

Municipality of Lakeshore – Report to Council

Legal and Legislative Services

Legislative Services



To: Mayor & Members of Council
From: Brianna Coughlin, Division Leader – Legislative Services
Date: April 8, 2024
Subject: Noise By-law

Recommendation

Direct the Clerk to read By-law 16-2024, being a by-law to regulate noise, during the Consideration of By-laws, as presented at the May 28, 2024 Council meeting.

Strategic Objectives

5b) Modernize Citizen-Centered Services - Bylaw Modernization (including a calendar of bylaw review and effective enforcement strategies/capabilities)

Background

Noise within the jurisdiction of the Municipality of Lakeshore is currently regulated through By-law 106-2007, being a by-law to control noise. Complaints relating to excessive noise are investigated and enforced, if applicable, by both the By-law Division (during regular business hours) and the Ontario Provincial Police.

At the August 9, 2022 meeting, Council passed Resolution #313-08-2022:

Prioritize an update to the Noise By-law that includes consultation in the near future and consultation in 2023.

Administration undertook a public consultation process to solicit input from local residents and stakeholders relating to noise control. In particular, Administration asked for input regarding types of prohibited noise and exemptions for permitted events. This included:

- Types of noise to be regulated (“normal” noise levels vs disturbing noise)
- Quiet hours (ex: 7 PM to 7 AM)
- Zone-specific noise levels (ex: residential vs industrial areas)
- Temporary noise exemptions for special events.

The results of the public consultation were presented at the September 26, 2023 Council meeting. At that time, Council passed Resolution # 274-09-2023

Direct Administration to consult with the Ontario Provincial Police regarding the enforcement of noise by-law provisions, and the potential standardized use of decibel meters; and

Direct Administration to draft a Noise By-law, based on resident feedback and Council discussion.

Comments

Administration is presenting By-law 16-2024 for Council's consideration. This by-law regulates nuisance noise within Lakeshore and provides a limited scope for noise exemption permits, for special events and critical infrastructure construction projects only.

The following noise types were added as prohibited noise, or the language was updated from By-law 107-2007 to provide additional clarity:

- Bells, horns and shouting, with exceptions for:
 - ringing of bells, chimes or the use of an apparatus or mechanism for the amplification of the human voice for the purpose of a call to prayer or call to other religious ceremony on a property zoned and operating as a Place of Worship pursuant to the Zoning By-law, for a continuous period of 10 minutes or less;
 - fire alarms, for a continuous period of 20 minutes or less;
 - car alarms, for a continuous period of 5 minutes or less.
- Sound amplification for advertising that is audible on a public street or public place;
- Unnecessary motor vehicle noise;
- Persistent animal noise;
- Fireworks; and
- Discharge of firearms.

It is noted that municipalities are no longer able to restrict noise relating to the delivery of goods and services, pursuant to section 130 of the *Municipal Act, 2001*.

The by-law also proposes the following noise restrictions, with the applicable zone determined at the Point of Reception.

Type of Noise	Prohibited in Residential Zone	Prohibited in all other Zones
Ringing of bells, chimes, the sounding of horns or Persistent shouting	Prohibited at all times	Prohibited at all times
Noise from a radio, television or other electronic device, or a musical or sound producing instrument, sound reproduction or amplification, operated in such manner or with such volume as to disturb the peace, quiet, comfort or repose of any Person	Prohibited at all times	Prohibited at all times
Sound reproduction or amplification for the purpose of advertising a good or service	Prohibited at all times	Prohibited at all times
Motor vehicle noise, such as the sounding of the horn, revving of engine, the squealing of tires or the discharge of exhaust except through a muffler or other device which effectively prevents loud or explosive noise	Prohibited at all times	Prohibited at all times
Animal noise, permitting Persistent barking, howling, whining or other like sounds made by an animal kept for any purpose other than a normal farm practice or a dog kennel approved and operating in accordance with the Animal Care and Control By-law	Prohibited at all times	Prohibited at all times

