

## CITY OF VAUGHAN

### **EXTRACT FROM COUNCIL MEETING MINUTES OF SEPTEMBER 27, 2021**

Item 20, Report No. 39, of the Committee of the Whole, which was adopted, as amended, by the Council of the City of Vaughan on September 27, 2021, as follows:

***By approving the recommendation contained in the report of the Interim Deputy City Manager, Community Services, dated September 14, 2021.***

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#### **20. NOISE BY-LAW AMENDMENTS WITH RESPECT TO DELIVERIES**

The Committee of the Whole recommends:

- 1) That consideration of this matter be deferred to the Council meeting of September 27, 2021.

#### **Recommendations**

1. That Council adopt the recommendations provided in Attachment 1 of this report; and
2. That Council authorize staff to undertake any other actions required to implement the recommendations of this report, including any consequential amendments to by-laws.

## Committee of the Whole (1) Report

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**DATE:** Tuesday, September 14, 2021

**WARD(S):** ALL

**TITLE:** NOISE BY-LAW AMENDMENTS WITH RESPECT TO  
DELIVERIES

**FROM:**

Gus Michaels, Interim Deputy City Manager, Community Services

**ACTION:** DECISION

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### **Purpose**

To seek Council approval to amend Noise By-law 062-2018, as amended, in line with recent amendments to the *Municipal Act, 2001*, S.O. 2001, c. 25 (the "*Municipal Act*") to prohibit regulation of noise caused as a result of deliveries to certain businesses, as well as minor by-law amendments to provide greater clarity.

### **Report Highlights**

- As of September 19, 2021, the *Municipal Act* now prohibits municipalities from regulating noise that is a result of deliveries to retail businesses, restaurants, bars, cafes, hotels, motels and goods distribution facilities.
- The recommendations of this report will bring Vaughan's Noise By-law in line with the *Municipal Act*, as well make some minor amendments to provide greater clarity on the regulation.

### **Recommendations**

1. That Council adopt the recommendations provided in Attachment 1 of this report; and
2. That Council authorize staff to undertake any other actions required to implement the recommendations of this report, including any consequential amendments to by-laws.

## **Background**

Throughout the COVID-19 global pandemic, the Government of Ontario has introduced regulations to manage the changes in the way we live, work and play. One such priority has been to ensure that businesses in our communities can continue to supply the goods and services we depend on. As a result of the social distancing, stay-at-home orders, and business operation restrictions during this period, use of delivery services has become more common for both businesses and consumers.

The Province, through the *Municipal Act*, gives municipalities the authority to regulate noise, and specifies what can be regulated. In order to mitigate the impacts of greater volumes of deliveries on traffic congestion during the day, the Province is removing the authority for municipalities to regulate noise generated as a result of deliveries to the following types of businesses:

1. retail business establishments;
2. restaurants, including cafes and bars;
3. hotels and motels; and
4. goods distribution facilities.

The current Noise By-law prohibits “loading and unloading” of trucks and commercial transport vehicles at certain times in certain areas, including:

- so as to make noise which might disturb a residential neighbourhood, in which the prohibited times are currently between 11:00 pm of one day and 7:00 am of the next day, or at any time on Sundays and Statutory Holidays;
- within a residential neighbourhood from 7:00 pm to 7:00 am; and
- within a “Quiet Zone” from 7:00 pm to 7:00 am, within 250 meters of all exterior walls of a hospital, nursing home, or seniors’ retirement facility.

This change means that these deliveries to specific types of businesses will be allowed to occur as of September 19, 2021, the date of enactment of this amendment to the *Municipal Act*.

Additionally, staff have identified some additional changes to improve the transparency of regulation, based on the following:

- **Back-up beepers:** The Noise By-law currently prohibits unnecessary “Motor Vehicle Noise” such as the sounding of horns, or revving of engines, or the squealing of tires of any motor vehicle on any property other than a highway. Staff sometimes receive complaints about “back-up beepers” on trucks, safety devices which are added to many large commercial vehicles which always beep when the vehicle is reversing in order to warn pedestrians and motorists behind

the vehicle. Staff intend to clarify that these beepers are considered necessary, in order to best protect pedestrians and other motorists, and are therefore exempt from the prohibition of “unnecessary noise”.

