

# **Proposed changes to Noise By-Law 2004-52**

## **Policy related changes**

### **Noise associated with organized sporting activities**

#### **Whistles**

1. Add the activity “Whistles when used to control organized sporting activities on a sports field” to Schedule B – Noise Prohibitions by Time and Place and prohibit such noise from 2230 hours (10:30 pm) of one day to 0800 hours of the next day, each day of the week in both Residential Areas and Other Areas.

#### **Game related PA announcements and the national anthem**

1. Add the activity “Amplification of voice or sound for the purposes of playing the national anthem and intermittent game-related PA announcements during organized sporting activities on a sports field” to Schedule B – Noise Prohibitions by Time and Place and prohibit such noise from 2230 hours (10:30 pm) of one day to 0700 hours of the next day, (0800 on Sundays) in Residential Areas, and from 2300 hours (11:00 pm) of one day to 0700 hours of the next day (0800 on Sundays) in Other Areas.

#### **Yelling, shouting, hooting, whistling or singing during organized sporting activities**

1. Add the activity “Yelling, shouting, hooting, whistling or singing during organized sporting activities on a sports field” to Schedule B – Noise Prohibitions by Time and Place and prohibit such noise in Residential Areas from 2230 hours (10:30 pm) of one day to 0700 hours of the next day (0800 on Sundays), and in Other Areas from 2300 hours (11:00 pm) of one day to 0700 hours of the next day (0800 on Sundays).

#### **Definitions**

1. Expand the definition of “Person” to include an owner of a property, to allow for a property owner to also be held responsible for permitting noise to occur on his or her property. The change in the definition of “Person” permits enforcement officers to interact with and send correspondence to the property owner alerting him or her to the issue and to allow for the property owner, in his or her role as a landlord, to take action to address the behaviour;
2. Define “Sports field” to mean any area, not on property zoned Residential, as defined in the City’s zoning by-laws, whether or not delineated by lines, that is designated as a playing surface for sporting activities;
3. Define “Statutory Holiday” to include Boxing Day and any day within the definition of “holiday” in the Retail Business Holidays Act. The Statutory Holidays would therefore

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include New Year's Day, Family Day, Good Friday, Easter Sunday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day, and Boxing Day.

## Administrative

1. Remove "Bicycle races" from the list under Schedule C - Exemptions from Noise Prohibitions. This specific reference would apply under the general category of "races", which is already exempted from the noise prohibitions, when the event has been authorized (currently, by the Kingston Police).
2. Replace "Kingston Police" with "City" under number 8 in Schedule C – Exemptions from the Noise Prohibitions. The authority to authorize races, parades, processions, and events for ceremonial, religious or traditional purposes is currently held by the Kingston Police.

## Offence and Penalty Provisions

1. Revise the reference to the provincial legislation under the Offence and Penalty Provisions section from the Provincial Offences Act to the Municipal Act, and include a new set of maximum fines, as follows:

"Every person, other than a corporation, who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and \$25,000 for any subsequent offence, as provided for in subsection 429 (2) (c) of the Municipal Act, 2001 as amended from time to time.

Every corporation that contravenes any provision of this By-Law and every officer or director of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 for a first offence and \$100,000 for any subsequent offence, as provided for in subsections 425(3) and 429(2) (a) of the Municipal Act, 2001 as amended from time to time."

## Obstruction Clause

1. Add a section making it a violation of the by-law to "obstruct or hinder or attempt to obstruct or hinder a Provincial Offences Officer or other authorized employee or agent of the City in the exercise of a power or the performance of a duty under this by-law".

## Idling Regulation

1. Remove section 11 under Schedule A – General Noise Prohibitions from the Noise By-law, as the operation of an engine or motor in or on a vehicle is already regulated by the City's Idling By-Law 2008-95, which limits idling of a vehicle's engine to 3 minutes within a 60 minute period, or to 5 minutes within a 60 minute period when the outside temperature is below 5 degrees Celsius.

## Delegation of Authority for Specific Construction Activity

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1. Delegate the authority to the Manager of Licensing and Enforcement, or his or her designate, to grant noise exemptions from the prohibitions listed in section 1 (operation of construction equipment) and section 3 (construction activity) of Schedule B of the Noise By-law for the purpose only to permit the pouring, saw-cutting and finishing of concrete, until 2300 hours, one day per week, excluding Sundays and Statutory Holidays.
2. Delegate the authority to the Manager of Licensing and Enforcement, or his or her designate, to grant noise exemptions from the prohibitions listed in section 1 (operation of construction equipment) and section 3 (construction activity) of Schedule B of the Noise By-law for the purpose only to permit construction activity associated with public projects, until 2300 hours, one day per week, excluding Sundays and Statutory Holidays.

