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To: Corporate Services Committee

From: Tracy Adams, Commissioner,  
Corporate Services Department

Report Number: CORP-20-26

Date of Report: September 30, 2020

Date of Meeting: October 5, 2020

Subject: Noise By-law 112-82 and Noisy Vehicles

File: D-2200

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## 1.0 Purpose

This report responds to CORP-19-76, the direction to staff that originated at the September 9, 2019 Corporate Services Committee (“Committee”) meeting and was subsequently approved by City Council (“Council”) at the September 23, 2019 meeting related to excessive vehicle noise, as follows:

“Whereas the City of Oshawa restricts noises through Noise By-law 112-82 as amended (‘Noise By-law’), which is a by-law to prohibit noises likely to disturb the inhabitants of the City of Oshawa; and,

Whereas the noise emitted from certain motor vehicles, motorcycles and other equipment may disturb residents and visitors; and,

Whereas concerns have been raised regarding noise related to motor vehicles, motorcycles and other equipment in the City of Oshawa;

Therefore be it resolved that staff be directed to review complaints received related to excessive noise from motor vehicles, motorcycles and other equipment, undertake municipal benchmarking, discuss enforcement options with Durham Regional Police Service and report back to the Corporate Services Committee with the results of the review.”

**Attachment 1** is a copy of CORP-16-42, Excessive Noise from Vehicles, dated May 24, 2016.

## **2.0 Recommendation**

That the Corporate Services Committee recommend to City Council:

1. That Council approve a by-law to amend Noise By-law 112-82, as amended, in a final form and content acceptable to Legal Services and the Commissioner of Corporate Services to establish tiered and escalating Administrative Monetary Penalties to enhance compliance with the City's standards relating to noise; and,
2. That a copy of Report CORP-20-26 "Noise By-law 112-82 and Noisy Vehicles" be forwarded to Durham Regional Police Service (D.R.P.S.) and that D.R.P.S. be thanked for advancing their enforcement initiatives related to vehicle noise standards pursuant to the Highway Traffic Act, R.S.O. 1990, c. H.8.

## **3.0 Executive Summary**

Not applicable.

## **4.0 Input From Other Sources**

The following were consulted during the preparation of this report:

- Legal Services
- Durham Regional Police Service (D.R.P.S.)
- Ministry of Transportation (M.T.O.)

Benchmarking and a scan of municipal noise by-laws was completed with the following municipalities: Caledon, Halton Hills, London, Milton, Mississauga, Oakville, Richmond Hill, Toronto, and Vaughan. Durham Region Lakeshore Municipalities (Ajax, Clarington, Pickering, and Whitby) were also engaged, however Clarington and Pickering did not respond in time for inclusion in this report.

## **5.0 Analysis**

### **5.1 Background**

The following direction (CORP-19-76) was provided at the September 9, 2019 Committee meeting and subsequently approved by Council at its September 23, 2019 meeting:

"Whereas the City of Oshawa restricts noises through Noise By-law 112-82 as amended ('Noise By-law'), which is a by-law to prohibit noises likely to disturb the inhabitants of the City of Oshawa; and,

Whereas the noise emitted from certain motor vehicles, motorcycles and other equipment may disturb residents and visitors; and,

Whereas concerns have been raised regarding noise related to motor vehicles, motorcycles and other equipment in the City of Oshawa;

Therefore be it resolved that staff be directed to review complaints received related to excessive noise from motor vehicles, motorcycles and other equipment, undertake municipal benchmarking, discuss enforcement options with Durham Regional Police Service and report back to the Corporate Services Committee with the results of the review.”

The three (3) main components of Council direction are as follows:

1. Review complaints received related to excessive noise from motor vehicles, motorcycles and other equipment;
2. Undertake municipal benchmarking; and,
3. Discuss enforcement options with Durham Regional Police Service (D.R.P.S.).

Prior to this direction, on May 24, 2016, Council directed staff to refer all matters relating to excessive vehicle noise to D.R.P.S., Ministry of Transportation (M.T.O.) or Ontario Provincial Police (O.P.P.) for investigation and enforcement (see **Attachment 1**, CORP-16-42, for more details).

For the purposes of this report, excessive noise from motor vehicles and motorcycles relates to issues such as modified mufflers, loud revving, starting and idling, loud music from vehicles, etc.

### **5.1.1 Highway Traffic Act and Excessive Vehicle Noise**

Excessive noise resulting from the operation of moving vehicles falls under the jurisdiction of the Highway Traffic Act, which is enforced by provincially appointed officers. As such, complaints related to excessive noise from motorcycles and vehicles are referred to D.R.P.S., the (M.T.O.), or the (O.P.P.), as appropriate, for investigation given the regulations of, and the authorities granted through, the Highway Traffic Act, R.S.O. 1990, c. H.8 (“Highway Traffic Act”).

“Motor Vehicle” is defined in the Highway Traffic Act as:

“an automobile, a motorcycle, a motor assisted bicycle unless otherwise indicated in [the] Act], 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”.

