

	<b>Report Title</b>	Noise By-Law
	<b>Report No.</b>	DCS 19-05
	<b>Author</b>	Dan Smukavich, By-Law Enforcement Officer
	<b>Meeting Type</b>	Council Meeting
	<b>Council Date</b>	April 8, 2019
	<b>Attachments</b>	- Current Noise By-Law 3002 - Proposed Noise By-Law 4255

## RECOMMENDATION

THAT Council receives Report DCS 19-05 Noise By-Law for information;

AND THAT Noise By-Law 4255 to regulate noise in the Town of Tillsonburg be brought forward for Council consideration.

## EXECUTIVE SUMMARY

The Town's current Noise By-Law 3002 was last reviewed and adopted by Town of Tillsonburg Council in February 2002. The current by-law regulates noise within Town limits. Since this time the by-law has performed reasonably well, however, over time the by-law has become outdated, which has precipitated the need for this by-law update. Noise By-Law 3002, in its current state, has identified challenges with respect to its wording, making it potentially difficult to enforce. As with other by-law reviews, staff updated definitions, organization and layout of the by-law and in this case recommend providing provisions for temporary noise permits to be issued providing the applicant meets all requirements under the proposed noise by-law.

## BACKGROUND

The changes proposed are a result of staff and documentation over the years that require additional detail for clarity and enforcement. During the by-law review process staff consulted and communicated with the Municipal Law Enforcement Officers' Association of Ontario including other municipalities of similar size as well as larger municipalities that face virtually identical issues relating to the enforcement of noise by-laws.

### NOISE BY-LAW COMPLAINTS

The principal purpose and intent of the Noise By-Law is to regulate noise that is likely to disturb the inhabitants of the Town of Tillsonburg. Staff report that the main complaints related to noise is of a general nature (loud music, television) followed by construction and power equipment noise.

The following table provides an overview of the noise complaints that have been received by town staff and OPP from 2013-2017. Over the five years, the town receives an average of 189 noise complaints per calendar year.

YEAR	OPP	BY-LAW	TOTAL
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2017	143	27	170
2016	119	25	144
2015	158	33	191
2014	184	29	213
2013	201	24	225

- 2018 statistics are not available at time of report from OPP.

## NOISE BY-LAW 4255

The following table provides a general overview and identifies the proposed noise By-Law improvements and changes.

Item	Changes
Intent and Scope (Section 1)	By-law 3002 does not have a stated intent and scope. The intent and scope is to regulate and control noise with the Town.
Definitions and Interpretation (Section 2)	By-law 3002 does not have any definitions and lacked clarity to deal with specific types of noise.
General Prohibitions (Section 3)	Inclusion of noises that would be deemed likely to disturb such as squealing tires, firearms discharge (police are exempt) persistent yelling and shouting as well as persistent barking and whining from domestic animals.
Regulations by Time (Section 4)	Current by-law lacks a clear layout of noise prohibitions. Noises are better defined in this section and include a table for easier reference and application.
General Exemptions (Section 5)	General exemptions are laid out clearly and include emergency vehicles, snow plowing, measures taken by the town and/or the County for maintaining and installing infrastructure and noise from town sanctioned events.
Temporary Noise Exemptions (Section 6)	Current by-law does not allow or provide a process for providing temporary noise exemptions. The process is laid out with applicants who are seeking relief from the by-law for 30 days or less are to submit a permit application to the CBO. Applications that are received that require more than 30 days of relief shall be required to make their application to council. All applications require a minimum of 21 days' notice.
Administration (Section 7)	The current by-law does not lay out the administration of the by-law. The new by-law provides enforcement administration (police and by-law officers) as well as placing the requirements for an order to comply if one is deemed necessary to gain compliance from an offending party.
Penalties (Section 8)	This section is added to lay out the fine

	amounts that are subject to violations of the by-law.
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## NOISE BY-LAW 4255 - SHORT FORM WORDING & FINES

Following Council approval of Noise By-Law 4255, staff will seek to have short form wording Provincial offences fines set and approved by the Chief Justice of the Ontario Court of Justice (West Region). If approved, the proposed by-law would come into effect after the short form wording is approved. The proposed fines and short form wording for violations are noted in the table below.

