

The Corporation of the City of Kawartha Lakes

Committee of the Whole Report

Report Number MLE2019-002

Date: September 10, 2019

Time: 1:00 p.m.

Place: Council Chambers

Ward Community Identifier: All

Title: Noise By-Law

Author and Title: Aaron Sloan – Manager of Municipal Law Enforcement and Licensing

Recommendation(s):

THAT Report MLE2019-002, **Noise By-Law Review** be received;

THAT By-Law 2005-025 be repealed;

THAT By-Law 2018-234 being a by-law to Establish and Require Payment of Fees for Services and Activities Schedule A-12 be amended to establish an exemption fee; and

THAT the necessary By-Laws be forwarded to Council for consideration at the next Regular Council Meeting.

Department Head:_____

Financial/Legal/HR/Other:_____

Chief Administrative Officer:_____

Background:

At the Council Meeting of July 11, 2017 **CC2017-20.10.1.4** Council resolved that Memorandum **CR2017-618** regarding the Noise By-law, be received; and **THAT** staff be directed to review By-law 2005-025, A By-law to Regulate Noise in the City of Kawartha Lakes and provide a report with the results of the review and any recommended changes by Q1, 2018.

CARRIED

Staff has completed the review and this report addresses that direction.

Rationale:

In January 2005 Council passed a City wide By-law to regulate noise. Historically, the noise by-laws were a fragmented patchwork left over from the prior municipalities (post amalgamation). The passing of the by-law created an efficient structure and allowed for consistent enforcement practices. Since passing the City Noise By-law in 2005, the by-law has been amended a number of times to address various issues, resulting in the current consolidated noise by-law.

Noise and sound are extremely subjective; tolerance is often the trigger for complaints to Municipal Law Enforcement and Police, noise can be an issue that fractures many neighbourhood relationships. Excessive and intrusive noise affects the health, safety and well-being of citizens. The intent of the noise by-law is to provide regulation of noise, education of the individual and community, to look at the issues causing the noise concern, and to give consequences for violations when needed, thereby allowing the citizens to enjoy their property without the negative social and environmental impact of noise.

The Consolidated By-Law to Regulate Noise in Kawartha Lakes 2005-025 has been fully reviewed and is attached as **Appendix "A"** to this report.

In 2017-2018 the Noise by-law review was deferred to allow staff to review how Short Term Rentals play a role in our communities and how the noise by-law applies to them. Ultimately, the Consolidated Noise by-law and the Consolidated Fees by-law were amended to reflect a process change.

Staff used the review process as an opportunity to compare the draft noise by-law to by-laws being used in other municipalities. Studied were the following:

- Waterloo
- Toronto
- Oakville
- Peterborough
- Ramara

Staff also noted that the Ministry of Environment and Climate Change (MOECC) offers an Environmental Noise Guideline - Stationary and Transportation Sources - Approval and Planning (NPC-300):

This guideline serves four purposes:

1. To provide sound level limits that are applied by the MOE to stationary sources.
2. To provide advice, sound level limits and guidance that may be used to guide land use planning decisions.
3. To provide sound level limits that may be incorporated into noise control by-laws, which may be developed by municipalities.
4. To provide sound level limits that may be applied under the provisions of the *Aggregate Resources Act*.

Survey Results

Under the Municipal Act 2001, there is no provision to hold a public meeting prior to passing a new noise by-law. However, staff considers it appropriate to advise and collect information from the public relating to this process.

The process for this review has involved a public consultation by survey hosted by the Communications Division. The purpose of the survey was to collect public opinion about general and specific concerns and experiences, also to examine processes for efficiency and improvement. The noise survey was hosted on the City of Kawartha Lakes website and went live on May 16, 2019 at 12p.m. and concluded 3 weeks later on June 12, 2019 at 3 p.m.

During the three week period the survey was promoted by Communications on social media, in the newspaper and on the radio. The survey was answered 1059 times. A number of responses were also received via email and letter mail. This response rate is considered to be extremely high. The survey questions are attached to this report as **Appendix “B”** Noise Survey.

The survey contained 26 questions. The following are samples of the questions asked and data collected.