- **Authority of enforcement officers:** In line with ongoing standardization of City by-laws, staff would like to add more information with respect to what officers are allowed to do, with respect to investigations.
- **Penalty options:** The Noise By-law, at present, allows for Provincial penalties if needed as an enforcement tool. In addition, staff have suggested adding the City-administered Administrative Monetary Penalties, which are intended to be lower than Provincial fines and non-punitive in nature, and if disputed, can be heard before an efficient municipally managed screening and hearings process.
- **Multiple by-laws:** This report also seeks to consolidate the by-law and its amendments, by introducing a new consolidated version to make by-law review more efficient and public digestion easier.

### **Previous Reports/Authority**

[Bill 215, Main Street Recovery Act, 2020](#)

[Municipal Act, 2001, S.O. 2001, c. 25](#)

Item 22, Report No. 14, of the Committee of the Whole, [Noise By-Law Revision Technical Amendment](#), April 11, 2018.

Item 8, Report No. 2, of the Committee of the Whole, [Amendments to The Noise Control By-Law 96-2006](#), January 30, 2018.

### **Analysis and Options**

No.	Current state	Recommendation	Reasoning
1	<p>The Noise By-law prohibits deliveries at certain times in residential areas, Quiet Zones, and areas within 250 metres of a hospital.</p> <p>As of September 19, 2021, the Province is removing the authority for municipalities to regulate noise generated as a result of deliveries to the following types of businesses:</p> <ol style="list-style-type: none"> <li>1. retail business establishments;</li> <li>2. restaurants, including cafes and bars;</li> <li>3. hotels and motels; and</li> <li>4. goods distribution facilities.</li> </ol>	<p>To align the Noise By-law to reflect the changes in the Municipal Act.</p>	<p>To ensure the city’s regulations are aligned with provincial legislation.</p>

<p><b>2</b></p>	<p>The By-law prohibits unnecessary Motor Vehicle Noise, such as the Sounding of horns, or revving of engines, or the squealing of tires.</p> <p>Staff sometimes receive complaints about “back-up beepers” on trucks, safety devices which are added to many large commercial vehicles which always beep when the vehicle is reversing in order to warn pedestrians and motorists behind the vehicle.</p>	<p>To clarify that back-up beepers are necessary and therefore exempt from the ‘unnecessary noise from motor vehicles’ prohibition.</p>	<p>This will make the by-law more transparent and reduce complaint about back-up beepers.</p>
<p><b>3</b></p>	<p>The By-law does not provide detail with respect to the powers of Enforcement Officers.</p>	<p>To add that:</p> <ul style="list-style-type: none"> <li>• An Enforcement Officer may enter upon land within the City at any reasonable time for the purpose of carrying out inspections to determine whether the following are being complied with this By-law or a notice or order issued in accordance with this.</li> <li>• A By-law Enforcement Officer may: <ul style="list-style-type: none"> <li>○ Require, for inspection, the production of documents or things relevant to the inspection;</li> <li>○ Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts of them;</li> <li>○ Require information from any person concerning a matter related to the inspection;</li> <li>○ Be accompanied by such person or persons as the By-law Enforcement</li> </ul> </li> </ul>	<p>To ensure the by-law is transparent about the powers and authorities of Enforcement Officers. To bring the by-law in line with the powers and authorities expressed in other regulatory by-laws.</p>