### **Bylaw 4255: Noise By-Law Part I Provincial Offences Act Set fine schedule**

<b>Item</b>	<b>Short form wording</b>	<b>Provision creating or defining offence</b>	<b>Set fine</b>
<b>1</b>	Operate a vehicle causing tires to squeal.	3.3 (a)	\$250.00
<b>2</b>	Cause or permit noise from a horn, whistle, alarm, bell or gong.	3.3 (e)	\$250.00
<b>3</b>	Cause or permit noise from the discharge of a firearm.	3.3 (g)	\$250.00
<b>4</b>	Persistent yelling, shouting, hooting, whistling, singing or the like.	3.3 (h)	\$250.00
<b>5</b>	Permit noise from a domestic animal.	3.3 (i)	\$250.00
<b>6</b>	Permit or cause noise from an electronic device or musical instrument.	3.3 (j)	\$250.00
<b>7</b>	Cause or permit noise from a conveyance.	3.3 (k)	\$250.00
<b>8</b>	Cause or permit noise related to construction at a prohibited time.	4.2 (4)	\$250.00
<b>9</b>	Cause or permit noise from domestic works at a prohibited time.	4.2 (5)	\$250.00

Note: the general penalty provision for the offences listed above is section 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended

## **CONSULTATION/COMMUNICATION**

During the by-law review process, staff consulted and communicated through the Municipal Law Enforcement Officers' Association of Ontario including other municipalities of similar size as well as larger municipalities that face similar issues relating to the enforcement of noise by-laws. The following table provides some municipal comparable information:

## Noise By-Law Comparables

<b>Municipality</b>	<b>Construction Noise</b>	<b>Barking Dogs/Domestic Animal Noise</b>	<b>Loud Music/TV</b>	<b>Power Tools (Domestic)</b>
Tillsonburg (proposed By-Law 4255)	Prohibited from 7PM-7AM Sundays and all Public Holidays- 7PM-9AM	Prohibited at all times	Prohibited at all times	Prohibited from 9PM-7AM Sundays and all Public Holidays- 7PM-9AM
Tillsonburg (current By-Law 3002)	Prohibited from 6PM-7AM Sundays and all Public Holidays- 6PM-7AM	Prohibited at all times	Prohibited at all times	Prohibited from 10PM-7AM Sundays and all Public Holidays- 10PM-9AM
St. Thomas	Quantitative Noise- NPC Publication 115 (decibel model)	Not Included	Prohibited at all times	Quantitative Noise- NPC Publication 115 (decibel model)
Woodstock	Prohibited from 9PM-7AM	Prohibited at all times	Prohibited at all times	Prohibited from 10PM- 7AM
Collingwood	Prohibited from 7PM-7AM Saturdays- 4PM- 8AM Prohibited- Sundays and Holidays	Not included	Prohibited from 9PM-8AM Sunday to Thursday 11PM-8AM Friday, Saturday and Holidays	Prohibited from 7PM-7AM S/S/Holiday from 6PM-8AM
Stratford	Prohibited from 7PM-7AM Prohibited- Sundays and Holidays	Prohibited at all times	Prohibited from 11PM-7AM Monday to Thursday and from 12AM-7AM Friday and Saturday Prohibited- Sundays and Holidays	Prohibited from 11PM-7AM Sundays to 9AM
Town of Ingersoll	Prohibited from 8PM-7AM	Prohibited at all times	Prohibited at all times	Not Included
Norfolk County	Prohibited from 7PM-7AM Prohibited- 7PM-9AM Sundays and Holidays	Prohibited at all times	Prohibited at all times	Prohibited from 9PM-7AM Prohibited- 9PM-9AM Sundays and Holidays
Whitchurch-Stouffville	Prohibited from 7PM-7AM Prohibited- Sundays and Holidays	Not included	Prohibited from 11PM-7AM Prohibited to 9AM Sundays and Holidays	Prohibited from 9PM-7AM Prohibited- 9PM-9AM Sundays and Holidays

