to determine whether there is compliance (e.g. sounds due to an “improperly secured load” or “inadequate maintenance”).

Overall, residents and other stakeholders supported an option that facilitates coordinated enforcement efforts between TPS and MLS, recognizing that the presence of certain motor vehicle provisions in the By-law would exist only to allow for enforcement and intervention during specific situations (that is, provisions that would allow for joint traffic blitzes targeting motor vehicle noise in areas with a high volume of complaints). Residents also noted that a noise limit for motorcycle noise should be defined, to ensure objective measurement and ease of compliance. Residents were not supportive of any proposal that removed the opportunity for joint enforcement between MLS and TPS.

MLS reviewed motor vehicle noise enforcement practices used in other municipalities, including Hamilton, Oakville, Caledon, and Edmonton. In all cases, staff found that enforcement efforts were led by the local or regional police services. In one case (Oakville), police partner with City By-law enforcement staff to enforce motor vehicle noise. Examples of motor vehicle noise enforcement strategies include traffic blitzes, sound/photo radars, and LED decibel display boards. Traffic blitzes are short-term, intensive enforcement efforts, often conducted over one or more weekends throughout the year, at strategic locations, targeting specific traffic violations (e.g. speeding, impaired driving). Traffic blitzes are the most widely used enforcement tool, and have been used by police in several municipalities to target sources of motor vehicle noise (e.g. vehicles with modified or damaged exhausts, modified motorcycles, decibel limit measurements). Sound/photo radars are a new technology designed to help automate or enhance vehicle noise enforcement (similar to red light cameras), and is currently being piloted with proprietary technology in Edmonton. MLS has connected with Edmonton, and is currently awaiting the results of this pilot. LED display boards, which display the decibel level of nearby vehicles, have also been piloted in Edmonton. Preliminary results suggest the displays attracted more sound and caused confusion among residents.

Through a jurisdictional scan, MLS identified some cities that have established a decibel limit for motorcycles, including Caledon, Oakville, and Edmonton. A scan of U.S. states also found that at least 12 states have established decibel limits for motorcycles. Of these, two states set limits by date of manufacture of the motorcycle. Six states have set limits of approximately 82-86 decibels (either at a certain speed, e.g. 35-45 mph, or at a distance of 50 feet from the centre of the lane in which the motorcycle is traveling). The state of New Hampshire and the municipalities of Caledon and Oakville are among

some of the jurisdictions that use the decibel limits (including 92 dB(A) at idle and separate decibel levels for RPM tests) and test procedures recommended by the Society of Automotive Engineers (SAE J2825). Edmonton has adopted a simplified version, 92 dB(A) at idle, and 96 dB(A) while the engine is at any speed greater than idle. For comparison, popular after-market systems for Harley-Davidsons might generate sound levels of 115 dB(A). Cities using the decibel limits recommended by the SAE generally advise that the majority of motorcycles do comply with By-law limits, and that usually only modified motorcycles of those with after-market exhaust systems are a cause for concern.

#### *Proposed Changes*

MLS recommends maintaining regulations related to unnecessary motor vehicle noise while removing ambiguous language to improve clarity. MLS also recommends adding sound level limits for motorcycles, adopting the decibel limit (92 dB(A)) and test procedure for idle motorcycle engines recommended by the SAE. This simplified measurement balances the need for objective limits with effective enforcement. With the proposed changes, the Noise By-law would continue to be available as an additional tool for TPS to use in enforcing motor vehicle noise. MLS is currently exploring opportunities to use these tools to promote greater awareness of motor vehicle noise regulations. MLS is also exploring opportunities to collaborate with police to conduct traffic blitzes in high priority areas (for example, one police officer and one MLS By-law enforcement officer could conduct blitzes for one or two weekends each year - time and location to be determined through further analysis of MLS complaint data). The proposed changes also maintain restrictions for vehicle repairs and loading/unloading, with time constraints, but removal of the zone restrictions.

