



Report to: General Committee

Report Date: June 19, 2017

SUBJECT: Noise Control By-law Review and Update
PREPARED BY: Chris Alexander, Acting Manager, By-law and Regulatory Services
Todd Wilkinson, Provincial Offences Officer Supervisor
Vanessa Rhodes, Acting Manager, Access & Privacy

RECOMMENDATION:

- 1) That the Noise Control By-law Review and Update Report be received; and,
- 2) That the Noise Control By-law 2003-137 attached as Appendix “A” be rescinded; and,
- 3) That the Committee provide direction to staff whether to amend the Noise Control By-law 2003-137 to prohibit construction noise prior to 8 a.m. on Saturdays; and,
- 4) That the draft Noise Control By-law attached as Appendix “B” be approved and placed on the next Markham City Council agenda for adoption; and,
- 5) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of this report is to obtain Markham City Council approval for the enactment of a new Noise Control By-law. The proposed new By-law reflects regulatory changes enacted by the Ministry of the Environment and Climate Change and includes various provisions to address concerns raised by Markham residents and business owners as well as other minor housekeeping amendments to provide greater clarity and aid enforcement.

BACKGROUND:

In 2003, Council enacted Noise Control By-law 2003-137 (see Appendix “A”), which was subsequently further amended in 2005. By-law 2003-137 contains two parts. Part 1 of the By-law outlines prohibited types of noise in residential zones. Part 2 of the By-law outlines the Ministry of the Environment and Climate Change’s (MOECC) regulations, which address certain stationary sources of noise such as air conditioners which are measured in decibels.

The City annually receives 340 noise complaints on average. These complaints typically relate to the following (listed in the order of complaint frequency):

- 1) construction noise;
- 2) amplified noise;
- 3) stationary sources (e.g., air conditioning units) and,

4) other (i.e., industrial waste pick-ups and landscaping work).

In addition to the complaints received, the City also receives over 100 noise exemption requests annually. These are processed through the By-law and Regulatory Services Division of the Legislative Services Department. Under Section 8 of the Noise Control By-law, noise exemption requests are granted in certain circumstances by the Clerk or her designate (which is typically the Manager of By-law and Regulatory Services). The delegated authority of the Clerk to grant exemptions is limited to construction, amplified music, fireworks, and outdoor parties. Most of the exemption requests received by the City relate to construction and amplified noise.

OPTIONS/ DISCUSSION:

Legislative Services staff have been reviewing the City's noise regulations for the past several months. As part of this review, staff conducted best practice research and retained SS Wilson Associates, Consulting Engineers, who have over 70 years of experience in noise compliance, to review the City's current noise by-law regulations.ⁱ The proposed amendments can essentially be organized into the following three categories: 1) legislative changes (to ensure compliance with the *Municipal Act* and the MOECC's standards and regulations); 2) minor administrative changes; and, 3) provisions to address public concerns with respect to construction noise and amplified sound. Categories 1-3 below provide a summary of the proposed amendments contained within the proposed new Noise Control By-law (see Appendix "B").

Category 1 – Provincial Legislation Changes

Proposed Change	Comment
Update of Publication NPC-115 from the MOECC	To reflect the age of construction equipment currently being used in the industry.
Update of Publication NPC-101	To reflect updates in the technical definitions used in Publication NPC-101 as it relates to noise testing.

Category 2 – Minor Administrative Changes

Proposed Change	Comment
Update the Preamble of the By-law	To reflect changes in legislation and format.
Update of the Definition Section	To reflect the proposed changes in the By-law and assist in more effective prosecutions and understanding.
Update both City and Ministry references	The By-law was written prior to Markham becoming a City and the Ministry's name has changed from the MOE to the MOECC.
Amendments to the language in the by-law	Based on the review of the By-law conducted by the consultant, a number of recommendations were made to make the language more clear and concise.
Introduction of an Unpaid Fine Provision	Allows the City to place unpaid fines on the defendant's property taxes.

Category 3 – Public Concerns

Proposed Change	Comment
Amendment to regulate pool equipment noise	Currently the By-law is silent on this - staff are proposing a 50 decibel limit on all pool equipment.
Amendment to the construction exemption	To address all types of construction – the By-law currently only addresses concrete pouring.

The changes noted in Categories 1-3 (and indeed throughout the proposed new Noise Control By-law) address concerns raised by the public and are consistent with other GTHA municipalities with respect to the prohibited times (see Appendix “C”). In addition to the above-noted changes, staff have attempted to make the By-law more reader-friendly and easier to understand (as much as possible).

In response to complaints from residents about construction in the infill areas of Markham including Thornhill, Unionville and Old Markham, staff have been approached to change the start time for construction from 7 a.m. to 8 a.m. on Saturdays to provide residents with some relief from construction noise in these areas. The remainder of the restriction would remain the same with construction being prohibited from 7 p.m. to 7 a.m. Monday to Friday and all day Sunday and on statutory holidays. The majority of the construction noise complaints are generated in these infill scenarios when compared to new sub-division construction. Therefore, if Council decides to move the start time for construction noise to 8 a.m. it would apply to both scenarios and limit all construction anywhere in Markham to 8 a.m. on Saturdays only.

Additional amendments made throughout the By-law reflect minor housekeeping amendments, which ensures compliance with the Ministry’s requirements.

Conclusion

The review of Markham’s By-law conducted by staff with assistance from SS Wilson Associates, Consulting Engineers, provides the City with an updated By-law that includes all of the necessary legislative updates, enact minor housekeeping items, strengthen By-law language to aid enforcement, and address concerns raised by residents and business owners. Staff will prepare a summary information sheet highlighting the key elements of the new Noise By-law and make it available on the City’s web page. Social media will also be utilized to communicate this information to the public.

FINANCIAL CONSIDERATIONS:

None.

HUMAN RESOURCES CONSIDERATIONS:

Not applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

An effective Noise By-law contributes to a safe and sustainable community.

BUSINESS UNITS CONSULTED AND AFFECTED:

Legal Services Department

RECOMMENDED BY:


X

Kimberley Kitteringham
City Clerk


X

Trinela Cane
Commissioner, Corporate Services

ATTACHMENTS:

[Appendix "A"](#) - By-law 2003-137 – Markham's current Noise Control By-law

[Appendix "B"](#) - Proposed new Noise Control By-law

[Appendix "C"](#) – Summary of GTHA Noise Control By-law Requirements Re: Prohibited Times

¹ SS Wilson Associates, Consulting Engineers has administered noise meter training to the By-law Officers for the past several years.