



# NOISE BYLAW REVIEW

## Public Meeting 4 – Construction Noise Summary

Centre for Social Innovation Regent Park Lounge, 585 Dundas St East

February 5, 2019, 6:00 – 8:00 pm

On Tuesday, February 5, 2019, the City of Toronto hosted the fourth of five public meetings to share and seek feedback on options being considered by Municipal Licensing and Standards (MLS) as part of the City's Noise Bylaw Review. Approximately 40 people participated, with the majority signing in to the meeting as residents (about 30 residents in total, including 6 people affiliated with resident associations, and a few who also identified themselves as members of the Toronto Noise Coalition), as well as six people from the construction industry, and others representing an acoustical engineering firm, municipal government, and observers from the TTC. Representatives from MLS and Toronto Public Health also participated.

This summary was written by the third party facilitation team from Swerhun Inc., and was subject to participant review before being finalized. It reflects the points discussed verbally, as well as written comments received on worksheets submitted at the meeting.

**The intent of this summary report is to capture the range of perspectives that were shared at the meeting. It does not assess the merit or accuracy of any of these perspectives nor does it indicate an endorsement of any of these perspectives on the part of Municipal Licensing and Standards or the City of Toronto.**

Note that the numbering of the points is intended for ease of reference only and not intended to imply any type of priority. Responses from MLS are *in italics*.

### Overall Snapshot of Feedback

The following points reflect the overall snapshot of feedback most consistently raised in discussion and in writing during the meeting. The remainder of this summary provides additional details regarding these points, as well as many others, shared by participants.

#### 1. **There was little common ground between residents and representatives of industry.**

- Residents said that the current bylaw doesn't work, and that the public health impacts (on sleep, ability to learn, mental health, children, youth, etc.) need to be considered and communicated to builders and trades. They want more enforcement and significant consequences for violations, and removal of blanket exemptions.
- Construction industry participants were supportive of the status quo, and expressed concern that changes to the bylaw could slow down development, including housing initiatives. They asked the City to consider maintaining the current construction noise regulations if a smaller number of people, identified in the public opinion research, consider construction noise a problem.

2. **There was a lot of support from residents for higher fines, lower noise limits, requirements for noise mitigation plans, better communication** (e.g. post contractor contact info, etc.), and changes that reflect the reality that more people are working from home, as well as more people living in mixed use areas.
3. **Many residents also called for the City to lead by example** and ensure their own municipal works and public agencies (e.g. TTC, Toronto Hydro) follow the Noise Bylaw restrictions.

## Feedback on the Criteria to Consider when Updating the Noise Bylaw

1. **Many residents said that the criteria proposed by MLS to evaluate the proposed bylaw updates were “a good start” but are ineffective without improved enforcement.** Lack of enforcement, and the limited likelihood of additional resources for enforcement, dominated a considerable portion of the discussion. A number of ideas to strengthen enforcement were shared, including:
  - Requiring contractors to purchase a “noise bond” that would be returned if the Noise Bylaw requirements were met (and kept by the City if the requirements were not met), noting that it would need to be of sufficient amount to act as an incentive to working within the bylaw (this would work similarly to a damage deposit);
  - Linking noise mitigation requirements to the building permit, with significant escalating fines and ultimately a stop-work order issued for non-compliance. Also consider rejecting applications from companies with a history of noise violations (developing a database of development and construction companies to keep track of all permits, exemptions and complaints associated with them would support this approach);
  - Issuing higher fines;
  - Being more diligent on laying charges and collecting fines (with the associated revenue stream dedicated to supporting additional enforcement);
  - Enforcing the bylaw when a violation occurs. It is often the case that for small home renovations, roofing, etc. by the time an enforcement officer comes out to investigate, the violator is has already moved on and cannot be penalized for a legitimate complaint; and
  - Increase the number of City bylaw enforcement officers, including those working beyond the 9am-5pm timeframe.
2. **Impact on residents should be assessed through a public health lens.** Many residents said that the primary purpose of the bylaw should be to protect residents, not to facilitate construction. A public health framework should be considered to acknowledge the potential negative impact noise has on health (e.g. impact on sleep, concentration and stress levels, as well as impact on productivity and safety due to the lack of sleep).
3. **Many residents reported significant frustration with the lack of responsiveness to their complaints.** Participants said that they (and others) have given up sharing complaints to 311 because it has not improved the situation. MLS should also consider how continued bylaw non-compliance and lack of adequate response to complaints may frustrate residents. This consideration should be used to make the case for allocating a larger budget and more officers to improve enforcement and compliance.
4. **Several participants suggested that the City clarify the description of the “reasonable” criterion.** It is unclear who determines what is reasonable, for whom, and how limits and standards are determined. Life in the city has also changed since the bylaw was first developed. The updated bylaw should reflect the change in people’s lifestyle (e.g. working outside the traditional 9am-5pm hours, working from home, living in mixed use areas, etc.).

