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Item No. 15.1.12
Halifax Regional Council
May 9, 2023

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed

Cathie O'Toole, Chief Administrative Officer

DATE: May 3, 2023

SUBJECT: **By-law V-300, *The Vehicle Noise By-law***

ORIGIN

On November 17, 2017, Regional Council passed the following motion:

THAT Halifax Regional Council request the Mayor write the Province seeking an amendment to the Standards for Vehicle Equipment regulations and that the Province also consider amending the Motor Vehicle Act to address the issue of noisy mufflers as per the staff report dated July 27 2017.

LEGISLATIVE AUTHORITY

Section 188 of the *Halifax Regional Charter* states:

188 (1) The Council may make by-laws, for municipal purposes, respecting

(d) nuisances, activities and things that, in the opinion of the Council, may be or may cause nuisances, including noise, weeds, burning, odours, fumes and vibrations and, without limiting the generality of the foregoing, by-laws

(i) prescribing a distance beyond which noise must not be audible,

(ii) distinguishing between one type of noise and another,

(iii) providing that any noise or sound greater than a specific decibel level or other measurement of noise or sound is prohibited,

(iv) prescribing the hours during which certain noises, or all noise above a certain level, specified in the bylaw is prohibited,

(v) authorizing the granting of exemptions in such cases as the by-law provides,

(vi) providing that it is an offence to engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquility of a neighbourhood;

Section 3 and Schedule A of the *Noise By-law* state:

3. (1) No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquility of a neighbourhood.

(2) Without limiting the generality of subsection (1), the activities listed in Schedule "A" during the prohibited times and places as set out therein are deemed to be activities that unreasonably disturb the peace and tranquility of a neighbourhood.

(3) For the purpose of a prosecution pursuant to subsections (1) or (2), evidence that one neighbour is unreasonably disturbed by a noise is prima facie evidence that the neighbourhood is unreasonably disturbed by the noise.

Schedule A – Part 1

Activities that unreasonably disturb the peace and tranquillity of a neighbourhood throughout the whole Municipality, and at all times, where the sound resulting therefrom is audible at a point of reception.

1. The operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device in good working order and in constant operation;

Section 187 and 188 of the *Motor Vehicle Act* state:

187 (1) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cut-out, by-pass or similar device upon a vehicle on a highway.

(2) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke

188 No person shall start, drive, turn or stop any motor vehicle, or accelerate the vehicle engine while the vehicle is stationary, in a manner which causes any loud and unnecessary noise in or from the engine, exhaust system, braking system or from the contact of the tires with the roadway.

Section 305A of the *Motor Vehicle Act* states:

305A The council of a city, town or municipality may make regulations or by-laws respecting noise produced in connection with a vehicle, including

- (a) defining what constitutes an objectionable noise;
- (b) establishing a method of determining or measuring noise; and
- (c) prohibiting the use or operation of a vehicle if the noise produced in connection with that vehicle is objectionable noise. 2021, c. 32, s. 3.

RECOMMENDATION

It is recommended that Halifax Regional Council maintain the current enforcement mechanism for excessive vehicle noise through the *Noise By-law* and *Motor Vehicle Act*.

BACKGROUND

For many years Councillors have received complaints from residents regarding vehicle muffler noise, with the issue being brought up at both Committee and Regional Council levels on many occasions. The most recent occasion was on October 17, 2017, where Regional Council received an Information Report. At that time it was determined that the Halifax Regional Municipality did not have the legislative authority to regulate vehicle equipment or inspections, and that any attempt to regulate an area of motor vehicles not authorized under the *Motor Vehicle Act* would be declared inoperative. Regional Council passed the following motion:

THAT Halifax Regional Council request the Mayor write the Province seeking an amendment to the Standards for Vehicle Equipment regulations and that the Province also consider amending the *Motor Vehicle Act* to address the issue of noisy mufflers as per the staff report dated July 27 2017.

In October 2021, the Province of Nova Scotia amended the *Motor Vehicle Act* to include the following section:

305A The council of a city, town or municipality may make regulations or by-laws respecting noise produced in connection with a vehicle, including

- (a) defining what constitutes an objectionable noise;
- (b) establishing a method of determining or measuring noise; and
- (c) prohibiting the use or operation of a vehicle if the noise produced in connection with that vehicle is objectionable noise. 2021, c. 32, s. 3.

