

# COUNCIL REPORT



## Fines and Penalties for Excess Vehicle Noise

(M. Janz)

### RECOMMENDATION

That the August 8, 2022, Community Services report CS01091, be received for information.

<b>Requested Council Action</b>	Information only		
<b>ConnectEdmonton's Guiding Principle</b>	<b>ConnectEdmonton Strategic Goals</b>		
<b>CONNECTED</b> This unifies our work as we work to achieve our strategic goals.	<b>Healthy City</b>		
<b>City Plan Values</b>	LIVE		
<b>City Plan Big City Move</b>	A rebuildable city	<b>Relationship to Council's Strategic Priorities</b>	Community safety and well-being
<b>Corporate Business Plan</b>	Serving Edmontonians		
<b>Council Policy, Program or Project Relationships</b>	<ul style="list-style-type: none"> <li>● C590 - Community Traffic Management</li> <li>● C573A - Complete Streets</li> <li>● Vision Zero</li> <li>● Safe Mobility Strategy</li> <li>● Complete Streets Design and Construction Standard (September 2018)</li> <li>● <i>Community Standards Bylaw 14600</i></li> <li>● <i>Traffic Safety Act</i></li> <li>● Project TENSOR</li> </ul>		
<b>Related Council</b>	<ul style="list-style-type: none"> <li>● Upcoming:</li> </ul>		

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### Discussions

- UPE00228 Curbside Management Strategy - Reimagining Edmonton's Curbside and Public Parking Space
  - Previous:
    - CR\_4772 - Vehicle Noise
    - CR\_5895 - Vehicle Mitigation Plan
    - CR\_7275 - Vehicle Noise Enforcement Pilot Program - Results and Next Steps

### Previous Council/Committee Action

At the February 7/9, 2022, City Council, Councillor M. Janz made the following inquiry:

Can Administration provide an information report with options including but not limited to increase fines, penalties, and enforcement capacity for passenger vehicles creating excessive noise.

### Executive Summary

- Administration regularly reviews municipal bylaws to ensure legislation is current with industry and municipal standards, supportive of community and business needs and that offence and fine provisions are effective.
- Of excessive vehicle noise enforcement, 93 per cent is undertaken through the *Traffic Safety Act* by police and peace officers.
- Community Standards Bylaw 14600 regulates motorcycle noise via the use of established thresholds based on an accredited testing application. The Edmonton Police Service enforces excessive motorcycle noise.
- Between the *Traffic Safety Act* and the City's Bylaw, fine amounts currently range from \$162 to \$250.
- Other enforcement options exist and are often applied through the *Traffic Safety Act*.
- Enforcement capacity is limited as vehicle noise enforcement was absorbed into the peace officer operational mandate with existing staffing levels. To increase enforcement capacity, new peace officer resources would be required or existing resources would need to be redirected from other work.
- City peace officers and the Edmonton Police Service continue to work in partnership to address excessive vehicle noise.

## REPORT

### Background

Vehicle noise is an issue that persists in most major cities. Excessive vehicle noise impacts all Edmontonians and is contrary to the safe, vibrant, clean and healthy communities envisioned in

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The City Plan. Excessive vehicle noise complaints are reported to the Edmonton Police Service, with problematic locations found throughout Edmonton. The Edmonton Police Service leads the enforcement efforts, focusing on areas with the highest complaint volume and historically problematic areas, based on the available data.

In 2020, Administration implemented temporary noise monitoring technologies to assist the deployment of resources and enforcement efforts. The full details of the pilot deployment can be found in the February 17, 2021 Community and Public Services report CR\_7275 - Vehicle Noise Enforcement Pilot Program - Results and Next Steps. While the results of the pilot indicated that further exploration into automated vehicle noise enforcement was not warranted, it did provide additional information with respect to vehicle noise volume, times and locations. The data collected during the pilot has informed subsequent enforcement activities. Since its release, Administration has continued to implement the next steps documented in that report, including using complaint data from citizens to identify locations throughout the city for additional enforcement response.

