



## LEGISLATIVE AND COURT SERVICES MEMORANDUM

Page: 1  
File: P00  
Pending #:  
P50/20

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**TO:** FINANCE AND CORPORATE SERVICES 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:** RESPONSE TO MOTION 20-G-202 – NOISE BY-LAW ENFORCEMENT

**DATE:** JUNE 8, 2021

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The purpose of this Memorandum is to provide members of the Finance and Corporate Services Committee with an update concerning motion 20-G-202 adopted by City Council in March 2020 requesting staff to further review various provisions under the Noise By-law due to concerns raised by members of the community relating to noisy vehicles and the City of Barrie Noise By-law.

### **"20-G-202 - NOISE BY-LAW ENFORCEMENT**

1. That staff in the Legislative and Court Services Department review what other municipalities have done with respect to blitzes and voluntary compliance with their respective Police Services concerning matters such as noisy mufflers and cars and report back to the Finance and Corporate Services Committee in Q2 of 2021.
2. That staff in the Legislative and Court Services Department work with the Barrie Police Service concerning a possible joint blitz concerning noisy vehicles.
3. That Barrie Police Service be thanked for conducting the past blitzes and be encouraged to do further blitzes to address noisy vehicles in 2021."

Staff began a review of the noise enforcement being conducted by the City of Toronto related to information provided that their By-law Enforcement Officers were possibly stopping vehicles and conducting noise readings as portrayed by a Toronto Sun news article. Staff were advised by the Toronto Police Service that it was not the case as the City of Toronto By-law staff do not have the authority on their own to conduct vehicle stops. The officers do however work in conjunction with the Toronto Police Service to conduct other non-Highway Traffic Act related joint enforcement initiatives. Several attempts were made to contact By-law Enforcement at the City of Toronto to for clarification of the media coverage or related to the use of the noise by-law for enforcement purposes related to vehicles, but staff have not been able to obtain additional details at the time of this memorandum being prepared.

Staff also reached out to the City of Guelph and have confirmed that By-law Enforcement Officers in the City of Guelph do not have the authority to stop or pull over vehicles to conduct noise enforcement. Staff in Guelph have also indicated that they currently have no joint efforts between Police and By-law Enforcement Officers to stop vehicles. They do not conduct blitzes on noisy vehicles and/or mufflers as a result. Police in the City of Guelph lay charges under the Highway Traffic Act for these types of offences and do not utilize the noise by-law for enforcement.



## LEGISLATIVE AND COURT SERVICES MEMORANDUM

Page: 2  
File: P00  
Pending #:  
P50/20

Further, staff reached out to By-law Enforcement staff in the City of London, who also indicated that their Municipal Law Enforcement Officers do not have the authority to pull over motor vehicles for this type of offence or any other offence. Staff in the By-law Enforcement Office in London indicated that complaints received for noisy mufflers or vehicles are referred to the London Police Service Traffic Unit for enforcement, much the same way the City of Barrie does currently. Staff in London also confirmed that they do not conduct joint noise enforcement for this type of offence with Police. London Police Service use the Highway Traffic Act provisions for these types of noise violations and not the noise by-law.

Finally, staff reached out to the Barrie Police Services to explore the possibility of conducting a joint blitz enforcement initiative as directed in the motion. Staff in both Enforcement Services and the Barrie Police Traffic Unit discussed the limited authority that the City of Barrie Enforcement Services Branch has in addressing the issue of vehicles with noisy mufflers. As there is no authority to conduct a vehicle stop for a by-law violation in relation to the noise infraction, the charges under the Highway Traffic Act have a do not require the same level of evidence production as a noise by-law infraction, and Municipal Law Enforcement Officers are not authorized to enforce the Highway Traffic Act, the parties determined that there limited value in relation to a jointly organized enforcement "blitz" for this type of initiative.