## **4. Power Devices**

#### *Current Regulations*

The existing Noise By-law sets out periods of time where the operation of any power device including leaf blowers is prohibited:

- In quiet zones, overnight from 7 pm to 7 am on Monday through Saturday mornings; all day Sunday and Statutory Holidays,
- In residential zones, overnight from 9 pm to 7 am on Monday through Saturday mornings; all day Sunday and Statutory Holidays.

A power device is any powered device used in the servicing, maintenance or repair of property except devices driven by muscular power and snow blowers.

#### *2016 Proposal*

As part of the 2016 proposal, MLS recommended removing the section on prohibitions by time and place, including for power devices. The proposed change would include the prohibitions by time and place under a general prohibition with time constraints. The intent was to simplify the By-law and facilitate compliance. This change was not supported by residents or the TNC. In addition, the Licensing and Standards Committee directed MLS to explore banning or setting a decibel limit of 45 for leaf blowers.

### *Research and Consultation Findings*

During public consultations in 2019, MLS presented four policy options for power devices: two for power devices generally (status quo or updated time constraints) and two for leaf blowers (prohibition by distance or a decibel limit). Participants at the public consultation were generally supportive of updated time constraints, particularly if they were more restrictive. Most public feedback regarding power devices was related to leaf blowers. Participants at the meeting suggested a range of options, including setting decibel limits, restricting their use during certain seasons, or banning the use of leaf blowers in the city of Toronto.

To assess the feasibility and effectiveness of these regulatory approaches, staff have conducted a jurisdictional scan and consulted members of the retail, landscaping, manufacturing and golf industries. Industry members unanimously disagree with banning or setting a decibel limit of 45 decibels for leaf blowers because they are often necessary maintenance tools for businesses. They have indicated that banning leaf blowers could cause significant cost increases to businesses and consumers. If businesses were to rely on the physical removal of leaves (that is, raking) or less efficient leaf blower models (that is, battery operated) it could increase the time and cost to complete a task. The City has also piloted the use of battery-operated leaf blowers in City parkettes, but it was determined that the equipment is not viable for the City's larger parks.

Industry also noted that a decibel limit of 45 is currently unachievable for leaf blowers. Retailers raised the issues that banning or setting decibel limits for leaf blowers only deals with one type of garden equipment, and does not address other loud equipment such as snow blowers and lawn mowers. Representatives from the manufacturing sector of lawn equipment also noted that the power equipment industry is continuously developing equipment that is safer for the public and environment.

While restricting the use of leaf blowers either by distance to a residential property, or by a decibel limit of 65, was also considered, it was deemed administratively difficult and overly restrictive given the low volume of complaints received by the City. Over the last four years, the City has received between 27 and 52 noise complaints annually related to leaf blowers. Approximately half of these complaints are during currently permitted times, and half are during prohibited times. In the public opinion research, 11% of residents supported a ban on leaf blowers in the city.

In the technical review of the Noise By-law, it was noted by Valcoustics that there are practical concerns with introducing decibel limits for leaf blowers, including determining the viability of the market and mandating the labeling of equipment. It is not mandatory for manufacturers to include decibel labels on small engine equipment in Canada.

At the 2019 public consultations it was noted by some participants that regulations for leaf blowers should be considered in conjunction with environmental health impacts. The City of Toronto Environment and Energy Office previously reported to City Council in July 2017 on the environmental effects of leaf blowers in their report, Transform TO (PE19.4). They noted that the "total amount of emissions from small engine equipment in relation to other sources (e.g. transportation, heating equipment in buildings) is very small. There is insufficient data to support discussions about an absolute ban under the

City's powers to regulate for the purpose of the health, safety and well-being of persons and the environmental well-being of the City. Based on available research, not enough evidence exists to make a strong link between the use of small engine equipment and air quality and climate change concerns."