### **Waste Collection in the Downtown Kingston Business Improvement Area**

1. Add an activity to permit noise from private haulers for collection of waste in the Downtown Kingston Business Improvement Area beginning at 6:00 a.m. Currently, private haulers are not permitted to create noise when collecting garbage before 7:00 a.m. Allowing private haulers to pick up garbage starting at 6:00 a.m., in the downtown BIA zone only, will provide the opportunity for waste to be removed earlier from those streets.

### **Housekeeping changes:**

1. Update the name of the organizational units responsible for administering the noise by-law to the "Licensing and Enforcement Division" within the "Planning, Building and Licensing Services Department", to reflect organizational changes;
2. Revise the title of the map under Schedule D from "Designated Residential Areas" to "Designated Residential Areas and Other Areas";
4. Remove the text "Reserved (By-Law Number 2004-52; 2007-51)" under Schedule B, Activity 2. This text was intentionally inserted as a placeholder to retain the order of the numbers in the chart, after Council repealed this section on February 27, 2007. One of the activities Staff is proposing be separated into two separate activities would be inserted in the chart under Activity 2 instead;
5. Revise the existing description under Schedule B, Activity 15 by separating it into two distinct activities, while retaining the same prohibitions by time and place. Specifically, Staff is proposing that the "playing of musical instruments, including percussion instruments" be listed as an activity separate and distinct from "yelling, shouting, hooting, whistling or singing";

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6. Replace “churches” with “places of worship” in exemption number 8., under Schedule C – Exemptions from the Noise Prohibitions. The term “places of worship” is the updated wording used in municipalities’ zoning by-laws;
7. Add “police vehicle” to the list of vehicles defined as an “emergency vehicle”;
7. Remove the definition for “road” from the by-law, and incorporate its content into the definition for “premises”.

Response to Council Motion regarding regulation of noise from buildings’ mechanical systems

At its regular meeting on June 3, 2014, Council approved the following motion:

**Whereas** the Environment, Infrastructure and Transportation Policies Committee has received a delegation that spoke to the matter of noise pollution, particularly as it results from “routine mechanical noise” of buildings, such as that of HVAC systems, exhaust fans, chimneys, pumps or other utility facilities both inside and outside of buildings, and **Whereas** similar noise was an issue at the K-Rock Centre at the time of its construction, and

**Whereas** HVAC noise has been an on-going problem with the Block D development, (particularly the hotel building), and

**Whereas** the city work at the Pump House Steam Museum has also been the subject of similar complaints from members of the public, and

**Whereas** other jurisdictions do have guidelines for ambient noise levels,

**Therefore Be It Resolved That** Council direct staff to investigate the best practices in Ontario for controlling, regulating, or otherwise legislating maximum (and therefore acceptable) levels of building ambient noise, (noting how standards may vary according to the community) and with specific regard for the different areas within Kingston that may require different standards, such as rural, residential, downtown business/industrial, and recreational lands/parklands/waterfront shorelines or walkways; and

**That** staff report back to the first meeting of Environment, Infrastructure and Transportation Policies Committee three months after Council approves this recommendation with a report of what the best practices are in other Ontario municipalities, and recommend a course of action for Kingston.

Staff recommends retaining the qualitative approach to noise enforcement. In the case of noise from buildings’ mechanical systems, quantitative sound level maximums are already incorporated into provincial regulations and in municipal zoning through site plan control. For complaints received concerning noise from stationary sources including a building’s mechanical systems, follow best practices:

By-Law Enforcement Officers would initially investigate a complaint to gather information regarding the nature and source of the noise. If the source of the noise has an existing Environmental Compliance Approval (ECA) or is deemed to require one, or is registered or required to be registered with the Environmental Activity and Sector Registry (EASR), the

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complaint can be forwarded to the Ontario Ministry of the Environment and Climate Change for their follow-up.

If the source generating the noise is not regulated by an ECA and does not require registration with the EASR, Planning Services would be consulted to identify any conditions that may exist in a site plan control agreement or sub-division agreement regulating the source of the noise. If such conditions exist, and/or if the type of noise is regulated under Schedule B, activity number 6 of the City's Noise By-Law, City staff would advise the owner or occupant of the property of the complaint and of any regulations or conditions that they are not in compliance with.