



Staff Report for Council Meeting

Date of Meeting: February 23, 2022

Report Number: SRCS.22.02

Department: Community Services

Division: Community Standards

Subject: Noise By-law Amendment

Purpose:

To amend the Noise By-law following revocation of the provincial pandemic-related regulations affecting municipal powers to regulate noise, and to report back following additional consultation regarding air conditioner noise regulation as directed.

Recommendations:

- a) That Staff Report SRCS.22.02 be received.
- b) That By-law No. 22-22 (Attachment 1 to Staff Report SRCS.22.02) be enacted to amend the Noise By-law No. 43-20 (Municipal Code Chapter 1055).
- c) That By-law No. 23-22 (Attachment 2 to Staff Report SRCS.22.02) be enacted to amend Schedule 'A' of the Administrative Penalties By-law No. 69.16.

Contact Person:

Dolly Anand, Manager of Policy and Licensing, Extension 6572

Report Approval:

Submitted by: Tracey Steele, Acting Commissioner of Community Services

Approved by: Darlene Joslin, Interim City Manager

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), City Solicitor (as required), Commissioner, and City Manager. Details of the reports approval are attached.

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Background:

In spring of 2020, in response to circumstances associated with the COVID-19 pandemic, the Province of Ontario passed two regulations limiting municipal powers to regulate noise. Ontario Regulation 70/20 (O. Reg. 70/20) temporarily suspended municipal power to regulate noise made in connection with the delivery of goods, and Ontario Regulation 131/20 (O. Reg. 131/20) temporarily suspended municipal power to prohibit and regulate noise made in connection with construction.

On June 24, 2020, Council enacted a new Noise By-law for the City of Richmond Hill (By-law No. 43-20, Municipal Code Chapter 1055, the “Noise By-law”). However, because O. Reg. 70/20 and O. Reg. 131/20 were in effect at the time, the new Noise By-law could not fully incorporate construction and delivery noise requirements. As a result, Council directed staff to bring forward an amendment to the Noise By-law as soon as possible after the temporary pandemic-related restrictions were lifted by the Province.

On September 19, 2021, the Province amended the Municipal Act via Bill 215 (the “Main Street Recovery Act”), which re-instated municipal authority to regulate delivery noise, with the exception of delivery noise associated with retail businesses, restaurants, hotels and motels or goods distribution. On October 7, 2021, O. Reg. 131/20 expired reinstating power to municipalities to regulate construction noise.

On November 24, 2021 Staff Report SRCS.21.17, regarding proposed Noise By-law amendments, was considered by Council and referred back to staff for further consultation to address concerns regarding air conditioner noise limits raised by a resident delegation and comments of Members of Council. Staff conducted additional consultation with Members of Council and an acoustics engineer. This Staff Report (SRCS.22.02) contains the same recommendations as SRCS.21.17, and provides additional clarity regarding air conditioner noise limits and monitoring processes.

Discussion

Given the Province’s revocation of pandemic-related noise regulations and staff experience implementing the Noise By-law over the past year, it is recommended that the following amendments to the Noise By-law (summarized in Amending By-law No. 22-22; Attachment 1), be approved:

1. Re-instate construction noise limits that were in effect prior to the Provincial COVID-related regulations

The proposed amendment will limit construction noise to the hours of 7 a.m. and 7 p.m. Monday to Saturday, and prohibit construction noise on Sundays and statutory holidays, consistent with the construction noise rules that were in effect in Richmond Hill prior to the Provincial COVID-related regulation.

2. Implement legislated exemption for specific delivery types

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The proposed amendment will align the Noise By-law with the revisions to the Municipal Act by exempting delivery noise associated with retail businesses, restaurants, hotels and motels or goods distribution, while prohibiting other types of loading and unloading noise between 9 p.m. and 7 a.m. and on Sundays and statutory holidays.