Also in 2020, the Edmonton Police Service initiated Project TENSOR (Traffic Enforcement Noise/Speed Offence Reduction) in response to an increase in traffic safety-related complaints along with vehicle noise concerns. To assist and supplement the Edmonton Police Service efforts, Administration provided City peace officers who supported 12 joint enforcement operations, focusing on violations for speed, noise, seatbelt use and general vehicle documentation.

In 2021, Administration continued excessive vehicle noise enforcement efforts, which now form part of the peace officer operational mandate. Peace officers and the Edmonton Police Service worked in collaboration to address Edmontonians' complaints through mobile and stationary on-street enforcement. This work was the second iteration of Project TENSOR and occurred in addition to other routine traffic enforcement in the city. The increased enforcement efforts in 2021 resulted in a significant escalation in vehicle noise infraction-related tickets. In 2021, City peace officers issued 708 vehicle noise-related tickets. Comparatively, in 2019, 72 tickets were issued and in 2020, 138 tickets were issued.

In 2022, joint operations continue with Administration supplementing the Edmonton Police Service efforts on excessive vehicle noise enforcement. There are 12 joint Project Tensor Operations scheduled this year, each for approximately six hours involving both Edmonton police officers and City peace officers.

## **Fines and Penalties**

Fine amounts are created and adjusted by provincial and municipal governments.

Fines are applied by issuing violation tickets based on jurisdiction and officer discretion. In consideration of reviewing and changing municipal bylaw fine levels, Council has previously supported the following principles:

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- fines act as a sufficient deterrent, and
- fine amounts reflect the severity of the offence.

There is little literature, jurisprudence or standard methodology that can be used for determining acceptable fine amounts to curb vehicle noise; however, previous Councils have considered comparables such as other municipalities, length of time since the last increase, public input, impacts of non-compliance, impacts on court processes and the inherent goals and values of bylaws when establishing fine levels.

For excessive vehicle noise, both the provincial *Traffic Safety Act* and the Community Standards Bylaw are applied for enforcement purposes. In Edmonton, peace officers predominantly issue provincial tickets of \$162 for the following offences, applicable to all vehicles:

- Section 61(1) - Exhaust muffler produce excessive noise/flames/sparks - *Vehicle Equipment Regulation*
- Section 61(2) - Drive/operate motor vehicle if exhaust outlet of muffler widened - *Vehicle Equipment Regulation*
- Section 61(3) - Drive/operate motor vehicle if device attached to exhaust system/muffler increases noise/allows flame to ignite - *Vehicle Equipment Regulation*
- Section 82 - Create/cause unnecessary noise from any part of motor vehicle - *Use of Highways and Rules of the Road Regulation*
- Section 87 - Drive motor vehicle in residential area in unduly disturbing manner during hours 10 pm to 7 am - *Use of Highways and Rules of the Road Regulation*

Community Standards Bylaw 14600 provides an additional enforcement option specifically for motorcycle noise via the use of established thresholds based on an accredited testing application and violations of those thresholds result in a \$250 fine. The Edmonton Police Service handles the majority of motorcycle noise enforcement. Peace officers will assist when working in collaboration with Edmonton Police Service officers. There are currently no bylaw offences for vehicle noise that apply to all vehicles.

Due to the continuing conversation around excessive vehicle noise in Edmonton, Administration has been regularly reviewing municipal bylaws to ensure legislation is current with industry and municipal standards, supportive of community and business needs and that offence and fine provisions are effective.

## **Enforcement Approach**

The current enforcement approach is to levy fines on the driver of passenger vehicles that cause excessive noise. In instances where mechanical problems and/or missing equipment causes excessive noise, such as a missing muffler, the driver will be issued a notice of direction to have the

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vehicle and its equipment repaired or replaced pursuant to the *Traffic Safety Act*. These notices are followed up on by enforcement officers, and those failing to obey the direction receive an additional fine of \$243.

In instances where there are serious mechanical and/or structural problems, the vehicle can be removed from the roadway for the purpose of completing the repairs. That criteria is established by the Province of Alberta in the *Traffic Safety Act* in collaboration with the Government of Alberta's Vehicle Safety Unit.