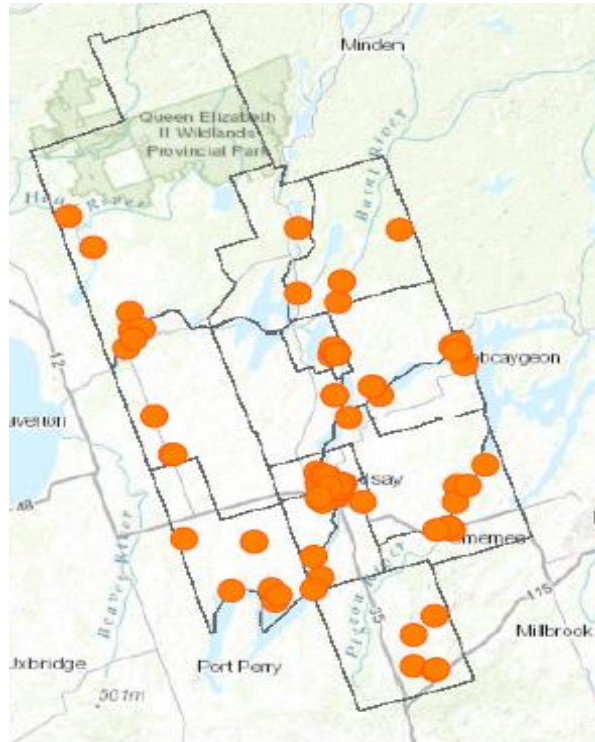
Question	Responses – 1059 total
Are you aware that the City of Kawartha Lakes has regulatory noise By-laws?	829 - Yes
Have you ever contacted the City's Municipal Law Enforcement and Licensing Division (MLEL) to make a noise By-law complaint?	163 - Yes
Should special permits be available	749 - Yes

Question	Responses – 1059 total
from the municipality offering limited noise by-law exemptions (for example, music events, weddings)?	
Should By-law exemption requests be approved by?	679 – indicated Municipal Law and Licensing Division
I believe that the City should be in the business of noise regulation.	631 – agree
Noise is a normal part of living in the City of Kawartha Lakes	604 – agree
Generally, the noise levels in the City of Kawartha Lakes are reasonable.	781 – agree
Please select the top 3 noises that disturb you the most. (picklist)	554 - Residential house (loud music, parties) 532 - Pet or animal noise, dog barking 404 - Motorcycle noise

Noise related complaints are received in the Municipal Law Enforcement and Licensing Division and are tracked through CityWorks as Occurrences. In 2018 the Division received the following:

Municipal Law Enforcement Occurrences - 2018	
Barking / Howling	87
Construction (commercial and residential)	13
Drums	1
Bagpipes	1
Radio / Party / Yelling	13
Security Alarm	1
Pump / Generator / Compressor	2
Delivery Truck	1
Dirt bike / Vehicle without effective exhaust	5
Total	125

In 2018 the Municipal Law Enforcement and Licensing Division Officers responded to **125** noise related calls to service across the City and as pictured in the following graphic:

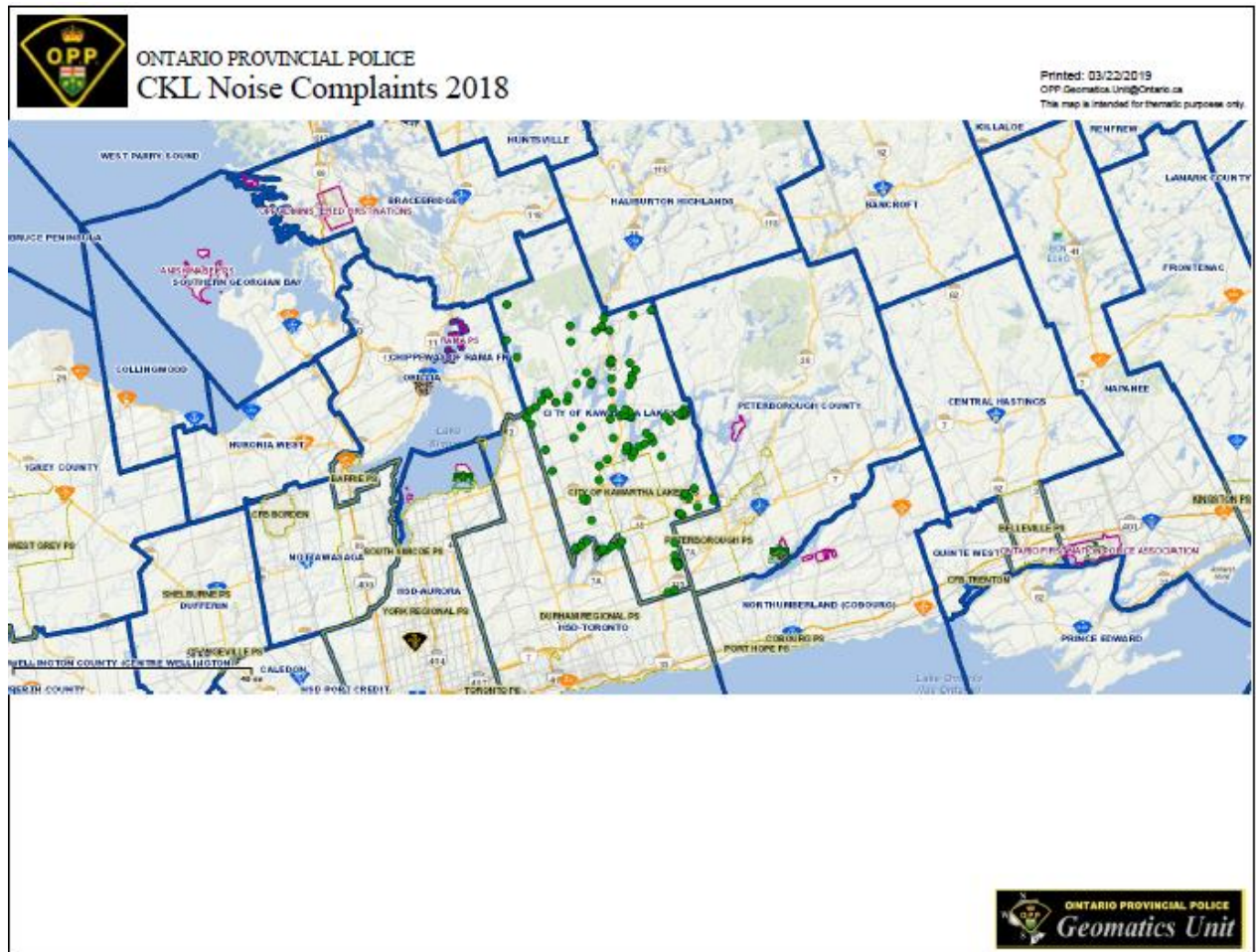


The local police services also offer response to noise issues, while they may not directly enforce the by-law the officers respond, provide public education and enforcement through other legislation such as the Criminal Code or the Highway Traffic Act.

In 2018 the Kawartha Lakes Police Service Officers responded to **228** calls to service. The calls to service are classified as follows:

KLPS Noise Complaints	
Noise By-law (general)	5
Residential	191
Vehicles	12
Businesses	2
Animal	18

The Ontario Provincial Police responded to **177** noises related calls for service in 2018 and as pictured on the following graphic:



Review Conclusion, Draft By-law wording and Process Change

The Consolidated Noise by-law requires revisions, to reflect current issues, exemption process and process changes. The survey and consultations with staff and public have in some instances requested changes to address concerns that may be regulated by other by-law or Provincial regulations.

The current noise by-law contains provisions with respect to motorized vehicles.

The Highway Traffic Act R.S.O. 1990, c. H.8 also contains provisions applicable to mufflers and motor vehicles.

MLE Officers do not have the authority to stop motorized vehicles using municipal roadways, which makes enforcement challenging and difficult. Regulation of motor vehicles in the Noise by-law may give the public a false expectation that the MLEO may be able to enforce. However, staff feels that having sections with respect to motorized vehicles in the Noise by-law enables the Police Services additional options outside of the Highway Traffic Act or similar regulation for enforcement. Complaints of this nature are pushed to the Police Services generally; however MLE recognizes that joint projects with the police services are a possibility.