Copies of the by-laws along with supporting material were made available for public consultation from January 28, 2019 to February 25, 2019 as per the Town's public engagement policy. During this time, the draft by-law was posted on the Town website, advertised in the local paper, and a copy circulated directly to the OPP.

Five inquiries/comments were received as a result of the public consultation and were explanatory and administrative in nature. These along with the provided communication from staff are listed below:

1. Inquiry related to car show gatherings and related amplified music that may be used for the event.

These events have been hosted in the past without any know complaints. The proposed by-law would not be enforced any differently and therefore it is not expected to be a conflict.

2. Clarification of "such volume" – is this a decibel amount, how does one determine this and further how does the by-law offer determine this?

The term "such volume" is within the definition of "noise" and is not a decibel amount. The determination of whether the noise level is deemed to be a violation is if it is found to be "clearly audible at a point of reception" as per Section 3.1, by the attending By-Law Officer or Police Officer and likely to disturb. Discretion would be used in determining a violation as some noise may be common society/living noise (ie. apartments/town house/shared wall accommodations, kids playing, etc. Based on the size of our municipality and the infrequent amount of noise complaints received on an annual basis, a decibel noise by-law model is not recommended. The main reason for this is that a decibel noise by-law model requires a professionally calibrated decibel reader (not an app on your phone) along with staff trained to measure/take noise readings. This model is very costly and is typically not justified based on the number of complaints received by smaller municipalities. A decibel reader model is geared more towards stationary sources of noise and a decibel model by-law is more common for larger cities such as the City of London.

3. "Persistent" – is this a certain length of time, again how does the by-law officer determine it has been persistent?

"Persistent" would have to be interpreted by the attending officer and dealt with on a case by case basis. Factors that would have to be considered include the source of the noise and duration. The officer would have to articulate why the violation was deemed "persistent" and the onus would fall on the attending officer for such. By-Law staff are well trained in identifying legitimate and frivolous complaints along with mediating most inquiries/complaints to gain voluntary compliance.

4. Snowmobiles, ATV's, dirt bikes etc. – if a complaint is logged about someone starting up their snowmobile etc. will this be in contravention of the by-law.

The likelihood of someone complaining of someone starting a snowmobile/dirt bike/atv is miniscule. The complaints that are received in regard to off road vehicles are typically from those that tend to rev the engines at high RPMs. These conveyances are

not subject to the same restrictions as motor vehicles under the Highway Traffic Act and as such, do not have the same baffles on their exhaust systems, which tend to make them loud.

5. OPP advised of no comments and/or concerns.

Upon approval of the proposed By-Law, staff will update communication and promotional materials to inform and educate the public.

## **FINANCIAL IMPACT/FUNDING SOURCE**

The cost to communicate and amend promotional materials for the public will be funded from the 2019 Protection budget.

Following Council approval of this by-law, staff will seek to have short form Provincial offences fines set and approved by the court. The proposed fines are expected to generate some offset revenue when compliance cannot be obtained by other means. The anticipated amount of revenue is dependent on violation compliance and cannot be estimated at this time.

## **COMMUNITY STRATEGIC PLAN IMPACT**

Objective 1 – Excellence in Local Government

## Report Approval Details

Document Title:	DCS 19-05 Noise By-Law.docx
Attachments:	- Proposed Noise By-Law 4255.docx - Noise By-Law 3002.pdf
Final Approval Date:	Mar 31, 2019

This report and all of its attachments were approved and signed as outlined below:



**David Calder - Mar 31, 2019 - 12:55 PM**