As such, Halifax Regional Municipality now has the legislative authority to make by-laws respecting noise produced in connection with a vehicle.

DISCUSSION

Existing *Motor Vehicle Act* and *Noise By-law* Legislation

Legislation to address excessive vehicle noise is found in both the *Motor Vehicle Act* and HRM's *Noise By-law*, N-200.

Enforcement of the provisions dealing with noisy vehicles falls within the jurisdiction of the police, unless the excess noise is coming from private property, in which case Municipal Compliance would deal with the complaint. In the case of police, an officer has the option to lay charges under the *MVA* or the *Noise By-law*. In the case of Municipal Compliance, as by-law enforcement officers they may lay a charge under the *Noise By-law*. The test for a charge under the *Noise By-law*, unreasonably disturbing the neighbourhood, is found in subsection 3(3) of the *By-law*.

Citizens currently report excessive vehicle noise through the non-emergency police telephone line. For the period of 2018 to 2022, Halifax Regional Police and the Royal Canadian Mounted Police issued a total of 88 summary offence tickets for vehicles that produce loud and unnecessary noise under section 188 of the *Motor Vehicle Act*. Of those 88 summary offence tickets, 34 were paid voluntarily, 33 were automatic convictions, 9 were sentenced to pay the full amount, 2 were sentenced to a decreased fine amount, 7 were dismissed, 1 was withdrawn, 1 was acquitted, and 1 is pending.

HRM Municipal Compliance has not received any complaints of excessive vehicle noise through the 311 service, therefore no charges have been issued by HRM Compliance Officers under the *Noise By-law* in the last few years.

Cross Jurisdictional Scan

Excessive vehicle noise is an issue in several municipalities across Canada. The approach to regulation of vehicle noise in municipalities across the country has varied based on the regulations contained in provincial legislation. While some municipalities have used a set decibel level as measured by sound level meter, others focus on the disturbance of the public.

Through discussion with other municipalities, some issues that have arisen through the regulation of vehicle noise are:

- Difficulty proving the accuracy of the sound level meter reading;
- Challenges with legal and court resources to prosecute compliance tickets;
- Expense of sound level meters and calibration equipment; and
- Increased training for police officers on mechanics of mufflers and aftermarket additions.

Excerpts of legislation from different municipalities are included in Attachment B of this report.

Vehicle Noise Cameras

Several jurisdictions nationally and internationally have implemented pilot projects for vehicle noise cameras, similar to speed radars or red light cameras. On March 1, 2022, Council received a report including the Photo Enforcement Feasibility Study. The study determined that there is currently no existing legislation to enable the use of electronic enforcement systems by the Municipality, which would include the use of such systems for vehicle noise. The incoming *Traffic Safety Act* sets out provisions specific to the use of electronic enforcement systems, however that *Act* has not yet been proclaimed.

The City of Edmonton ran a pilot project using three static cameras and one mobile noise camera from July to September 2020. The cost of the pilot project was \$192,000 for equipment rental, installation, monitoring, maintenance and software. The cost to purchase an individual noise camera was approximately \$25,000. In a February 2021 report to Edmonton's Community and Public Services Committee, staff noted the following challenges with the pilot project:

- The mobile noise monitoring unit was limited in its use and application given the wide-ranging geographical nature of excessive noise complaints.
- The model of using the mobile unit and deploying staff in close proximity was resource-intensive and had limited success in identifying any significant number of offending vehicles.
- Downtime of equipment due to vandalism and moving of equipment increased pilot costs.
- The need to exclude certain sounds or noise levels, such as sirens from emergency vehicles, was done manually and was labour intensive.
- Ultimately, the automated technology was not able to discern between sources of noise and could not identify individual offending vehicles to a degree that would meet the evidentiary test required for court purposes.

Given the cost of the technology, the resources required, the lack of legislative authority, and the technology's limitation to reliably discern between sources of excessive noise, it is not recommended that HRM pursue the use of vehicle noise cameras.

Draft Vehicle Noise By-law

As outlined in the cross jurisdictional scan, there has generally been two approaches taken by municipalities with respect to regulation of vehicle noise. The first approach is similar to the Municipality's existing *Noise By-law*, where any vehicle noise that reasonably disturbs the public is prohibited. The second approach is to prohibit vehicle noise above a certain decibel level, as registered on a sound level meter.

