

## **THC comments: ECDC3.6 Noise bylaw Review – Proposed Amendments**

### **GENERAL COMMENTS**

**Survey information** – 86% of people surveyed said they have no noise issues. This is so general to not be relevant, particularly in areas where people are affected by excessive noise such as from construction noise, amplified sound and leaf blowers. They complain or have given up complaining. These issues must be addressed.

**Consultations** – The process did not allow for in depth discussion of the complex and technical issues and together develop new solutions. Many of the public attending did not understand the implications of proposed options and representatives of noise making businesses were often missing.

**City noise management strategies and initiatives** – The City's comprehensive noise management program must include the Public Health's Noise Management Action Plan (yet to be seen), the Noise Bylaw and its enforcements program, as well as a research and education programme, to help ensure we are using best practices and making use of new technologies. The reports on the new bylaw and the Noise Management Action Plan were to be presented at the same time. When is the report on the Action Plan to be submitted? When will a comprehensive enforcement program be provided? What plans does the City have in promoting quieter ways of operating businesses?

**Proposed new bylaw** - The recommendations appear to be focussed on making regulations simpler and easier to enforce rather than developing regulations and related measures to deal with many of the real and complex noise issues in the City. There is little rationale for the proposals and some are totally new.

### **HOW DO PROPOSED NOISE BYLAW AMENDMENTS MEET TNC PRINCIPLES**

Toronto has spent over 4 years discussing the need for a new Noise Bylaw and the TNC remains concerned that the recent public consultations continued to be based on tinkering with our of date old rules rather than promoting meaningful new ideas. A new noise bylaw must reflect the City's changing landscape, advances in acoustic technology, and meet international best practices. The purpose of Toronto's Noise Bylaw must to preserve Torontonians' quality of life and health and this Bylaw must be enforced. The City must take a leadership role in resolving complex noise issues to promote quieter equipment and practices.

In the review of the proposals against the TNC Principles below, **YES** means our objective is met, **NO** means it is not.

### **WE NEED EFFECTIVE REGULATIONS**

- **Restrict excessive noise to protect health of all**  
**NO** -The replacements for the General Provision deletes critical protection against excessive vibration. (22.and 41.)  
**YES** – Continues to provide specific hours where noisy activities can take place.

**NO** - Excessive noise levels are permitted in some cases that are over World Health Organization limits eg. 92dB for motorcycles, no limits for leaf blowers.

**NO** - Missing regulating any other motor vehicle, such as trucks and high performance cars. (34.)

**NO** – More nuanced regulations to reflect the needs of different neighbourhoods. One size does not fit all, such as with respect to protection from excessive amplified sound, construction noise and leaf blowers.

- **Ensure regulations are easy to understand and enforce**

**YES** - Various amendments are made to make regulations clearer, for example definition of Db and Dc measurements, provisions for clear responsibility for noise regulations. ie municipal, provincial or federal, as well as simpler organization of some regulations.

**NO** – Clarification is required of (29.) regarding construction hours as it can be read to permit construction to take place outside permitted hours, provided that no sound is heard at a point of reception. Is that what was intended? How would this be enforced?

- **Onus should be on the noisemaker to comply so noise must be measured at source**

**NO** - Measurement of amplified sound is proposed at point of reception only is not an effective solution particularly in areas where impacts of excessive amplified sound are significant. (24. to 27.) For amplified sound, sound levels can be easily measured at source, so should be used where possible, and particularly with exemptions. Measurement at point of reception relies on citizens to complain. Enforcement officers may not attend when the noisy activity is taking place. Their attendance will be costly, as officers must work in pairs to enter a private home. It is unfair and onerous for the complainant to have to record unacceptable noise levels and keep log, but may be necessary as a last resort.

- **Make use of best practices, including new improved technology -**

**NO** – Such initiatives are not reflected in the proposed amendments or in recommendations for further study. For example, the City should take a leadership role in promoting the quieter electrical equipment that is now increasingly available and is suitable for such uses. For example, no change is proposed to provisions for leafblowers, although there are many complaints about them. The proposals could include provision to limit leafblowers to a limit of 65dB after a certain date, to allow for the transition to quieter machines in areas where there is no escape from the excessive noise levels.