5. **Other comments from residents on the criteria focused on the need for MLS to:**
- **Place the onus for adhering to the Noise Bylaw on the noise generator.** The current system for filing noise complaints requires the complainant (often residents) to keep a log of the noise issue/violation. This should be reversed to put the onus on the noise generator.
  - **Clearly define the bylaw objectives.** Defining the objectives of the bylaw is important as it is currently unclear what the bylaw strives to achieve. *Note of clarification added by MLS staff after the meeting: The purpose of the Noise Bylaw review was noted during the public meetings. The bylaw review aims to introduce updates that reflect our growing and vibrant city, while enhancing the noise standards that protect the residents of Toronto.*

## Feedback on Options being Considered for Construction Noise Bylaw Updates

1. **Residents and construction industry representatives did not agree on the need for changes to the bylaw.** Participants from the construction industry said that they prefer the status quo, and added that more stringent provisions in the bylaw, including windows in which noise can be generated, removal of exemptions for continuous concrete, etc. could negatively impact the pace of new development and the Toronto economy. Participating residents said the status quo does not work, and would like to see the bylaw updated to better protect them from construction noise.
2. **Some residents said that they preferred Option 2 (updated time constraints and removal of blanket exemptions for continuous concrete pouring and large crane work), with suggested edits.** Those who expressed support for Option 2 said they liked the clearly defined hours of prohibition and removal of exemptions for continuous concrete pouring and large crane work. Some suggested changes to Option 2 including:
  - Earlier evening time constraints and extended morning time constraints on weekdays by changing the prohibited period from 7:30pm – 8:00am to 6:00pm – 7:00am;
  - Later start time for construction noise; and
  - Prohibited weekend construction, including Saturdays (other participants noted, however, that this could cause issues with weekday traffic).
3. **Some residents said that they preferred Option 3, with suggested edits.** Some participants said Option 3 seems to make the most sense, and suggested the following conditions and modifications:
  - Rationale for granting exemption needs to be comprehensive, and stricter for night time construction activity;
  - Night time decibel limit should not exceed 45 dB(A) at point of reception; and
  - Differentiate between constant noise and sporadic noise (sporadic noise should be addressed through a stricter noise mitigation plan as it causes more disturbance at night time).
4. **Difference of opinion on including requirement for Noise Mitigation/Management Plans for all construction sites.** Some participants preferred this provision in Option 4 because it ensures consistency across all construction sites, large and small. Others raised concerns that with 50,000 construction permits active in the city each year, it would be resource intensive for MLS, and would require a much higher number of enforcement officers available to enforce it, or else people will continue to feel frustrated that the bylaw is not being enforced. Some participants suggested creating a standard template for the applicant to fill out to reduce this burden on both the City and applicants. Suggestions for Noise/Mitigation Management Plans included:
  - Requirements should apply to all construction sites of a certain minimum scale and project time length;

- Requirements should be easy to understand;
  - Requirements to visibly post Noise Mitigation/Management Plans on all construction sites;
  - Build on existing construction management plans (like ones used by Tridel) and
  - The City should provide a list of all steps builders needs to take to mitigate noise.
5. **Residents suggested having both dB(A) and dB(C) limits for construction noise.** This will help everyone understand how loud is too loud for certain activities and equipment. Including dB(C) will account for the low bass vibrations often felt during construction. Also consider setting different decibel limits for small residential construction projects, smaller mixed use area construction projects, and large construction projects.