Type of Noise	Prohibited in Residential Zone	Prohibited in all other Zones
Power equipment, including chainsaws, power lawnmowers, leaf blowers, power tools or other similar devices	8:00 PM to 7:00 AM daily Sunday through Friday 8:00 PM to 9:00 AM daily Saturday	8:00 PM to 7:00 AM daily Sunday through Friday 8:00 PM to 9:00 AM daily Saturday
Construction, including the operation of any vehicle or equipment in connection with the construction of any building or structure, engine or machine	8:00 PM to 7:00 AM daily Sunday through Friday 8:00 PM to 9:00 AM daily Saturday	8:00 PM to 7:00 AM daily Sunday through Friday 8:00 PM to 9:00 AM daily Saturday
Fireworks Note: a maximum of 15 continuous minutes	Prohibited at all times, except for 1:00 PM to 10:00 PM on Holidays or days of religious or cultural significance	Prohibited at all times, except for 1:00 PM to 10:00 PM on Holidays days of religious or cultural significance
Discharge of firearms	Prohibited at all times	Permitted in agricultural zones only and in accordance with the Discharge of Firearms By-law

A comparison of the construction, power equipment and amplified noise restrictions for local municipalities has been included as Appendix A for Council's information.

Regarding amplified noise, it is important to note that while this is proposed to be prohibited at all times, it refers to noise that is "operated in such manner or with such volume as to disturb the peace, quiet, comfort or repose of any Person". By-law Compliance Officers that receive complaints relating to amplified noise will make professional judgements regarding the reasonableness of the noise, if it is likely to disturb residents in the area. This could be noise made at any time of the day.

Enforcement

Administration consulted with the Ontario Provincial Police regarding overall enforcement and specifically relating to the potential use of decibel meters. After discussing with the OPP and looking at industry best practices, Administration is recommending against using decibel meters at this time and has not included decibel levels in the draft by-law.

The use of decibel meters would require the purchase of equipment, training, ongoing calibration and standardization of use of the equipment with not only internal staff but OPP officers as well. In addition, although initially thought to be helpful in prosecuting noise offences, relying on evidence from decibel meters in court is often difficult. It is more successful to use the “reasonable” test from the observations of compliance officers or witnesses when discussing offences relating to nuisances, including noise.

It is also important to note that the issue of enforcement after regular business hours remains a significant concern. The Municipality currently has 2 By-law Compliance Officers that primarily work Monday to Friday during regular business hours. Overtime can be scheduled if there are consistent complaints at a specific time/location, however OPP officers are the responders to the majority of noise complaints as they often occur in the evening. OPP officers will respond to a complaint immediately if they can, however any threats to safety or criminal code matters will take precedence over municipal noise by-law offences.

Others Consulted

Ontario Provincial Police – Lakeshore Detachment

Financial Impacts

By-law 16-2024 proposes a temporary noise exemption permit process, limited to critical infrastructure construction and special events. The User Fee By-law will need to be updated to include a permit fee of \$200, which will include the application review as well as costs for mailing notices to properties within 120 meters. It is also proposed that the fee be waived for an event held by or on behalf of a registered not-for-profit organization or a registered charity, where the event is solely for cultural or religious goals, social welfare, civic improvement, recreation, amateur sport, education, or any other similar community enhancement initiative for any purpose except profit, and where the event is open to the public and no admission is charged.

Should a permit be refused, or issued and revoked, the decision can be appealed to the Hearing Committee. An appeal to the Hearing Committee is \$104 as per the current User Fee By-law, and the cost to the Municipality to hold the hearing is currently \$625 (remuneration for Committee members).

The larger cost of the administration of the Noise By-law rests with its enforcement. As Administration is not recommending the use of decibel meters, this additional cost has not been included in this report.

Administration intends to apply to the Ministry of the Attorney General for short-form wording, meaning that tickets can be issued for by-law offences. The cost of any prosecution will depend on the complexity of the case. Currently, the prosecution of these offences will be handled by Legal Services but there may be incidental costs such as obtaining corporate profiles or title searches.

Attachments

Appendix A – Construction, Power Equipment and Amplified Noise Restrictions Comparison

Appendix B – Noise By-law Engagement Summary Report (previously presented September 26, 2023)

Report Approval Details

Document Title:	Noise By-law.docx
Attachments:	- Appendix A - Construction and Power Equipment Noise Restrictions Comparison.pdf - Appendix B - Noise By-law Review Results of Public Engagement.pdf
Final Approval Date:	May 17, 2024

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

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Submitted by Susan Hirota

Approved by the Corporate Leadership Team