**NO** – The report focuses on proposals for changes to the current bylaw and does little to consider the important role of other tools for mitigating unnecessary excessive noise, and it is not clear that they are part of the exemptions process. Public education programs are noted in the MLS report, but the critical focus must be with respect to noise making industries to assist them in better practices. For example, New York City provides a list of quieter equipment and construction methods. Opportunities go beyond the actual bylaw can include expanded use of the current effective construction management plan program.

## **WE NEED EFFECTIVE EXEMPTION POLICIES**

- **Strictly limit and regulate exemptions so as not to undermine the Noise Bylaw.**

There are too many exemptions in areas such as the Waterfront, which cause ongoing disruptions to area residents. Other locations can be not be so disruptive to neighbours. Note that exemptions will now be required for continuous pours and crane work.

- **Require Approval of Noise Mitigation Plans before approval of exemption applications**  
**YES/NO** Noise mitigation plans are critical to a successful exemption program. (45.of proposed new bylaw) But their requirement and components are up to the Executive Director, with no criteria for decision making provided. Provisions for use of monitoring of noise levels by the applicant and use of quieter equipment and practices should be assured in a noise mitigation plan.
- **Require posting of exemption permits with noise mitigation plans on location.**  
**YES/NO** Only the approved exemption is required to be posted and this can be waived by the Executive Director. (46.of proposed new bylaw)
- **Notify the proximate public broadly**  
**YES/NO** Only posting of approved exemption on site required, as noted above. Exemption permit applications and approvals should be posted on the City web site. Why should the posting of a notice of the exemption on site be waived by the Executive Director?
- **Only issue series approvals to applicants with an established record of good compliance**  
**Alternative?** - New authority is proposed for Executive Director to revoke a permit for non compliance of terms of the exemption. (42.) This authority should also include any already approved exemptions in the series.

## **WE NEED EFFECTIVE ENFORCEMENT**

- **Increase the number of Noise Bylaw Enforcement Officers**  
Lack of enforcement was raised at all the consultation sessions. Timely responses to noise complaints especially when the Police are no longer involved, is essential. This is especially critical for issues such as noise from late night parties in neighbourhoods as well as noisy bars and concerts etc. The schedules for attendance of Bylaw Enforcement Officers, noted in the March 22 report, does not provide for any help for residents. If noisy late night parties are not stopped they will increase.
- **Increase the fines for noncompliance**  
**YES** Fine limits are increased from \$5,000 to \$100,000. (p. 26 March 22 report)
- **Ensure 311 operators are trained** to effectively respond to noise complaints in a timely way.  
Not addressed.
- **Provide Enforcement Officers with the authority to issue summons, tickets and notices.**  
**YES**

## **Key messages**

### **City must take a leadership role in developing a new noise bylaw that meets the needs of our large vibrant City**

The proposed new bylaw appears to focus on making the regulations clearer and simpler to enforce and consistent across the City. Toronto is not like Ottawa, Edmonton, we are like New York City with areas of

high density and mixed use areas. Noise issues vary and development of regulations that protect all Torontonians from excessive noise should be the priority. People should not have to sleep with ear plugs or have move because the noise level in their neighbourhood is too high. More effective regulations do not mean that businesses will not be able to operate successfully; there are ways to operate successfully but in a quieter way. We hoped that such proactive solutions would be developed through working group discussions or the recent consultations but such opportunities were not provided.

### **1. Different parts of the City must be treated differently**

The survey undertaken of how noise affects people across the City did not reflect that noise issues are significantly different in different parts of the City. In denser parts of the City noise is a much bigger issues than in the suburbs. One size cannot not fit all. New kinds of regulations and program must be developed for the impacts of such issues as for:

#### **a. noisy gas powered leaf blowers in neighbourhoods with smaller lots**

The sound levels can be deafening to neighbours. Operators were ear protectors, we do not. Comments at the consultations suggested that the 311 staff have advised that no noise complaints can be made about operation of leaf blowers during permitted hours, which indicates that the level of complaints is low, but residents have given up complaining.

- For applicable areas, such as with lots under about 50 t. wide, develop regulations to phase out noisy leaf blowers, such as establishing a noise limit of 65 dB that can be achieved in the newer electric machines. Big heavy duty machines are not required here.
- Undertake a public education program to promote machines that comply with these limits and work with other municipalities on similar initiatives to eliminate noisy leafblowers, as a number have done already.

