

November 24, 2014

To: His Worship the Mayor  
and Members of City Council

Re: Amendments to *The Regina Noise Abatement Bylaw*

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**RECOMMENDATION OF THE COMMUNITY AND PROTECTIVE SERVICES  
COMMITTEE - NOVEMBER 5, 2014**

1. That the amendments to *The Regina Noise Abatement Bylaw* No. 6980, as outlined in this report be approved;
2. That the City Solicitor be instructed to prepare the required amendments to the bylaw based on the changes outlined in this report; and
3. That the fine scale for animal noise be the same as the fine scale for ordinary noise.

*COMMUNITY AND PROTECTIVE SERVICES COMMITTEE – NOVEMBER 5, 2014*

The Committee adopted the following resolution:

1. That the amendments to *The Regina Noise Abatement Bylaw* No. 6980, as outlined in this report be approved;
2. That the City Solicitor be instructed to prepare the required amendments to the bylaw based on the changes outlined in this report,
3. That this report and corresponding bylaw be forwarded to the November 24, 2014 meeting of City Council for approval.
4. That the fine scale for animal noise be the same as the fine scale for ordinary noise.

Recommendation #3 does not require City Council approval.

Councillors: John Findura, Jerry Flegel, , Shawn Fraser, Bob Hawkins and Mike O'Donnell were present during consideration of this report by the Community and Protective Services Committee.

The Community and Protective Services Committee, at its meeting held on November 5, 2014 considered the following report from the Administration:

RECOMMENDATION

1. That the amendments to *The Regina Noise Abatement Bylaw* No. 6980, as outlined in this report be approved;
2. That the City Solicitor be instructed to prepare the required amendments to the bylaw based on the changes outlined in this report,
3. That this report and corresponding bylaw be forwarded to the November 24, 2014 meeting of City Council for approval.

## CONCLUSION

The Administration is recommending that the wording of the prohibition against unnecessary and unusual noise that disturbs persons be updated in light of judicial interpretation of the City of Regina's noise bylaw as well as municipal noise bylaws in other jurisdictions. A voluntary payment amount is being recommended for both general noise and animal noise violations which is anticipated to increase efficiency in the prosecution of noise violations by allowing persons to pay their ticket without having to appear in Court. Housekeeping changes are recommended to correct outdated references and to add bylaw enforcement officers and police officers to the list of investigators in Schedule "A".

## BACKGROUND

The general noise prohibition contained within section 3 of *The Regina Noise Abatement Bylaw* No. 6980, has remained unchanged since its enactment in 1981. There have been numerous court decisions across Canada regarding the validity and enforceability of noise prohibitions since the enactment of section 3. The judicial interpretation of the current wording of the City's Bylaw is that at least two complainants are required in every case to testify that they heard the noise and that they were disturbed by it. The result is that a noise charge will not be upheld if there is only one complainant, regardless of how unreasonable or excessive the noise is.

## DISCUSSION

### **General Noise Offence**

*The Regina Noise Abatement Bylaw* contains a general noise offence that was typical for many municipalities at the time it was enacted. Charges under this section most often arise in situations where a complaint is made regarding loud music. The offence is currently worded as follows:

3. (i) NO PERSON SHALL make, continue or cause to allow to be made or continued any loud, unnecessary or unusual noise or any noise whatsoever which either annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within the limits of the City, except to the extent it is allowed by this Bylaw.

The recommended change is to modernize the wording of the section in light of judicial interpretation, to prohibit noise that is "unreasonably loud or excessive likely to disturb any reasonable person". In order to determine whether a noise is likely to disturb any reasonable person the Bylaw will contain a list of factors, as follows: proximity to residential uses, time of day and day of week, duration, volume, nature of the sound/activity, frequency of the occurrence, and any other relevant factor.

The recommended change is intended to give effect to the original intention of the Bylaw and not to create a new offence or new standard for what is a reasonable level of noise in the City of Regina. The change moves from what has been judicially interpreted to be a rigid and somewhat subjective analysis to an analysis that is objective. The proposed wording is also intended to be easier to understand and interpret as it is simplified and by adding a list of factors that are typically considered by the Court, provides some direction as to when a noise would be likely to disturb persons. The change is consistent with the aim of the noise bylaw to acknowledge that day to day activities do generate some noise, but that this noise should be maintained at a reasonable level so as not to disturb others.

### **Voluntary Payment**

The other substantive change that is being recommended is to increase the voluntary payment available for violations of the animal noise offence from \$50 to \$100 and to create a voluntary payment for general noise violations. When a voluntary payment amount is specified in a bylaw, whether or not the voluntary payment is available on any particular charge is determined by the police officer at the time of writing the ticket; the police officer may either decline to make a voluntary payment available or complete the voluntary payment portion of the ticket.

If a voluntary payment is either not available or the individual does not pay the voluntary payment amount then they must appear in Court. Under *The Regina Noise Abatement Bylaw*, where a person is convicted of an offence the fine amount is determined by the Justice of the Peace in each individual case. Fines can range from \$0 to \$2000. For a first offence fines range from \$0 to \$250 with a typical fine being \$100 to \$200. A voluntary payment amount of \$150 is recommended for general noise and \$100 for animal noise offences. A surcharge is imposed on every fine and so the actual ticket amounts would be \$150 and \$200, respectively. These amounts, which approximate the low end of the average fine imposed by the Court, are recommended for two reasons: to encourage voluntary payment; and to reflect the time savings of the City Administration and justice system as a result of not having to appear in Court on every noise charge that is laid.

### **Housekeeping Amendments**

*The Regina Noise Abatement Bylaw* references numerous pieces of provincial legislation that have since changed and so an update to these references is required. Updated references to the titles of City officials is also required. The addition of bylaw enforcement officers and police officers to the list of investigators for the purposes of enforcing the Bylaw corrects an error whereby they were unintentionally omitted during a past update of the Bylaw.

## **RECOMMENDATION IMPLICATIONS**

### **Financial Implications**

There are possible savings as the amendment for voluntary payment will reduce court time associated costs. This may result in a more efficient and effective use of city resources for other duties.

### **Environmental Implications**

None.

### **Policy and/or Strategic Implications**

Voluntary payment options increase efficiency for not only the City, but the Police Service, the judicial system and for citizens as a court appearance is not required in order to enter a guilty plea and have a fine assessed.

### **Other Implications**

None.

Accessibility Implications

None.

COMMUNICATIONS

None.

DELEGATED AUTHORITY

Council approval is required for the disposition of this report.

Respectfully submitted,

COMMUNITY AND PROTECTIVE SERVICES COMMITTEE

A handwritten signature in black ink, appearing to read 'Ashley Thompson', followed by a period.

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Ashley Thompson, Secretary