### *Proposed Changes*

MLS recommends creating a separate section of the Noise By-law for power devices, and updating the current time constraints to be aligned with the time constraints for construction, reducing confusion and making it simpler and easier for the public and industry to abide by. The proposed time constraints restrict the use of a power device from 7 pm one day to 7 am the next day, 9 am on Saturdays and Sundays, and all day on statutory holidays.

MLS also recommends changing the definition of power device to be more reflective of lawn care equipment. Currently, the broad definition of power device is too closely related to construction equipment, resulting in inconsistent interpretations by the public and enforcement. The recommended definition of power device includes chainsaws, power lawn mowers, leaf blowers, grass trimmers or any other similar power landscaping equipment. Power devices used for construction, such as power saws and jackhammers, will be considered as construction equipment. Any power tools used for the maintenance of public parks would be exempt, as they are considered government work, as well as for the removal of snow.

## **5. Unreasonable and Persistent Noise/General Prohibition**

### *Current Regulations*

The general prohibition currently states that "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."

### *2016 Proposal*

In the May 2016 staff report, MLS proposed time constraints to the general prohibition in an effort to make the By-law clearer and reduce the need for specific prohibitions, however, members of the NWG expressed concerns with this option as it could leave people vulnerable to noise during the day.

### *Research and Consultation Findings*

During the 2019 consultations, MLS presented four proposed policy options for consideration and discussion, including the status quo, an option for measuring noise relative to the local ambient sound level, new time constraints, and removing the general prohibition.

There was general agreement from participants at the consultations that the term "likely to disturb" is challenging for enforcement, due to its subjectivity. The proposed use of "unreasonable" received some positive feedback, but it was noted that if included, the terms should be defined. Most participants agreed that using a "relative to ambient" measure would also be challenging, as it would be administratively difficult to establish a reliable and reflective ambient sound level for every noise complaint.

As with discussions in 2016, the 2019 consultations revealed a general agreement that adding time constraints to the general prohibition does not adequately protect residents during the day. While the removal of the general prohibition received some support, most stakeholders would like a general prohibition to remain, as it provides protection to residents if a specific prohibition is not applicable.

The current By-law includes a provision stating that where the source of sound is subject to more than one provision of the By-law, the most restrictive provision shall apply. Internal consultations revealed that although the intention was for specific prohibitions (where available) to be considered "more restrictive" than the general prohibition, in practice, this was sometimes interpreted the other way, leading to confusion.

### *Recommendation*

MLS recommends removing the general prohibition and adding a provision for "unreasonable and persistent noise." This provision would state that "no person shall make, cause or permit noise, at any time, that is unreasonable noise and persistent noise". This provision would only be used when unreasonable and persistent noise is not captured by one of the specific prohibitions. This will improve clarity and reduce potential for confusion and misinterpretation of the By-law. To manage and prioritize any complaints where this prohibition applies, MLS would assess complaints using the priority response model.

## **6. Exemption Permits**

### *Current Regulations*

Noise exemption permits may be requested for special events, events in parks, and construction activity that extends beyond permitted hours. Exemption permits are reviewed by the local City Councillor(s), and approved if the Councillor does not respond within 14 days. Currently, the authority to revoke a permit once issued, regardless of non-compliance, is not set out in the By-law.

If an exemption permit is denied, an applicant may appeal within 21 days of the decision to Community Council. If more than one Community Council is affected, then each Community Council would make recommendations to Council. If appealed, then notice of hearing is sent to all residents within 100 metres of the location of the event or activity is proposed to be held.

### *2016 Proposal*

In the 2016 staff report, MLS proposed maintaining the 85 dB(A) decibel limit, but measured at a point of reception. Councillors would also continue to have authority with respect to the decision. MLS would be delegated authority to revoke a permit if there was a violation. MLS also proposed granting the Executive Director of MLS the authority to impose certain conditions on exemption permits such as, a requirement for a noise mitigation plan, noise monitoring, and certain communications outreach, including posting notice of the exemption 7 days prior to the event.