Section 75(1) of the Highway Traffic Act states:

“Every motor vehicle or motor assisted bicycle shall be equipped with a **muffler** in good working order and in constant operation to **prevent excessive or unusual noise** and excessive smoke, and no person shall use a muffler cut-out, straight exhaust, gutted muffler, hollywood muffler, by-pass or similar device upon a motor vehicle or motor assisted bicycle”.

Furthermore, section 75(4) of the Highway Traffic Act states:

“A person having the control or charge of a motor vehicle shall not sound any bell, horn or other signalling device so as to make an unreasonable noise, and a driver of any motor vehicle shall not permit any unreasonable amount of smoke to escape from the motor vehicle, **nor shall the driver at any time cause the motor vehicle to make any unnecessary noise**, but this subsection does not apply to a motor vehicle of a municipal fire department while proceeding to a fire or answering a fire alarm call”.

D.R.P.S., the M.T.O. and the O.P.P. have provincially appointed officers who enforce the provisions of the Highway Traffic Act and have the authority to stop a moving vehicle. Additionally, staff contacted M.T.O. who confirmed that noise emissions from commercial vehicles form part of M.T.O.’s inspection process.

### **5.1.2 Noise By-law 112-82, as amended**

The City’s Noise By-law 112-82, as amended (“Noise By-law”) is a by-law to prohibit noises likely to disturb the inhabitants of the City. According to the Noise By-law, no person shall ring any bell, blow any horn, shout or make any unusual noise or noise likely to disturb the inhabitants of the City. The Noise By-law also specifically addresses vehicle noise through Section 2.a) 2.c), and 2.f), which identifies the following as “noises likely to disturb the inhabitants of the City”:

“2. a) the ringing of bells, blowing of horns or sounding of sirens on any motor vehicle except to the extent that such ringing, blowing or sounding is required by law or by the requirement of safety;

2. c) the grating, grinding or rattling noise or sound caused by a condition of disrepair or maladjustment of any motor vehicle, motorcycle, or other vehicle whatsoever or part or accessory thereof;

2. f) the noise made by the discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorcycle except through a muffler or other device which effectively prevents loud or explosive noises”

Each person who contravenes the Noise By-law may be subject to administrative monetary penalties (A.M.P.) in the amount of \$125 for each day on which the contravention occurs or continues. Additionally, penalties under the Provincial Offences Act, R.S.O. 1990, c. P.33 (P.O.A.) may also apply, with penalties of no more than \$5,000 exclusive of costs for each offence.

### **5.1.3 Complaint History: City of Oshawa Records**

A scan of the City’s enforcement files between the period from 2015 to 2020 shows a total of approximately one-hundred and forty-six (146) noise complaints were received that referenced “motorcycle” or “vehicle” (an average of approximately twenty-four (24) complaints per year).

Generally speaking, most complaints related to loud vehicle noise such as loud engines, modified mufflers, or revving. Others related to noises associated with loud music from vehicles, vehicle repair, and horns and/or alarms.

A breakdown by year can be found in **Table 1**.

Please note:

- There may be an overlap in file counts based on any files that referenced both “motorcycle” and “vehicle”
- Twelve (12) complaints were related to moving vehicles
- In 2020, ten (10) of thirty-seven (37) complaints related to “vehicles” pertained to loud music from vehicles, and eighteen (18) related to loud vehicles (i.e. engines, mufflers and/or revving), four (4) of which were not connected to private property
- The City does not track referrals to D.R.P.S for vehicle noise on highways

**Table 1 Number of Complaints re: Noise and “Motorcycle” and “Vehicle”**

| <b>Year</b>            | <b>Number of Complaints Referencing “Motorcycle”</b> | <b>Number of Complaints Referencing “Vehicle”</b> | <b>Total</b> |
|------------------------|--|---|--------------|
| 2015                   | 2  | 12  | <b>14</b>    |
| 2016                   | 5  | 19  | <b>24</b>    |
| 2017                   | 3  | 18  | <b>21</b>    |
| 2018                   | 6  | 16  | <b>22</b>    |
| 2019                   | 5  | 18  | <b>23</b>    |
| 2020 (until August 31) | 5  | 37  | <b>42</b>    |
| <b>Total</b>           | <b>26</b>  | <b>120</b>  | <b>146</b>   |

Table 2 provides a breakdown of enforcement files by status.

**Table 2 Noisy Vehicle Complaints by Status**

| Status   | Number of Complaints Referencing “Motorcycle” | Number of Complaints Referencing “Vehicle” | Total      |
|--|---|--|------------|
| Cancelled by Complainant                       | 1   | 2  | 3          |
| Invalid  | 1   | 2  | 3          |
| Closed Duplicate Complaint                     | 1   | 7  | 8          |
| Closed – Noise Logs Requested but not Returned | 16  | 56   | 72         |
| Closed with Compliance                         | 2   | 16   | 18         |
| Closed with No Violation                       | 5   | 30   | 35         |
| Closed with Violation                          | 0   | 6  | 6          |
| Active   | 0   | 1  | 1          |
| <b>Total</b>                                   | <b>26</b>                                     | <b>120</b>                                 | <b>146</b> |

**5.1.4 Enforcement Approaches**

Noise complaints that are generated from aggressive driving, speeding or modified mufflers while vehicles are in motion on the roadway are referred to D.R.P.S. and are not tracked by the City.

