



**LEGISLATIVE AND COURT SERVICES
MEMORANDUM**

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Pending #:
50/20

TO: GENERAL COMMITTEE

FROM: B. KEENE, ACTING SUPERVISOR OF ENFORCEMENT SERVICES

NOTED: W. COOKE, DIRECTOR OF LEGISLATIVE AND COURT SERVICES / CITY CLERK
D. MCALPINE, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES
M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RE: FOLLOW UP RESPONSE TO MOTION 20-G-202 – NOISE BY-LAW ENFORCEMENT

DATE: June 28, 2021

The purpose of this Memorandum is to provide members of General Committee with a response to a direction received on June 8th, 2021, from the Finance and Corporate Services Committee Meeting. Staff in the Legislative and Court Services Department were requested to review the Town of Caledon and Town of Oakville's enforcement of noisy vehicles and report back via memorandum related to motion 20-G-202, adopted by City Council in March 2020.

Town of Oakville:

Staff contacted the Town of Oakville for information on their enforcement of “noisy vehicles”. The Manager for Enforcement Services at the Town of Oakville indicated that the enforcement program they have undertaken with Police is specific to motorcycle noise, and no other “noisy” vehicles are enforced under this joint initiative.

Staff explained that the joint initiative was to allow and engage Halton Regional Police Service (HRPS) officers to pull vehicles off the roadway. It also allowed for HRPS to grow their program through their initiative of Project Noisemaker where the police officers will enforce noise from moving vehicles, but with the additional assistance of Town Enforcement Staff. It allows for noise testing on the scene for motorcycles, thereby providing quantitative evidence to proceed with charges. Staff confirmed that HRPS does have the ability to issue charges under the HTA. However, they felt that the additional noise prohibitions added to the municipal noise by-law allows for motorcycle noise to be tested by municipal staff with the sound meter whereby, if the sound exceeds the specified limit, charges will be issued.

Oakville confirmed that during targeted enforcement, Municipal Law Enforcement Officers will set up in a specific location, for example a mall parking lot and Police will monitor the adjacent roadway and if suspected noisy motorcycle noise is heard, the Police will pull over the (suspected) noisy motorcycles to have a noise level reading conducted by Municipal Law Enforcement Staff. The police do not pull vehicles over under the municipal by-law. Police may pull over vehicles the checking “the mechanical fitness of the vehicle” or a possible violation of s. 75 of the HTA. Once their check is done, Oakville Enforcement Staff will test for compliance under the town's by-law.

Staff from Oakville indicated that they attempt to schedule 4 to 8 days to conduct this targeted enforcement in the summer months, generally on the weekend, with approximately 0 to 8 tickets are issued per session, with an average of approximately 1 ticket per hour during the joint enforcement initiative. Staff in Oakville stated that generally it does take time to set the motorcycle up for testing and then to conduct the test itself, after which, if the sound level exceeds the permitted level a charge will be issued under POA (which also takes time). The Town of Oakville has also indicated that they have had a good success rate to date with tickets that are challenged in court.

To date, these inspections have not been impacted by COVID-19. They have continued this program to the best of their ability during the pandemic. They conducted several inspection dates last year and have completed 2 so far this year with another possible 6, that they are awaiting confirmation from Halton Regional Police on for later this year.

In conclusion, staff have noted that the Town of Oakville's enforcement measures only relate to noise created by motorcycles, with a heavy reliance on a Police agency to assist them by pulling over the vehicles.

Town of Caledon:

Staff contacted the Town of Caledon for clarification on their enforcement of "noisy vehicles". They indicated that they too only have enforcement initiatives with the OPP to address noisy motorcycles, and not other noisy vehicles.

Caledon indicated that their enforcement officers conduct joint inspections in areas with the Ontario Provincial Polices (OPP) that where they have received a significant number of complaints from residents concerning loud motorcycles. The initiatives includes the OPP Officers pulling over the motorcycles and their officers would conduct the testing using the sound level meter/calibrator from 3M. Staff in Caledon indicated that they are typically conduct these inspections approximately one weekend a month in the summer due to available resources of the OPP who have the authority to stop the vehicles. Caledon indicated that between 2013 and 2019, with their staff having issued approximately 70 tickets in total to motorcycle operators found in violation. Enforcement of this program was initiated by members of the Belfountain community in Caledon due to raising concerns from members of the public voiced with Council about the noise pollution coming from motorcyclists riding through the community. There was a joint decision with OPP and By-law to conduct the enforcement together. By-law would get the required equipment and training, and OPP would assist with pulling the motorcycles over.

Caledon did advise that COVID-19 has played a significant impact, as they have not conducted any of these inspections since summer of 2019. Staff in Caledon further advised that they have had some success with the enforcement of noisy motorcycles, that they have only issued a small number of tickets due to the time to conduct the noise measuring for each motorcycle while dozens continue to pass by. The OPP are understandably unable to provide consistent officers to assist with this type of enforcement initiative. Unless the Town of Caledon receives a significant number of complaints this summer, they will not be conducting these inspections in 2021".