		<p>Officer determines is necessary if such person or persons possesses special or expert</p> <ul style="list-style-type: none"> <li>○ knowledge related to the purpose of the inspection; and</li> <li>○ Make examinations or take tests, samples or photographs necessary for the purposes of the inspection.</li> </ul>	
4	The By-law allows for fines under the Provincial Offences Act, but has no provisions to issue lesser, non-punitive Administrative Monetary Penalties.	To add the option for Officers to issue Administrative Monetary Penalties in place of imposing fines. Penalty amounts are to vary in amount according to the impact of the violation on the community. To amend the AMPs By-law by including the new Noise By-law as a designated by-law.	To provide staff with a greater range of enforcement tools, with this one providing lower penalties than provincial fines, for use with more minor or first offences.
5	Currently, Noise By-law 062-2018, has two amendments and is not in the City's consolidated format.	To repeal the current by-laws and bring forward a new consolidated by-law that includes the amendments recommended through this report. Thus, the following by-laws would be repealed and replaced by a new Noise By-law: By-laws 062-2018, 168-2019, and 105-2020.	To provide greater regulatory transparency, by providing one consolidated by-law for easier review.

**Financial Impact**

No financial impact is anticipated as a result of the approval of the recommendations of this report.

**Broader Regional Impacts/Considerations**

The proposed amendments will ensure that the City's noise regulations are in line with provincial legislation.

**Conclusion**

Through these updates, the City continues to effectively collaborate with the Province to manage the impacts of the current pandemic.

**For more information**, please contact Gus Michaels, Director of By-law and Compliance, Licensing and Permit Services, ext. 8735.

**Attachment**

1. Proposed By-law Amendments.

**Prepared by**

Carol Ramchuram, Regulatory Policy Analyst, ext. 8783.

**Approved by**



Gus Michaels, Interim Deputy City Manager, Community Services and Director & Chief Licensing Officer, By-law & Compliance, Licensing & Permit Services

**Reviewed by**



Nick Spensieri, City Manager

## **Attachment 1 – Proposed By-law Amendments**

### **Noise By-law Amendments**

1. Add the whereas statement, “AND WHEREAS the Municipal Act prohibits municipalities from regulating noise that is a result of deliveries to retail businesses, restaurants, bars, cafes, hotels, motels and goods distribution facilities, however allows regulation of noise that is a result of other activities;”
2. Add Section 11( 2), Applicability and Scope, add, the following text, “In line with the Municipal Act, this By-law does not apply to noise made in connection with deliveries of goods to any of the following:
  - a. Retail business establishments;
  - b. Restaurants, including bars and cafes;
  - c. Hotels and motels;
  - d. Good distribution facilities.”
3. Add Section 11(3) with the following text, “In line with the Municipal Act, Section 11(1), does not apply to noise made in connection with deliveries of goods to any of the following:
  - a. Retail business establishments;
  - b. Restaurants, including bars and cafes;
  - c. Hotels and motels;
  - d. Good distribution facilities.
4. Add the following to Section 15(1), “, which does not include back-up beepers or similar devices used by vehicles for safety purposes.”
5. Add Section 22(2) to (3) as follows, “
  - a. An Enforcement Officer may enter upon land within the City at any reasonable time for the purpose of carrying out inspections to determine whether the following are being complied with this By-law or a notice or order issued in accordance with this.
  - b. An Enforcement Officer may:
    - i. Require, for inspection, the production of documents or things relevant to the inspection;
    - ii. Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts of them;
    - iii. Require information from any person concerning a matter related to the inspection;



- iv. Be accompanied by such person or persons as the Enforcement Officer determines is necessary if such person or persons possesses special or expert knowledge related to the purpose of the inspection; and
- v. Make examinations or take tests, samples or photographs necessary for the purposes of the inspection.”

6. Add Section 23 as follows, and sequentially renumber following sections:

#### “ADMINISTRATIVE MONETARY PENALTIES

- (1) Instead of laying a charge under the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended, for a breach of any provisions of this By-law or failure to comply with a Notice under this By-law, an Officer may issue an administrative monetary penalty to the Person who has contravened this By-law.
- (2) If a Person is required to pay an administrative monetary penalty, no charge shall be laid against that same Person for the same contravention.
- (3) The amount of the administrative monetary penalty for a breach under this By-law is listed in Schedule 6.
- (4) A Person who is issued an administrative monetary penalty shall be subject to the procedures provided for in the Administrative Monetary Penalties By-law, as amended or its successor by-law.
- (5) An administrative monetary penalty imposed on a Person that becomes a debt to the City under the Administrative Monetary Penalties By-law, as amended or its successor by-law, may be added to the municipal tax roll and collected in the same manner as municipal taxes.”