3. Adjust the air conditioner prohibition to better account for ambient sound and improve monitoring efficiency

The Noise By-law currently sets a maximum noise level for air conditioners and other similar mechanical devices as the greater of either 50 dB(A) or Ambient Sound Level at a Point of Reception using an equivalent continuous sound pressure level (or Leq) of 60 minutes. An adjustment is recommended to make the limit the greater of either 50 dB(A) or Ambient Noise plus 5 decibels, over a 15 minute period. The proposed by-law amendment will better account for the variable nature of urban background noise, and be consistent with the provincial guideline for general air conditioner limits in population centers. The reduction of the measurement to a 15 minute time period will make monitoring more efficient and less intrusive without affecting accuracy.

The proposed maximum limit for air conditioner noise is lower than manufacturer specified noise levels for some units because the manufacturer specified levels are measured at the source, rather than at a “Point of Reception” as required by the by-law. A Point of Reception is defined in the Noise By-law as any point on a premises where noise originating from somewhere other than the same premises is received. In circumstances where air conditioner noise is being received inside a residence, the Point of Reception is the plane of an open exterior window or door, consistent with Provincial guidelines.

The intent of regulating noise at the Point of Reception is to ensure that air conditioner units do not cause unreasonable noise on *neighbouring properties*. The Noise By-law does not set a limit for the noise level of the air conditioner unit itself (i.e., the noise level quoted on manufacturer specifications). Units can produce noise well above the Point of Reception limit, but with proper site selection and installation, still comply with the by-law requirement. A 50 dB(A) maximum Point of Reception noise limit for air conditioner noise is particularly attainable given the additional flexibility provided by an alternative maximum of Ambient Noise plus 5 dB(A).

4. Administrative correction to the definition of Stationary Source

The proposed by-law amendment contains an administrative correction to the definition of Stationary Source.

In order to align the Administrative Monetary Penalty System with the above Noise By-law changes it is also necessary to amend Schedule “A” of the Administrative Penalty By-law No. 69-16. The recommended amendment to Schedule “A” of By-law No. 69-16 is attached to staff report SRCS.22.02 as Attachment 2.

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Financial/Staffing/Other Implications:

There are no financial or staffing implications associated with this report

Relationship to Council's Strategic Priorities 2020-2022:

Regulation of noise is consistent with the Strategic Priority of “Strong Sense of Belonging” as it helps to create communities that are equitable and harmonious.

Climate Change Considerations:

Climate change consideration are not applicable to this staff report.

Conclusion:

In 2020, in response to circumstances associated with the COVID-19 pandemic, the Province of Ontario passed Regulations 131/20 and 70/20 limiting municipal power to regulate noise associated with construction and deliveries. On June 24, 2020, Council enacted Noise By-law No. 43-20 to regulate and mitigate noise within the City. The province has now revoked the pandemic-related noise regulations, thereby restoring municipal power to regulate construction noise and re-instating some municipal authority to regulate delivery noise.

Approval of By-law No. 22-22 to amend the Noise By-law (Attachment 1) and the associated amendment to the Administrative Penalties By-law (amending By-law No. 23-22; Attachment 2) will address provincial changes, re-instate construction and delivery noise rules specific to Richmond Hill, and make air conditioner regulations more fair and efficient. Communication and awareness of the approved by-law and resulting changes will be promoted through public service announcements and social media.

Attachments:

The following attached documents may include scanned images of appendixes, maps and photographs. All attachments have been reviewed and made accessible. If you require an alternative format please call the contact person listed in this document.

- Attachment 1 – By-law No. 22-22 – Amendment to the Noise By-law No. 43-20 (Municipal Code Chapter 1055)
- Attachment 2 – By-law No. 23-22 – Amendment to Schedule “A” of the Administrative Penalty By-law No. 69-16

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Report Approval Details

Document Title:	SRCS.22.02 Noise By-law Amendment Report.docx
Attachments:	- By-law No. 22-22 - Noise By-law Amendment.docx - By-law No. 23-22 - AMPS By-law Amendment (Noise).docx
Final Approval Date:	Feb 10, 2022

This report and all of its attachments were approved and signed as outlined below:

Tracey Steele - Feb 10, 2022 - 1:43 PM

Tracey Steele - Feb 10, 2022 - 1:46 PM

Darlene Joslin - Feb 10, 2022 - 4:11 PM