Again, staff concluded that the Town of Caledon's enforcement measures only relate to noise created by motorcycles. The Town staff relies heavily on a Police agency to assist them by pulling over the vehicles.

Barrie Police Service:

Staff contacted Barrie Police Services after receipt of the information from the Town of Caledon and the Town of Oakville, to inquire as their thoughts on the feasibility of conducting joint inspections. The Barre Police Service provided the following comments.

The Barrie Police Service applies Section 82 (2) of the Highway Traffic Act, noted below when conducting further inspections on vehicles in a safe location which would be off the roadway. Therefore, they are of the opinion it would be unreasonable to direct a driver to a location that is not in close proximity to where the vehicle was stopped.

"Every police officer and every officer appointed for the purpose of carrying out the provisions of this Act may require the driver of any vehicle, other than a bicycle that is not a power assisted bicycle, to stop, move the vehicle to a safe location as directed by the officer and submit the vehicle, together with the its equipment and, in the case of a commercial motor vehicle, any vehicle drawn by it, to the examinations and tests that the officer may consider expedient"



If a vehicle stop is conducted for an equipment issued such as an improper muffler or no muffler, a Provincial Offence Notice is often provided to the driver for that offence, which is the most appropriate course of action as it occurred on a Highway (as defined in the Act). The definition of a Highway does not include parking lots or public places, whereas that By-law infraction may be applicable. However, Barrie Police indicated that it is not encouraged to approach a group of car enthusiasts for the purposes of addressing noise infractions, as it may pose an officer safety issue.

Barrie Police indicated that they would be open to discussing some joint enforcement, however, they felt the manner that the other municipalities such as Caledon and Oakville are conducting theirs, may not be as applicable or appropriate to our jurisdiction.

Another concern raised by Barrie Police related to a joint enforcement effort, is that if a Provincial Offence Notice is issued by the Police, then if applicable a by-law ticket is issued by the By-Law department, which one takes jurisdiction, as you will have two different processes for the same set of circumstances, which may become confusing when the matter is addressed in the courts.

Barrie Police representatives also advised that BPS will be conducting a blitz this summer for unnecessary noise, along with addressing stop signs and speeding. They advised that it will be occurring twice a week over a four-week period.

Training and Equipment:

To facilitate the type of noise enforcement conducted by the Town of Oakville or the Town of Caledon, new noise level meters/reader would be required, staff training for staff conducting reading. The City of Barrie currently has 1 noise level reader, it does function and is calibrated annually and is currently only suitable to investigate noise from "stationary sources" such as noisy air conditioners, pool pumps etc. While the equipment the City has still functions properly, if Enforcement staff were asked to participate in such an enforcement initiative, new equipment would be required. Staff that would be conducting the noise level readings have already taken an environmental noise course, but more training may be required at an additional cost depending on the equipment purchased.

Staff reached out to the Town of Oakville, they noted that they use a Larson Davis LxT and LxT1 to measure the sound for noisy motorcycles. The cost of the sound level readers retail for approximately \$2500. The Town of Oakville also indicated that their officers have all also successfully completed NCB-5 Noise By-law Course with SS Wilson Associates, Consulting Engineers.

When staff spoke to the Town of Caledon, they indicated they use 3M Sound Pro Level Meters at a cost of approximately \$2500 to measure sound. They advised that a trainer from SS Wilson Associates, Consulting Engineers conducted a 2-day training course for their officers (cost unknown), with the Supervisor of Enforcement training any new staff.

Staff reached out to SS Wilson Associates, Consulting Engineers, the cost to deliver the 2-day course is approximately \$7600. This costing is just the costing for motorcycle type noise, if they were to provide training in other areas to do all encompassing noise enforcement, the cost will be much higher.

Staff have been advised by SS Wilson Associates, Consulting Engineers of related instrumentation charges that would be approximately \$6700, which would need to be purchased.

Conclusion:

Upon review of both requested municipalities, staff have determined that both Caledon and Oakville only conduct noise level readings related to motorcycles and not all vehicle types that may create some level of noise pollution. Furthermore, both Caledon and Oakville require the support of a police agency to assist with the enforcement initiatives as they require police to stop the vehicles. While both municipalities have had some success, the enforcement is time consuming and with the time noted to conduct the noise level readings, both municipalities noted that many motorcycles “allude” the enforcement measures undertaken. As noted above, while police agencies were assisting with stopping the vehicle for noise level readings to be undertaken by municipal staff under a by-law, those same motorcycles (and additional vehicles) can be addressed under the Highway Traffic Act, and the operator can be charged under those regulations without need to conduct noise level readings.

Should Council wish implement measures to address noisy vehicular traffic, a few options available are:

- Sending correspondence to the Barrie Police Services Board, requesting more enforcement (beyond the already planned four week blitz) to deal with all vehicular noise
- Sending correspondence to the Barrie Police Services Board to advise of Council’s interest in a joint enforcement initiative. This type of initiative would require the City to purchase the appropriate equipment as the current equipment is not appropriate
- Consideration of a reduction of speed limits which may assist with noise levels;
- Consideration of noise barriers in areas of high traffic noise