Feedback on changes to exemption permits was mixed. The TNC supported noise mitigation plans as a strategy to mitigate noise. However, they were concerned with the



quantitative noise limit of 85 dB(A) measured at a point of reception. Members of the construction industry did not support the additional condition of noise mitigation plans due to concerns over additional administrative and time burdens.

#### *Research and Consultation Findings*

MLS presented five options during the 2019 public consultation meetings: status quo, streamlined process, delegated authority, graduated exemption process, and no exemption process. Generally, the public supported an exemption permit process; however, there was a concern over the number of exemption permits and their rate of approval. The public supported MLS being provided the authority to revoke a permit, and to impose certain conditions on a permit. There was also unanimous agreement between industry and residential members that if noise mitigation plans were introduced, the review and approval of these plans must be timely and efficient, which may require additional technical resources or training for MLS staff to undertake the reviews.

#### *Proposed Changes*

MLS recommends that Councillors will continue to have 14 days to review an exemption permit. Exemption permits will continue to be automatically approved if they have not been denied by a Councillor(s) within the 14 day time period. MLS also proposes maintaining the current appeal process through Community Councils.

MLS proposes a more streamlined exemption permit process, and to add an authority to revoke a permit and impose certain conditions on an applicant when necessary. For example, MLS may request a rationale for granting the exemption, a noise mitigation plan which addresses measures to mitigate or manage noise from planned activities, a qualified statement from a professional engineer for any sounds that are not technically or operational feasible, or noise monitoring. MLS would make these requests based on criteria such as event duration, size of event, location and proximity to residential properties, type of equipment which may be used, and history of compliance.

A noise mitigation plan for construction would include items such as a checklist of equipment being used, self-certification that all construction equipment has been maintained to operate in normal manufacturing operating condition, and where possible, noise barriers and enclosures are being utilized. For other exemption permits, such as concerts, a noise mitigation plan would include a description of sound systems and their set-up, a dedicated contact for the duration of the event, and a general description of measures used to reduce or manage noise.

The request for conditions may come during the initial City review of the application, or in consultation with the City Councillor. Adding the authority to impose conditions on exemption permits enables the City to proactively address noise. Applicants will also be required to post notice of the exemption, at least 7 days prior to the event. This was supported by residents who wished to be aware of events and construction activities occurring in their area. MLS also proposes streamlining the application process by allowing an applicant to apply for one permit to cover multiple events over a period of not more than 3 months.

## 7. Other By-law Recommendations

Certain items in the Noise By-law were not identified as significant topics for public consultation in 2019 including animal noise, offences, specific exemptions, and stationary sources. These items either did not have an outstanding directive from City Council, were considered resolved prior to the 2019 public consultations or the City is limited in its ability to change regulations due to provincial or federal jurisdiction.

### *Animal Noise*

Animal noise was not identified as an outstanding directive by City Council. During previous consultations, MLS heard that regulations related to animal noise are sufficient. Currently, persistent barking, calling or whining by any animal is prohibited at any time. In the new Noise By-law, MLS proposes maintaining this regulation as well as adding a definition of persistent noise. MLS proposes adding the following definition for persistent noise: any noise that is continuously or incessantly heard for a period of ten minutes or more or intermittently over a period of one hour or more. A definition of persistent noise, seen in other jurisdictions such as New York City, allows for consistent By-law interpretation by the public and enforcement.

### *Offences*

Under the current Noise By-law, any person who contravenes any provision is guilty of an offence, and is liable to a fine of not more than \$5,000. MLS has the ability to lay a charge either as a ticket with a set fine ranging from \$155 to \$305 depending on the offence, or by issuing a summons with the maximum fine of \$5,000. If an individual or business is ticketed, they have 3 options: pay the set fine, meet with a prosecutor/walk-in guilty plea or request a trial. MLS applies for set fines through the Ontario Court of Justice. Summons are typically used for more serious offences, where the defendant must appear before a Justice of the Peace. The defendant either reaches a plea agreement with the prosecutor or has a trial.