## Feedback on Options being Considered for Exemption Permits Bylaw Updates

1. **Support for Option 2's removal of automatic approval after 14 days.** Many residents preferred having an automatic denial if no response is received after the 14-day review period.
2. **Some residents preferred Option 3 (delegated authority).** These participants said that they prefer this option because it allows for an objective and unbiased review of applications. It also helps alleviate workload from Councillors, which may expedite the review process.
3. **Extending the 14-day review period was not preferred by participants from the construction industry.** They said that the development application process is already a very long process. Adding more hurdles, particularly for residential developers, seems to go against the City's and Province's direction to streamline the development of housing.
4. **Residents suggested that the City make the criteria for approving exemption permits transparent.** The public should know and be able to have some input on the criteria that will be used to grant/deny an exemption permit, especially in areas where people live (i.e. both residential and mixed use areas).
5. **Residents suggested that the City create a different approval process between low- versus high-impact projects.** They suggested that this approach could alleviate some of the administrative burden on the City if, for example, low-impact projects are automatically granted if there is no response from the Councillor. However, they felt that high-impact projects should go through a review process with input from the Councillor. This approach requires differentiating what is considered low-impact and high-impact.

## Other Feedback

1. **On-going communication with the community is extremely important.** Several participants said that it seems like they have nowhere to go to get their noise issues addressed. Suggestions on how to improve communication with the community include:
  - A City-led public awareness and education effort dedicated to increasing awareness of the Noise Bylaw and increasing civic literacy about noise, its impacts, and what is considered a noise violation in the City of Toronto.
  - Post the contractor's information, including name and phone number, at all sites, regardless of construction size so people know who to talk to.

- Establish Construction Liaison Committees (CLCs) to help improve the process for the community and the builder and provide a process for dealing with issues. It was suggested that CLCs should be mandated in the bylaw.
  - Inform the community of anticipated noise, especially if an exemption permit has been granted allowing the builder to generate noise at unexpected times or levels. Consider developing an email list to inform and update the community.
  - Follow up with people who file complaints. Often complainants have no way of finding out whether their issue has been or is being investigated, nor do they know if they have complained about necessary municipal work.
  - Make enforcement officers' reports publicly available. This would help the public know how noise complaint reports are documented and what happens to them after they are submitted, and whether they resulted in a fine or summons.
2. **Differentiate the different types of construction noise.** Currently, it seems that all construction noise is lumped in together as “construction noise”. Residents suggested that identifying the source of construction noise (i.e. from large construction projects, from home renovations, from smaller construction jobs in mixed use areas, or from necessary municipal work) would be helpful to address construction noise concerns.
  3. **The Noise Bylaw should apply to all construction noise and activity, including necessary municipal work.** Non-equipment construction noise like radios, trucks and gas-powered generators should be covered under the construction noise bylaw. The bylaw should also cover necessary municipal work, which is a big contributor to construction noise in the city, and it seems like this is a gap in the current Noise Bylaw. *Note added by MLS staff after the meeting: necessary municipal work is exempted in the bylaw as it sometimes must be done outside of permitted hours to manage public risks as well as road and transit closures/disruptions.*
  4. **Look for opportunities to encourage quieter technologies in construction.** The City could look at incentivizing quieter construction technologies, potentially by offering tax credits or other incentives in the development approvals process. The City could also develop regulations for lower noise limits on construction equipment, tools and trucks. Not all construction noise (e.g. truck and skyjack beepers) needs to be as loud as it is.
  5. **Provide a list of statutory holidays on the Noise Bylaw website.** There is some confusion about what officially counts as a statutory holiday (e.g. Easter Monday).

## Next Steps

The City thanked participants for coming and reminded everyone of the opportunity to share additional comments with MLS by February 28, 2019, to be considered as part of the consultation for the review. MLS will bring forward a staff report with recommendations to Economic and Community Development Committee in April 2019. The Swerhun third-party facilitation team committed to sharing a draft summary of feedback for participants to review before it is finalized.