The draft noise by-law reflects changes that have been requested from the public, Councillors and city staff. The draft also addresses issues resulting from a legal review, and process changes. Noise by-law updates include additional definitions, items added to the schedules, a new exemption process, application and fees (included below). The draft by-law has been included as **Appendix "C"**

Currently, Noise By-law exemption requests go to Council for consideration and approval. In 2018 Council reviewed and granted approximately **11 Noise by-law exemption** request letters. Staffs is recommending that the exemption approval process be moved to staff level and utilize a review and approval process used similar to Licensing application approvals and as described below. This change in process will reduce the items added to the Committee of the Whole and/or Council Agenda.

The Municipal Act 2001, S.O. 2001, c. 23.2 authorizes legislative and quasi-judicial powers may be delegated only to:

- a) An individual who is an officer, employee or agent of the municipality.

The administrative changes suggested in this report and draft by-law align with Municipal Act 2001, S.O. 2001, c. 23.2 (2) (c) and are listed in the draft by-law as follows,

By-Law Draft changes

3.00 Administration

3.01 The Municipal Law Enforcement and Licensing Division shall be responsible for the administration of this by-law.

Article 5.00: Exemptions

5.01. The prohibitions described in Schedules “A” and “B” do not apply if the noise is necessary and the result of measures undertaken in an emergency for the:

- a) immediate health, safety or welfare of the inhabitants; or
- b) preservation of property;

5.02. The prohibitions described in Schedules “A” and “B” do not apply if the noise is the result of an activity that has been granted an exemption under Schedule “C” or Article 5.00.

Exemption Process

5.03. Multi-day events that extend over 3 days, all day construction activities related to residential or commercial construction or for municipal activities related to municipal infrastructure shall be directed to Council or Committee of the Whole for consideration.

5.04. The prohibitions described in Schedules “A” and “B” do not apply if the noise is the result of an activity that has been granted a noise exemption under this by-law.

5.05. Any person may submit a noise exemption application to the Manager of Municipal Law Enforcement and Licensing requesting a noise exemption from any of the prohibitions described in Schedules “A” and “B” in the following ways:

- (i) by attending the Municipal Law Enforcement and Licensing Division office
- (ii) by submitting the application on-line
- (iii) sending the application regular mail

5.06. The noise exemption application, as set in Section 5.07, are to be submitted 45 days prior to the event occurring. Applications received after 45 days may not be approved.

- 5.07. The noise exemption application form shall contain details about the event including but not limited to the following:
- (i) Type of event and event details
 - (ii) Date of the event
 - (iii) Civic address – Location
 - (iv) Duration of the event such as start and finish times,
 - (v) Contact information of at least two people associated with the event (government issued photo identification and contact phone number)
 - (vi) Owner information, if different from the applicant
 - (vii) Letter of permission from property owner or copy of facility rental agreement, if applicable
 - (viii) Description of the source of sound and reasons for the noise exemption request
 - (ix) Site plan
 - (x) Payment as per section 5.16.
- 5.08. All noise exemption requests will be circulated to the following for review and optional comment:
- (i) Kawartha Lakes Police Service - Chief of Police
 - (ii) Kawartha Lakes Ontario Provincial Police – Detachment Commander
 - (iii) Kawartha Lakes Fire Service – Fire Chief
 - (iv) City – Director of Community Services
 - (v) City – Director of Development Services
 - (vi) City – Director of Public Works
- 5.09. The requestor shall provide notice of the noise exemption request application to residents who reside within 500 metres of the location property at least 40 days prior to the event occurring. The requestor shall direct all respondents to reply directly to the Manager of Municipal Law Enforcement and Licensing, or designate.
- 5.10. The Manager of Municipal Law Enforcement and Licensing may approve the noise exemption request application, grant an alternative exemption or refuse such exemption. The group may impose any conditions that it considers appropriate.
- 5.11. The approved noise exemption will be in effect for the date and times specified.
- 5.12. Approval or denial notification of the noise exemption application will be provided to the applicant within 14 days of receipt of the exemption application.