MLS was directed to review and increase the penalties under the Noise By-law. In a review with Legal Services, it was determined that the Noise By-law will align with other recent By-law updates, such as Article 7 of Chapter 354, Apartment Buildings. It includes a higher fine threshold (no more than \$100,000), mandating each offence as a continuing offence (where the total of all daily fines may exceed \$100,000) and mandating that every director or officer of a corporation is also liable of an offence. As part of the implementation of the new Noise By-law, MLS will also apply for higher set fines with the Ontario Court of Justice. These changes improve consistency across By-laws, and provide for greater penalties for violations.

### *Specific Exemptions*

Despite any other provision, certain activities in relation to municipal, provincial or federal work are exempt from the Noise By-law. This includes noise from emergencies, government work and stationary sources in compliance with provincial environmental approvals.

#### *A. Emergencies*

Currently, any noise in connection with measures undertaken for the immediate health, safety, or welfare of the inhabitants of Toronto are exempted under emergency circumstances, including siren noise from emergency services. This ensures emergency

services are able to move quickly and safely through the city. Emergency siren noise is also regulated under the Highway Traffic Act, as it prohibits the use of sirens on vehicles other than an ambulance, fire or police department vehicle, or public utility emergency vehicle. To ensure the Noise By-law does not frustrate this provincial regulation, and to ensure emergency providers are able to move quickly and safely through the City, MLS proposes maintaining this provision in the Noise By-law. Specific concerns over where and when emergency sirens are used are determined by operational policies within TPS, Toronto Fire Services (TFS) and Toronto Paramedic Services. Existing policies include minimizing the use of sirens in residential neighbourhoods. TPS, Toronto Fire Services and Toronto Paramedic Service also review new technologies and incorporate these into their fleet procurements as appropriate.

### *B. Government Work*

In addition to emergency work, the City exempts noise in connection with government work and major transit projects. This exemption ensures work is completed during times that minimize lane closures or lane reductions, and the Toronto Transit Commission's subway or streetcar right-of-ways. MLS proposes maintaining this provision, and expanding it to include all work completed by the City, the Province of Ontario, the Government of Canada and any of their agencies or agents to further clarify that the provincial and federal governments and any of their agencies or agents are not bound by the Noise By-law when performing work. However, this does not prevent the parties from entering into voluntary compliance agreements.

In the public opinion research, a majority of residents supported municipal work at night. Most Torontonians find noise from street cleaners (72%), construction of transportation infrastructure (64%), and noise from garbage or waste collection (59%) to be acceptable at night time. Reducing traffic and congestion was also identified as the number one concern for residents (77%). MLS recognizes that noise from City work is still bothersome for many residents; however, the most appropriate tools for managing noise from City work are contractual agreements with contractors, and operational policies.

To meet the needs of the city's growing population, the City of Toronto is experiencing a high volume of construction activity, both in transit expansion and regular municipal infrastructure projects. The City generally manages noise from these projects in its contractual agreements, in addition to communications outreach. This has proven to be a more effective tool than reliance on the Noise By-law. In contractual agreements, consideration is given to noise assessment and monitoring, the use of noise barriers and noise complaint follow-up. For example, in the standard contract for Engineering & Construction Services (ECS), if the City or contractor receives a noise complaint, the Contractor must verify that general noise controls are in effect, and report to the Contract Administrator within one day of the complaint on what actions have been taken to mitigate the issue.

With regards to transit infrastructure projects, prior to commencing new construction activities or milestones, the Toronto Transit Commission (TTC) hand delivers construction notices to local residents and industry, as well as post notices on their website. Local Ward Councillors are also informed of upcoming work, and provided

regular updates. Similar to ECS, the TTC also includes explicit requirements for noise mitigation in their contracts including prescribing certain equipment specifications, noise barriers and hours of work in residential areas. Municipal infrastructure projects generally follow the same construction hours of work outlined in the Noise By-law. However, if required, municipal infrastructure project work may be carried out at any time (including overnight) to manage other potential disruptions (for example, to minimize lane reductions or transit interruptions).