7. Add Section 26 as follows, and sequentially renumber following sections:

#### “26. REPEAL AND AMENDMENT OF OTHER BY-LAWS

- (1) The following by-laws are hereby repealed: 062-2018 and all of its related amendments, including By-laws 168-2019 and 105-2020.
- (2) Schedule 1 of the By-law is hereby amended by including this By-law as a Designated By-law.
- (3) Schedules “1”, “2”, “3”, “4”, “5”, “6” and any Publications NPC annexed hereto are hereby declared to form part of this By-law.”

8. To delete Schedule 2 Row 3, and insert the following:

3	<p>Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, produce, materials, or refuse whatsoever, unless necessary for the maintenance of essential services or as a result of deliveries to retail businesses, restaurants, bars, cafes, hotels, motels and goods distribution facilities.</p>	<p>19:00 hrs. of one day to 07:00 hrs. next day (09:00 hrs. on Sundays and Statutory Holidays)</p>	<p>19:00 hrs. of one day to 07:00 hrs. next day and all day Sundays and Statutory Holidays</p>
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9. To create Schedule 6, as follows:

**Schedule 6**

**Offences and Corresponding Administrative Monetary Penalties**

<b>Section</b>	<b>Description</b>	<b>Fine Amount</b>
4(1)(a)	Emit or cause to permit emission of Sound from a Stationary Source	\$400
4(1)(b)	Emit or cause to permit emission of Sound from act in Schedule 1	\$400
4(1)(c)	Emit or cause to permit emission of Sound from Schedule 2	\$400
6(1)	Make any unusual Noise or likely to disturb inhabitants	\$300
7(1)	Ring a bell, sound a horn or shout in a manner likely to disturb inhabitants	\$200
8(1)	Use or operate or cause to be used or operated an air conditioner, heat pump, or similar device which has noise a level greater than 61 dBA	\$200
9(1)	Use or operate or cause to be used or operated a pump, filtration or similar device which has a has a noise level greater than 55 dBA	\$200
10(1)	Operate or cause to be operated, a construction vehicle or equipment during 19:00 and 7:00	\$700
10(2)	Operate or cause to be operated, a construction vehicle or equipment on Sunday or statutory holidays	\$700

11(1)	Load or unload a transport truck, commercial vehicle or other transport vehicle between 23:00 and 07:00	\$200
12(1)	Discharge into the open air exhaust not through a muffler or other device that prevents loud or explosive noises	\$100
13(1)	Operate or permit the operation of racing competitions between Motor Vehicles on a Property other than a Highway	\$300
14(1)	Operate or permit the operation of go-kart activities on a Property other than a Highway within the City	\$300
15(1)	Cause or permit unnecessary Motor Vehicle Noise	\$300
16(1)	Operate or use or cause to be operated or used, a Sound Reproduction Device in a residential area so as to disturb peace and comfort	\$200
16(2)	Noise from a Sound Reproduction Device not in compliance with Schedule 3, NPC-300	\$400
16(3)	Operate or use or cause to be operated or used, Sound Reproduction Device, on a highway or public place	\$800
16(4)	Operate or use or cause to be operated or used, a Sound Reproduction Device, originating from or in connection with a commercial establishment	\$800
19(3)	Event creating Noise to exceed 55 dBA	\$800

## Administrative Monetary Penalties By-Law Amendments, 063-2019

1. To amend the Administrative Monetary Penalties By-law Schedule 1, 063-2019, to add the following row:

###-2021 [Added by section 26(2) of By-law ###-2021 on September 27, 2021.]	Noise By-law	Part 24.
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