- 5.13. Where the noise exemption application is approved with conditions, no person shall contravene the conditions as imposed in the noise exemption approval.
- 5.14. Any granted noise exemption does not exempt a person from complying with any other regulation or Municipal By-Law.
- 5.15. No person shall alter or breach the terms or conditions of the noise exemption issued by the Manager of Municipal Law Enforcement and Licensing and such alteration or breach shall immediately render the noise exemption null and void.
- 5.16. Where a Person or Owner has submitted a noise exemption application for processing, they shall be charged an Administrative Fee as described in the Consolidated Fees By-Law.

The Municipal Act, 2001, S.O. 2001, c.25 Part 12 subsection 391 (1) provides that a municipality may impose fees and charges on persons,

- a) for services or activities provided or done by or behalf of it;
- b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality of any local boards; and,
- c) for the use of its property including property under its control;

Staff recommends that an administration fee for exemption requests will serve to offset the costs to process and administer the exemption request specific to a location. Other municipalities were canvassed as comparators and are as follows:

Municipality	Fee	Notes
Vaughan	\$300.00	
Ottawa	\$55.00	
Township of King	\$50.00	
Mississauga	\$250.00	
Barrie	\$325.00	
Markham	\$50.00 (residential)	\$320.00 (construction)
Brantford	\$100.00	
Waterloo	\$325.00	
Brant County	\$160.00	
Rama	\$150.00	
North Bay	\$255.00	
Springwater	\$25.00	
Toronto	\$100.00	\$120.00 if greater than 60 people

Staff recommends that The Consolidated Fees By-Law will require an amendment to Schedule A-12 as follows:

Service Description	Unit	Rate effective 2019	Reference
Exemption application	Each day	\$75.00	By-law 2019-xxx (Insert new Noise by-law #)

Other Alternatives Considered:

Including a sound rating system such as decibel reading system (dbA) was considered as an addition to the draft by-law. Including this type of rating system would change the way officers investigate noise complaints. As such, the Municipal Law Enforcement and Licensing Officers would require a substantial change to staff business processes and adjustment to the items to be regulated, for example some of the time limitations could be removed from the schedules and the max sound levels could be added.

When considering the statistical data that we have at this time, the complaint type and the number of complaints received yearly staff is not recommending this option. Having a decibel reading system (dbA) would increase the complexity and cost of enforcement for the Municipal Law Enforcement and Licensing Division. Every MLE Officer would require training in a Ministry of the Environment and Climate Change (MOECC) approved sound study course and sound measuring equipment would need to be purchased and maintained. Officers would also be required to maintain a minimum level of training to be recognized as being proficient as an acoustician.

The estimated costs would be \$15,000.00 staff training (initial start up) and \$4000.00 for yearly certifications. One outdoor sound level noise monitoring kit would be required with an estimated cost of \$5900.00.

Financial/Operation Impacts:

The current Noise enforcement program is active within the 2019 budget. Staff does not anticipate the need for additional enforcement staff to offer the current service level in 2020 or with the passing of this bylaw. There will be no, or minimal financial impact to the enforcement program as the process changes and additional duties will be absorbed with current service programs and budgets.

The exemption application process will see a small amount of revenue generation which will be used to offset general enforcement costs and the staff time needed to process the exemption applications.

Relationship of Recommendation(s) To the 2016-2019 Strategic Plan:

The report and noise regulatory by-law aligns with the goals identified in the 2016-2019 Strategic Plan namely:

- Goal 2 – An Exceptional Quality of Life
- Goal 3 – A Healthy Environment

The purpose of noise regulation is to provide an environment free from unusual, unnecessary or excessive sound that may degrade the quality and tranquility of life for the residents of the City.

Consultations:

Public – Survey
O.P.P
Kawartha Lakes Police Service
Communications
Clerks
Municipal Law Enforcement and Licensing

Attachments:

Appendix A – Consolidated Noise By-law 2005-25



2005-025
Consolidated Noise By-law

Appendix B – Survey Questions



Noise By-law survey
- New.pdf

Appendix C – Draft Noise By-law



2019-xxx Noise
Bylaw.pdf

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