### *C. Stationary Sources that require Provincial Approvals*

Stationary sources are regulated under the MECP's noise pollution control guidelines (NPC-300). A stationary source is any source of sound or combination of sources of sound that are included and normally operated within the property lines of a facility, such as within commercial or industrial facilities. Under the Environmental Protection Act, some of these businesses must obtain an Environmental Compliance Approval (ECA) and register emissions and discharges related to air, noise, waste and sewage.

In 2017, the MECP issued O.Reg1/17 which provides for a different, but parallel process to the ECA. If an ECA is not required, some businesses must self-register their activities on the Environmental Activity and Sector Registry (EASR). All of the same studies, assessments and reports required for an ECA are required, except they are not submitted for review by MECP. Stationary sources that must have an ECA, or self-register on the EASR are subject to enforcement by MECP. The City of Toronto therefore does not have the jurisdiction or authority to regulate stationary sources that require provincial approvals. MLS proposes explicitly exempting these sources to ensure a municipal By-law does not frustrate provincial legislation.

### *Stationary Sources enforced by the City of Toronto*

Stationary sources that do not require provincial approvals are subject to municipal enforcement. This includes stationary sources such as residential air conditioners, heat pumps, generators and fans. MLS did not identify stationary sources subject to municipal enforcement as a major topic for public consultation because the regulations are set by the MECP, under NPC-300. Where possible, MLS relies on MECP guidance, as they set out clear and consistent province-wide regulations for stationary sources. This was also supported by technical experts.

## **8. Other Identified Issues**

During public consultations, MLS heard concerns related to noise beyond the scope of the Noise By-law, including noise that the City of Toronto creates, and that is under the jurisdiction of other governments. In the section below, MLS notes work currently underway in these areas.

### *How Does the City Manage Noise it Creates?*

The City hosts a number of cultural and musical events, such as Doors Open, Canada Day, Nuit Blanche, Cavalcade of Lights and New Year's Eve, to celebrate and promote the vibrancy of the city. For these events, the City's Economic Development and Culture Division applies for a noise exemption permit. In addition, any permitted events at Nathan Philips Square must follow noise restrictions, including adherence to decibel

limits and third-party noise monitoring. The parameters for Nathans Philips Square were developed as a result of a noise study completed in December 2013. In large signature events, in which the City is a champion (e.g. Invictus Games, NBA All Star game), the City encourages written notification to affected residents as well as a dedicated contact person to field comments and complaints.

#### *Toronto Pearson International Airport and Noise*

During the consultation process, some participants identified concerns with aircraft noise. MLS informed residents that aircraft noise is under federal jurisdiction. City Council in 2016 and 2017 made a number of requests of the Greater Toronto Airport Authority, NAV Canada and Transport Canada to mitigate noise. As directed by City Council, the City Manager's Office is consulting with representatives from NAV Canada, Transport Canada, and the Greater Toronto Airport Authority on actions regarding aircraft related noise, including the flight paths of Toronto Pearson International Airport. In addition, Councillor Jim Karygiannis has been appointed by City Council to serve on the GTAA Consultative Committee which discusses issues related to Pearson International Airport.

#### *Amendments to the Ontario Building Code*

Another concern identified during the consultation process was the proactive mitigation of noise, such as improving insulation or soundproofing standards for buildings at the planning and design stages of new projects. While the soundproofing of buildings and building code standards in general are beyond the scope of the Noise By-law, the new Downtown Plan does provide policy direction to reduce the conflicts between live music venues and residents in new developments.