Should Council wish to adopt a by-law, the draft *Vehicle Noise By-law* attached to this report includes both approaches. The draft by-law defines objectionable noise as any noise emitted by a motor vehicle that unreasonably disturbs or tends to disturb the peace and tranquility of a neighbourhood, emits a sound measured at 96 db(A) or more as measured by a sound level meter, or is increased by a device attached to the muffler or exhaust system. The draft by-law then prohibits operation of any motor vehicle in a manner which produces objectionable noise.

By including both approaches in the draft by-law, it would allow the by-law to be operational as soon as it comes into force. If adopted, it would take time for the Halifax Regional Police to purchase and receive training on sound level meters. By keeping the language similar to that of the *Noise By-law* it is intended that charges can be laid and prosecuted in a similar manner.

Staff considered amending the current *Noise By-law* to include objectionable noise emitted by motor vehicles. It was determined that if the draft by-law is to be adopted, a standalone vehicle noise by-law is appropriate for the following reasons:

1. The *Noise By-law* does not contain restrictions by decibel level for any other noises;
2. This *Vehicle Noise By-law* is made pursuant to the authority of the *Motor Vehicle Act*; and
3. Charges laid under municipal by-laws, including the *Noise By-law*, are prosecuted in daytime Provincial Court. Charges laid under the *Motor Vehicle Act* are prosecuted in night court. It is intended for charges laid under the *Vehicle Noise By-law* to be prosecuted at night court. This will lessen the burden on court time and prosecutors.

Definition of Motor Vehicle

It is not the intent to restrict vehicle noise on commercial vehicles such as transit buses, dump trucks, tractors, and transport trucks. The Municipality's By-law T-400, the *Truck Route's By-law*, defines a truck as a motor vehicle with a registered weight in excess of 3,000 kilograms. Vehicles exceeding 3,000 kilograms in registered weight, municipal vehicles, and tractors have been excluded in the definition of motor vehicle contained in the draft *Vehicle Noise By-law*.

Training and Enforcement

If the draft by-law were to be adopted, complaints for excessive vehicle noise would still be received through the non-emergency police telephone line. In order to enforce the by-law as drafted, there would be increased costs for the purchase of sound level meters and calibration equipment, as well as the training of police officers to operate the sound level meters and identify aftermarket muffler parts. Enforcement would likely require dedicated traffic stops to ensure an accurate sound level meter reading. There may be other challenges with enforcement that will not be known until implementation of the draft by-law.

At this time, it is not anticipated that Compliance Officers would enforce the by-law as drafted. Compliance Officers do not have the experience, training, or authority required to safely pull over vehicles to inspect and investigate excessive vehicle noise. Furthermore, Compliance Officers do not have access to the Versadex Records Management System, so would not be able to run the license plate of a vehicle to obtain information necessary for their safety prior to approaching a vehicle.

If a complaint is made through 311 regarding excessive vehicle noise relating to a stationary vehicle on private property in a community, Compliance Officers would investigate the complaint in a manner consistent with investigations pursuant to the existing *Noise By-law*.

Regulatory Impact Assessment

The Charter of Governing Principles for Regulation – Administrative Order Number 2017-002-ADM (the "Charter of Governing Principles") helps to guide the design, adoption, implementation, evaluation and revision of the Municipality's general application by-laws to meet core principles for better regulation. The

Charter of Governing Principles is used to help determine whether regulation is the best policy instrument compared to other non-regulatory options.

Staff conducted the Regulatory Impact Assessment -Stage 1 Screening Tool and determined that there are no noteworthy business or commercial impacts as a result of the proposed By-law. It did however note the duplication of a proposed by-law with the existing legislation under the *Motor Vehicle Act* and *Noise By-law*.

Conclusion

Complaints regarding excessive vehicle noise have been an issue in the Municipality for several years. In October 2021, the Province provided the Municipality with the legislative authority to define and prohibit objectionable vehicle noise.

At this time, it is not recommended that Council adopt the *Vehicle Noise By-law*. The draft By-law would duplicate existing legislation in the *Motor Vehicle Act* and *Noise By-law* contrary to HRM's *Charter of Governing Principles for Regulation Administrative Order*. There would also be increased costs associated with the purchase of sound level meters, training, and additional resources required to enforce the By-law.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the staff recommendation to maintain status quo.