There are numerous challenges facing Municipal Law Enforcement Officers related to enforcing vehicles on highways. These include:

- The inability to engage in a vehicle pursuit
- No authority to stop a moving vehicle
- No authority to enforce the Highway Traffic Act
- Unable to conduct real-time licence plate searches in order to fine vehicle owners

For these reasons, as well as the provisions available to police through the Highway Traffic Act, issues related to moving vehicles on highways are addressed by D.R.P.S.

Vehicle noise associated with occurrences on private property, when vehicles are not in motion, can be addressed by Municipal Law Enforcement (“M.L.E.”) through the Noise By-law. When a noise complaint is received by the City for an activity currently happening and there is an Officer on duty, an Officer will be dispatched for investigation and issuance of Administrative Monetary Penalties as appropriate. For report of a noise violation that has occurred in the past, a noise log is sent to the complainant for completion along with a warning letter to the owners/occupants of the property where the violation is allegedly

occurring. If a completed noise log is returned to the City it is assigned to an M.L.E. Officer for review. Further investigation and/or enforcement action may occur depending on the results of the log review.

## **5.2 Municipal Benchmarking**

Staff engaged numerous municipalities and undertook a scan of municipal noise by-laws. In the majority of cases, municipalities typically coordinate their enforcement response with police in that local police services address noises associated with moving vehicles or motorcycles on highways through the tools available to them under the Highway Traffic Act. Police services often run special projects to address noisy vehicles and motorcycles along with other traffic and vehicle-related violations such as speed and seatbelt enforcement. Conversely, municipal law enforcement only address vehicle or motorcycle noise occurring on private property through their noise by-laws.

## **5.3 Coordination with Durham Regional Police Service (D.R.P.S.) and Establishing Tiered and Escalating Administrative Monetary Penalties (A.M.P.)**

Staff have liaised with D.R.P.S. during the preparation of this report. D.R.P.S. is aware that noisy vehicles are a concern in the City and the organization is working to address the issue. D.R.P.S. is currently in the process of developing an updated Officer training and enforcement approach to enforce vehicle noise standards pursuant to the H.T.A. D.R.P.S. has informed City staff that it will be addressing vehicle noise through enforcement initiatives in the near future.

All calls related to moving vehicle noise will continue to be referred to D.R.P.S., while M.L.E. will continue to investigate and address noise related to property (e.g. revving engine on private property). To further enhance compliance with the City Noise By-law, it is proposed that the Noise By-law be further amended to establish tiered and escalating A.M.P.s. It is important to note that the proposed tiered and escalating A.M.P.s would apply to all contraventions of the Noise By-law in addition vehicle-related noise. This report further recommends forwarding a copy of this report to D.R.P.S. and that they be thanked for advancing their enforcement initiatives related to vehicle noise standards pursuant to the Highway Traffic Act.

## **6.0 Financial Implications**

Establishing tiered and escalating A.M.P.s may result in enhanced cost-recovery for enforcement services; however, there insufficient data to assess the financial implications at this time.

## 7.0 Relationship to the Oshawa Strategic Plan

The recommendations in this report relate to Strategic Plan goal Accountable Leadership.



Brenda Jeffs, Director,  
Municipal Law Enforcement and Licensing Services



Tracy Adams, Commissioner,  
Corporate Services Department

Attachment

**City Council's May 24 2016 Direction Regarding Excessive Vehicle Noise**

Excessive Noise from Vehicles (CORP-16-42)

Recommendation

Whereas on April 4, 2016, the Corporate Services Committee received Correspondence CORP-16-23 relating to excessive vehicle noise and referred the matter to staff for a report and for staff to include any possible changes which could be requested from the provincial government; and,

Whereas excessive noise resulting from the operation of moving vehicles falls under the jurisdiction of the Highway Traffic Act, Revised Statute of Ontario (R.S.O.) 1990, Chapter H.8; and,

Whereas Section 75 (1) of the Highway Traffic Act R.S.O. 1990, states that 'every motor vehicle or motor assisted bicycle shall be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and excessive smoke, and no person shall use a muffler cut out, straight exhaust, gutted muffler, hollywood muffler, by-pass or similar device upon a motor vehicle or motor assisted bicycle'; and,

Whereas the Highway Traffic Act is enforced by provincially appointed officers; and,

Whereas Durham Regional Police Service (D.R.P.S.), the Ministry of Transportation Ontario (M.T.O.) and the Ontario Provincial Police (O.P.P) have provincially appointed officers, who carry out the provisions of the Highway Traffic Act locally;

Therefore that matters relating to excessive vehicle noise be reported to D.R.P.S., M.T.O. or O.P.P. for investigation and enforcement.

**Attention: Corporate Services Department, Municipal Law Enforcement and Licensing Services**

**Action Taken: Carried**