### **Changes to the Enforcement of Noise**

MLS is reviewing the existing processes related to noise investigation and enforcement to streamline efforts across the division, ensure consistency in response, and provide options for responding to different types and priorities of noise complaints. Changes include continuing the implementation of a priority response model and mediation process, updating the policy and standard operating procedure for noise investigations, creating a noise technical manual, adding more BEO training, and changing the By-law enforcement hours of coverage.

#### *Prioritization of Noise Complaints*

In 2018, MLS began conceptualizing a priority response model to address noise complaints. Further prioritization of noise calls is intended to facilitate a more effective response to those assessed as a high priority and provide for alternative response approaches to those that are assessed as a lower priority. Higher priority would be assigned to issues that are occurring with greater frequency and have a more significant impact on individuals and/or the community. The priority response model will be implemented in conjunction with the new Noise By-law, updated standard operating procedure, and new back-end technology.

### *Policy and Standard Operating Procedure and Technical Manual for Noise*

One of the concerns heard during public consultations was inconsistent enforcement investigations. MLS believes an updated policy and standard operating procedure (SOP) supported by a BEO training program, will result in improved enforcement of the Noise By-law. The aim is to achieve consistency in the investigation process as well as to enhance the quality and efficiency of service. This will be finalized as part of the implementation process of the new Noise By-law.

### *Changes to By-law Enforcement Hours of Coverage*

MLS has recently changed the shift schedules of BEOs to better reflect when complaints are being received. As of March 4, 2019, BEOs who investigate noise complaints related to private residences are available Monday to Friday from 6 am to 8 pm, and weekends from 8 am to 4 pm.

In May 2018, the shift schedule for BEOs who investigate noise from licensed establishments also changed, allowing for 19-hour daily coverage from Monday to Sunday (6 am to 1 am the next day). During peak season (Victoria Day weekend to Labour Day weekend), the hours are extended until 3 am on Fridays and Saturdays, for 21-hour daily coverage. MLS believes these changes, in addition to proposed changes to the Noise By-law, will improve the enforcement of the Noise By-law.

### *Mediation Referral Program*

Though personal disagreements exist in all community settings, when disputes between neighbours escalate, it can affect the broader community. When neighbours begin making frequent By-law complaints against one another, more staff time and resources are needed. In April 2018, City Council directed MLS to establish a one-year pilot mediation referral program, beginning June 1, 2018. Mediation is a form of alternative dispute resolution in which individuals or groups resolve a dispute with the help of a neutral third party who serves as a mediator.

In partnership with St. Stephen's Community House and Warden Woods Community Centre, MLS has implemented the pilot mediation referral program. The program has enabled BEOs to make referrals to community-based mediation services as a tool to manage noise complaints. Training and guidelines were developed to assist BEOs in determining which complaints are appropriate for mediation and how to make a referral. Some examples include noise complaints that do not contravene the By-law (e.g. occur during permitted times), disputes or grievances between neighbours, and recurrent or persistent complaints that are having an impact on the broader community. The pilot program will be evaluated after one year with recommendations for the future.

## **Next Steps & Implementation**

MLS is developing an implementation plan, to support the recommendations outlined in this report. The plan includes finalizing the priority response model, updating the policy and standard operating procedures for noise investigations, creating a noise technical manual, and enhancing back-end technology systems.

If the proposed By-law changes are adopted, MLS will proceed with identifying and procuring sound level meters, and securing a qualified third-party firm to provide additional technical training to support BEOs.

MLS will also enhance information available to the public, through both 311 and the City website, to enhance public awareness and knowledge of the Noise By-law.

## **CONTACT**

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## **SIGNATURE**

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## **ATTACHMENTS**

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Attachment A – Draft Chapter 591, Noise  
Attachment B – Summary of Noise Data  
Attachment C – Summary of Third-Party Public Opinion Research  
Attachment D – Summary of Third-Party Technical Review of Chapter 591, Noise  
Attachment E – Summary of Public Consultation Feedback  
Attachment F – Summary of Jurisdictional Scan, Amplified Sound  
Attachment G – Summary of Jurisdictional Scan