If Council chooses to adopt the draft Vehicle Noise By-Law, sound level measuring equipment including four sound level meters (approx.. \$1,500 ea.) and 1 sound level calibrator (approx.. \$1,000 ea.) would need to be purchased along with associated training (approx.. \$3,500). These costs would be considered unfunded pressures that would be absorbed through Halifax Regional Police operating account P485-6701 (equipment) and P225-6905 (training) in 2023/24 and identified as budget pressures for 2024/25.

Any fines issued under the draft by-law by the Halifax Regional Police could result in a nominal amount of increased revenue for the Municipality.

RISK CONSIDERATION

No risk considerations were identified.

COMMUNITY ENGAGEMENT

No community engagement was required.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

1. Regional Council could:
 - (a) Give First Reading to adopt by-law By-law V-300, the *Vehicle Noise By-law*.
 - (b) Adopt By-law V-300, the *Vehicle Noise By-law*, as set out in Attachment A of this report.

2. Regional Council could direct amendments to the draft By-law V-300, the *Vehicle Noise By-law*, prior to giving first reading. This would require a supplementary staff report.

ATTACHMENTS

Attachment A: Draft By-law V-300, *The Vehicle Noise By-law*

Attachment B: Cross Jurisdictional Legislation Excerpts

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Meg MacDougall, Solicitor, Legal & Legislative Services [902.490.4226]

HALIFAX REGIONAL MUNICIPALITY
BY-LAW V-300
RESPECTING VECHICLE NOISE

WHEREAS some vehicles in the Municipality produce excessive noise that is objectionable to the general public;

AND WHEREAS Council for the Halifax Regional Municipality considers it necessary and desirable to establish a by-law regulating objectionable noise produced in connection with a motor vehicle;

AND WHEREAS section 305A of the *Motor Vehicle Act*, 1989, c.293 permits Halifax Regional Council to establish a by-law respecting noise produced in connection with a motor vehicle, including defining what constitutes an objectionable noise, establishing a method of determining or measuring noise, and prohibiting the use or operation of a vehicle if the noise produced in connection with that vehicle is objectionable noise;

BE IT ENACTED by the Council of the Halifax Regional Municipality pursuant to the *Halifax Regional Municipality Charter* and the *Motor Vehicle Act* as follows:

Short Title

1. This By-law may be cited as By-Law V-300, the *Vehicle Noise By-law*.

Interpretation

2. In this By-law:

- (a) “Council” means the Halifax Regional Council;
- (b) “dB(A)” means the sound pressure measured in decibels using the “A” weighted scale of a sound level meter;
- (c) “Decibel” means a unit of expressing the relative intensity of sounds on a scale from zero (0) for the average least perceptible sound to approximately one-hundred and thirty (130) for the average pain level;
- (d) “Motor Vehicle” includes an automobile, motorcycle and any other vehicle propelled or driven otherwise than exclusively by muscular, gravitational or wind power; but does not include vehicles exceeding 3,000 kilograms in registered weight; a motorized wheelchair or a car, locomotive or other motor vehicle running only upon rails; a motorized snow vehicle; traction engine; farm tractor; self propelled implement of husbandry; or road building machine within the meaning of the *Motor Vehicle Act*;
- (e) “Municipality” means Halifax Regional Municipality;
- (f) “Objectionable Noise” is any noise emitted by a Motor Vehicle that:
 - (i) unreasonably disturbs or tends to disturb the peace and tranquility of a neighbourhood;
 - (ii) emits a sound measured at 96 db(A) or more as measured by a sound level meter;
or

(iii) is increased by a device attached to the muffler or exhaust system; and

(g) “Sound Level Meter” means a device used to measure sound-intensity levels in decibels.

Application of this By-law

3. This By-law does not apply to Motor Vehicles owned or operated by the Municipality, or operated under contract with the Municipality.

Compliance with By-law

4. No person shall operate a Motor Vehicle that produces Objectionable Noise.

5. For the purposes of prosecution pursuant to section 4, evidence that one person is unreasonably disturbed by a noise is prima facie evidence that the neighbourhood is unreasonably disturbed by the noise.

6. A peace officer may inspect any Motor Vehicle for compliance with this By-law.

Offence and Penalty

7. (1) A person who:

(a) violates or contravenes a provision of this By-law;

(b) fails to do anything required by this By-law;

(c) permits anything to be done in violation of this By-law; or

(d) obstructs or hinders any person in performance of their duties under this By-law, is guilty of an offence.