Furthermore, staff in the Barrie Police Service Traffic Unit confirmed that if a vehicle is stopped, in relation to it having an improper muffler and/or emitting unreasonable noise, the the most appropriate action would be to continue an investigation under the Highway Traffic Act, as both of those offences are violations. If fines are imposed upon the driver, then non payment of those fines would result in a suspension of their drivers licence through the Courts which may prompt the driver to rectify the driving behaviour or the identified equipment issues.

### **Review of Current Noise Enforcement Practice:**

#### **Quantitative or Measurable Noise – Enforcement Services:**

Enforcement Services is responsible for enforcing the quantitative or measurable noise as provided for in the Noise By-law. These generally stem from stationary sources such as air conditioners and pool pumps. Staff have received training and certification in the use of sound level meters and how to calculate noise measurements while taking environmental and ambient factors into consideration.

Enforcement Services receives complaints regarding quantitative noise (measurable sound) and will set up an inspection to take noise measurements with the use of a sound level meter from the point of reception (where the noise is being heard) in a residential area, when the source of the sound can be controlled by the owner and when environmental factors such as wind, rain and humidity are appropriate and ambient factors such as traffic are favourable. Often numerous visits are required to obtain the optimum conditions to determine whether a violation is present. Should a violation be present, Enforcement Services will work with the owner to remedy the situation for both parties or if necessary proceed with legal action.

Enforcement Services receives numerous noise complaints yearly for quantitative noise (measurable sound) from stationary sources however most do not result in an actual sound level violation.



## LEGISLATIVE AND COURT SERVICES MEMORANDUM

Page: 3  
File: P00  
Pending #:  
P50/20

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### **Qualitative Noise Matters – Barrie Police Service:**

Barrie Police Service is responsible for the qualitative noise, or noise that is disruptive to others enjoyment of their property etc., such as loud stereos (amplified sound), parties, construction and motor vehicle/noisy muffler type noise.

Historically it was found that the qualitative noise complaints, due to the specific nature of the noise, generally involve numerous individuals (amplified sound / parties etc.) requiring numerous Officers to attend and occur during late night hours or that ultimately require provincially legislated authority that Municipal Law Enforcement Officers are not provided, such as stopping motorized vehicles. Therefore, this enforcement has remained with the Barrie Police Service for those types of complaints and is still found to be true today.

Barrie Police Service receive complaints regarding noise sources that are disruptive to others enjoyment of their property or "quality of life". All calls received by Barrie Police Service are assigned a priority level, general noise is of a lesser priority response than many of their calls for service however should the information from the caller warrant a higher priority, such as alcohol involvement, vehicle involved, damage occurring then a higher priority is assigned due to the potential of criminal offences being committed.

In further discussions, Barrie Police Service confirmed that they support continuing to receive all complaints of this nature and will review each one to determine the appropriate action to ensure a successful outcome. Staff at Barrie Police provided the following information pertaining to the offences that are applicable to vehicle noise investigations".

#### *Highway Traffic Act Section 75 (1) Improper Muffler 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"*

Please note that enforcement of this section is subjective with no requirement to measure a prescribed acceptable decibel level, as mufflers are designed to "muffle" the noise not amplify the noise of the vehicle. If the vehicle still had the stock muffler equipped it would be in good working order. Once an aftermarket muffler is installed and alters the noise that was originally muffled, a violation under this section of the Act is applicable.

#### Conclusion:

The Barrie Police Service will continue to conduct enforcement of noisy vehicles and take the appropriate legal action under the Highway Traffic Act and not under the City of Barrie Noise By-law as it is more onerous and the Highway Traffic Act holds more punitive value.

Barrie Police also encourage residents that have a specific area or location where more violations are noted on a regular basis, to put a request forward detailing the most notable time the violations appear to occur and all efforts will be made to accommodate targeted enforcement measures as other calls for service permit.

Lastly, it is the suggestion of Barrie Police Service and Enforcement Services that a joint enforcement blitz would not provide any value, due to the limited authority that Enforcement Services has under the Highway Traffic Act.