#### **b. amplified sound from patios along the street and roof top patios of restaurants and bars**

Especially in higher density mixed use areas, the sound from these locations can reach thousands of surrounding neighbours.

- There must be a regulation that provides for measuring noise levels at source. The onus should be on the business to comply, not to measure impacts at point of reception. This requires neighbours to complain, which is unfair, takes time, and is an invasion of their privacy. As well they will have to acquire noise meters and keep logs. It also requires a timely response from bylaw enforcement officers and a costly enforcement process. Monitoring amplified sound at source easy to achieve and should be required. The back up option of measuring at point of reception is also needed when establishments fail to comply.
- Also as a back up measure do not eliminate the regulations that limit noise to the property line and restriction of hours of operation.
- Can compliance be tied to a business license?

#### **c. amplified sound from venues and concerts along the Harbour**

The sound reaches thousands of surrounding neighbours and across the Harbour.

- Require noise mitigation plans for exemptions to include measurement and monitoring of noise levels at source.
- Restrict the number of exemptions allowed in a particular area.

**d. construction in areas with nearby residential uses**

Noisy construction practices disturb both residents in nearby tower and in low density neighbourhoods. Construction activities can be undertaken using quieter equipment and practices. These must be promoted.

- Clarify that the new provision (29.) does not mean that construction can take place outside permitted hours provided that no sound is heard at a point of reception.
- Require noise mitigation plans for all construction projects. They must promote use of quieter equipment and practices; for example, reducing the impacts of back up beepers, saws, small engines, emergency generators and their testing, compressors, nailing guns, as well as the screening of jackhammer activity, location of construction elevators to lessen disturbance of neighbours etc. These plans should be standardized for different types of projects, easy for applicants to use and for staff to administer in a timely way, as construction projects are time sensitive. They also provide an education tools to help make construction practices quieter. Communication with surrounding neighbours is an essential part of the plan. Some of these measures are already used in the construction management plans included in development approvals and in the Good Neighbours Guide for neighbourhood infill projects.
- Ensure that a satisfactory noise mitigation plan is approved before an exemption permit is approved.
- The City should consult with the construction industry to develop criteria to be used in noise mitigation plans and to promote quieter construction practices and equipment.

**2. Strengthen regulations for noisy vehicles**

- It is unclear why all excessively noisy vehicles are not proposed to be regulated in the same way as motorcycles (32. March 22 MLS report)
- Reduce the proposed excessive 92 dB level to 82dB which is loud enough and used in other municipalities.
- Add other vehicles, cars and truck, high performance or otherwise as these can exceed the dB levels.
- Increase the current fine levels for exceeding the noise limits, as these are not affected by the large increase applicable to infractions to bylaw regulations for other activities.

**3. Strengthen the enforcement programme**

We are pleased to see that there is a significantly enhanced fine increase and hope these will be real deterrents. The March 22 report (p 29.) notes that MLS is reviewing the enforcement

program and provides some examples of changes. The new mediation referral program is a useful way to resolve issues.

It is surprising that MLS reports they have enough Bylaw Enforcement Officers, as the level of complaints about enforcement at all of the recent consultation sessions suggest the numbers are woefully inadequate. We understand that people stop complaining when there is no response. Without support from the Police as in the past, Bylaw Enforcement Officers must be available to deal with noise complaints as they occur. For example, it is not clear how late night party noise will be stopped with the current daytime schedules for the Bylaw Enforcement Officers. Point of reception measurement will require two officers to be present in a home to be able to measure noise levels. Also 311 staff must be well trained to respond with the correct information.

- Report on a comprehensive enforcement program to protect Torontonians from excessive noise.

#### **4. Enhanced information for the public and noisemakers**

We are pleased that MLS will also enhance information available to the public, through 311 and the City website, to enhance public awareness and knowledge of the Noise By-law. (p 31. March 22 report). MLS also must provide information on and promote new technologies and practices.

- Report on an information program for noise makers regarding promoting quieter equipment and ways of operating.
- Report on the details of this program and ensure that the public and noise makers are aware of this important information.
- Provide information to noise makers and the public on improved technologies and procedures to promote reduced noise levels for City activities that are regulated by the Noise Bylaw.