




**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Licensing and By-law Services Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	October 19, 2021
<b>SUBJECT/REPORT NO:</b>	Noise Control By-law Update (PED21166) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Monica Ciriello (905) 546-2424 Ext. 5809
<b>SUBMITTED BY:</b>	Monica Ciriello Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

- (a) That the legislative changes to the City of Hamilton Noise Control By-law 11-285 regarding the prohibition of noise in connection with the delivery of goods described in Report PED21166, detailed in the proposed amending By-law, attached as Appendix "A" to Report PED21166, be approved;
- (b) That the amending By-law to regulate noise and to amend Noise Control By-law 11-285, attached as Appendix "A" to Report PED21166, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council.

### EXECUTIVE SUMMARY

By-law amendments are occasionally required to align with changes to legislation. On November 30, 2020, the government of Ontario passed Bill 215, *Main Street Recovery Act, 2020* to amend the *Municipal Act, 2001* which now prohibits municipalities from regulating noise in connection with the delivery of goods. These provisions were proclaimed in force on September 19, 2021. Staff recommend amending the current Noise Control By-law 11-285 (Noise Control By-law) to align with the new legislation.

### Alternatives for Consideration – Not Applicable

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

N/A

**HISTORICAL BACKGROUND**

On November 30, 2011, City Council enacted the City of Hamilton (City) Noise Control By-law to prohibit and regulate noise within the municipality and repeal By-law 03-020. Since its enactment, three amendments to the Noise Control By-law were passed as a matter of housekeeping or to address specific municipal needs.

As part of the response to COVID-19, the Province of Ontario enacted amendments to the *Municipal Act, 2001*, and its regulations prohibiting municipalities from regulating loading and unloading noise made in connection with the delivery of goods.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

The *Municipal Act, 2001* allows municipalities to pass a By-law to prohibit and regulate noise.

**RELEVANT CONSULTATION**

Legal Services was consulted in the preparation of this Report and the draft amending By-law attached as Appendix “A” to Report PED21166.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The City’s Noise Control By-law prohibits noise associated with loading activities from 7 p.m. to 7 a.m. of the following day. As part of the response to COVID-19, the Province of Ontario enacted Ontario Regulation 71/20, prohibiting municipalities from regulating loading and unloading noise made in connection with the delivery of goods until September 19, 2021.

On November 30, 2020, the government of Ontario passed Bill 215, *Main Street Recovery Act, 2020* which in part introduced temporary amendments to the *Municipal Act, 2001* proclaimed into force when Ontario Regulation 71/20 expired on September 19, 2021. These amendments now prohibit the City from regulating or prohibiting noise in connection with the delivery of goods in four categories:

- Retail business establishments;
- Restaurants, including cafes and bars;
- Hotels and motels; and,
- Goods distribution facilities.

Staff review of the current Noise Control By-law recommends amending the Noise Control By-law to reflect the necessary changes to align with the new legislation. The draft amending By-law attached as Appendix “A” to Report PED21166 maintains the same overnight 7 a.m. to 7 p.m. prohibition for loading and unloading noise, and merely introduces the mentioned four categories as an exception to this rule.

It is important to note, that as part of the response to the pandemic, the government of Ontario also passed Ontario Regulation 131/20 allowing for extended construction hours for projects associated with the healthcare sector to 24 hours a day and any other construction activity in a municipality between the hours of 6 a.m. and 10 p.m. This regulation supersedes the City’s Noise Control By-law and remains in effect until October 7, 2021. In the preparation of this Report, there is no indication this Order will be extended beyond its sunset date.

### **ALTERNATIVES FOR CONSIDERATION**

N/A

### **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

#### **Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

#### **Our People and Performance**

Hamiltonians have a high level of trust and confidence in their City government.

### **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report PED21166 – Draft By-law to regulate Noise and to amend Noise Control By-law 11-285.

MC:eo