(2) Every person who commits an offence is liable upon summary conviction to a penalty of not less than \$100.00 and not more than \$10,000.00.

Severability

8. Where a court of competent jurisdiction declares any section or part of a section of this By-law invalid, the remainder of this By-law shall continue in force unless the Court makes an order to the contrary.

Done and passed in Council this day of **, 2023.

Mayor Mike Savage

Iain MacLean, Municipal Clerk

I, Iain MacLean, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted By-law was passed at a meeting of Halifax Regional Council on [Insert Date].

Iain MacLean, Municipal Clerk

Notice of Motion:

First Reading:

Notice of Second Reading Publication:

Second Reading:

Approval of Minister of Municipal Affairs and Housing:

Effective Date:

Cross Jurisdictional Legislation

Edmonton, Community Standards By-Law

- 14 (1) A person shall not cause or permit property they own or occupy to be used so that noise from the property disturbs the peace of any other individual.
- (2) A person shall not cause or permit property they own or occupy to be used so that noise from the property disturbs the peace of any other individual.
- (3) A person may be found guilty of a contravention of this section whether or not the decibel level:
(a) is measured; or
(b) if measured, exceeds any limit prescribed by this bylaw.
- 18.1 A person shall not operate a motor cycle that is capable of:
(a) emitting any sound exceeding 92 db(A), as measured at 50 centimetres from the exhaust outlet, while the engine is at idle; or
(b) emitting any sound exceeding 96 db(a), as measured at 50 centimetres from the exhaust outlet, while the engine is at any speed greater than idle.
- 23 (1) If a motor vehicle is the cause of any sound that contravenes a provision of this bylaw the owner of that motor vehicle is liable for the contravention.

Calgary, Community Standards By-law

27. (1) Except as authorized pursuant to this Bylaw, no Person shall make or cause or allow to be made or continued any noise which would disturb or annoy a reasonable person.
- (2) Except as authorized pursuant to this Bylaw, no owner or occupier of a Premises shall make or cause or allow to be made or continued any noise which emanates from the Premises and which would disturb or annoy a reasonable person.
- (3) No person shall permit a vehicle located on a Premises to emit noise which emanates from that Premises and which would disturb or annoy a reasonable person, including noise from excessive engine revving and stereo and amplification equipment in the vehicle.
- (4) No owner or occupier of a Premises shall permit a vehicle located on the Premises to emit noise which emanates from that Premises and which would disturb or annoy a reasonable person, including noise from excessive engine revving and stereo and amplification equipment in the vehicle.

Ottawa, Noise By-law

17. No person shall discharge into the open air, on any property other than a highway, the exhaust of any motor vehicle except through a muffler or other device which effectively prevents loud or explosive noises.

Toronto, Noise By-law

§ 591-2.5. Motor vehicles.

- A. No person shall emit or cause or permit the emission of sound resulting from unnecessary motor vehicle noise, such as the sounding of a horn, revving of an engine, squealing of tires, banging,

clanking or any like sound that is clearly audible at a point of reception.

B. No person shall emit or cause or permit the emission of sound resulting from the repairing, rebuilding, modifying or testing of a vehicle if the sound is clearly audible at a point of reception from 9 p.m. until 7 a.m. the next day, except until 9 a.m. on Saturdays, Sundays and statutory holidays.

C. No person shall emit or cause or permit the emission of sound from a motorcycle, if the motorcycle emits any sound exceeding 92 dB(A) from the exhaust outlet as measured at 50 cm, while the motorcycle engine is at idle.

British Columbia, Motor Vehicle Act Regulations

7.01(5) No person shall drive or operate a motor vehicle propelled by an internal combustion engine equipped with a muffler or exhaust system to which is attached any device which increases the noise of the expulsion of the gases from the engine or allows a flame to be emitted from the exhaust system.

27 A motor vehicle shall be equipped with an exhaust muffler which complies with section 7.03 of the regulations.
The opinion of an inspector as to whether the engine and exhaust noise is greater than that made by other vehicles in good condition of comparable size, horsepower, piston displacement or compression ratio shall determine whether exhaust gases are expelled with excessive noise.

When tested in an inspection station, the vehicle engine, any auxiliary engine and exhaust level shall not exceed Table 3 standards.

Class of Vehicle	Maximum Allowable Sound Pressure Level DBA
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Light duty	83
Gasoline-driven heavy duty	88
Motorcycles	91
Diesel-driven heavy duty	93