Pursuant to the *Traffic Safety Act*, the City may make a bylaw governing objectionable noise produced in connection with a vehicle. This requires that the City determine what constitutes an objectionable noise and establish a method of determining or measuring that noise that meets the standards required by the Courts. However, a new bylaw would not provide additional enforcement tools beyond ticketing and would not permit enforcement options like vehicle or licence seizures, which are not authorized for this type of offence.

## **Enforcement Capacity and Technology**

As indicated in the recommendations and actions in report CR\_7275 - Vehicle Noise Enforcement Pilot Program - Results and Next Steps, City peace officers have incorporated vehicle noise enforcement into their mandate without any additional peace officer resources. For three years, Operation TENSOR has been run using peace officers redeployed from other duties.

At this time, the provincial government does not recognize automated noise enforcement and the guidelines associated with automated speed enforcement do not apply.

## **Regional Partnerships**

Peace officers and the Edmonton Police Service have begun conversations with neighbouring enforcement agencies to take a unified approach to the enforcement of excessive vehicle noise across the greater Edmonton area. Some agencies have indicated that they will join Edmonton's efforts as it relates to Project TENSOR. Details and operational dates have been provided to those agencies along with the desired enforcement approach.

City of Calgary peace officers do not currently conduct traffic enforcement, including vehicle noise issues. Traffic enforcement is the sole responsibility of the Calgary Police Service. Calgary Community Standards is looking at the City of Edmonton's approach as a benchmark as they consider changes to their own peace officer program.

## **Future Excess Noise Response Options**

Excessive vehicle noise emanating from passenger vehicles (cars and trucks) was adopted into the mandate of peace officers and their existing resourcing in 2021. As has been demonstrated above,

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City peace officers and the Edmonton Police Service increased enforcement efforts in 2021. This effort will continue through 2022 and evaluation will be made to measure associated outcomes. Additional options to address excess vehicle noise may include:

1. Exploring the option to establish designated routes for certain types of vehicles that may generate excessive noise. These routes could be time-bound or based on days of the week.
2. Advocacy to the province on exploring international models, such as the Paris noise reduction model or the New York State SLEEP legislation, which could include the public health concerns of vehicle noise for urban dwellers.
3. Consider a grant to support impacted Edmontonians, including business owners, who live and work in the area, to purchase items within their control - for example, noise dampening curtains, earplugs, acoustic panelling, etc.
4. Prioritize the use of coniferous trees being planted or other noise mitigation strategies in high noise areas for a longer-term solution.
5. Reviewing the fine amount for the existing motorcycle noise bylaw offence and consideration of a general vehicle noise bylaw offence to supplement the existing provincial tools.

## **Budget/Financial Implications**

To participate in Operation TENSOR, Administration will spend \$15,000 to \$20,000 in operational overtime to supply City peace officers at joint enforcement events, using existing branch budget. Although operational overtime can be supported in the short term, overall peace officer overtime use is high, due to a number of competing priorities. This may contribute to employee burnout and increased sick time if not appropriately managed.

When writing and prosecuting a ticket, the following City and Court resources are used downstream of the issuance of a ticket:

- Peace officer resources write the ticket, provide input to the prosecutor after the ticket is issued, attend court trials, and, if the court matter is delayed, attend the future hearing dates until the matter is resolved.
- Court and City resources include administrative and prosecutor time, prep for the hearing, and attending the hearing while working with peace officers.

Additionally, there are administrative provincial court costs when tickets are routed through the system and the cost of court resources on the day of hearings.

## **COMMUNITY INSIGHT**

While formal engagement from vehicle noise has not been conducted recently, Administration and the Edmonton Police Service receive complaints in different forms. Vehicle noise complaints to the Edmonton Police Service have been increasing since the start of the pandemic.

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Year	Motorcycle Noise	Other Vehicle Noise (revving, idling, honking)	Actioned (as determined by EPS)	Total Complaints
2019	12	4	134	150
2020	58	37	675	770
2021	101	90	837	1,028
2022 (YTD - June 21, 2022)	26	150	223	399

Administration receives complaints from Edmontonians via City Council and 311 and monitors social media to gather information on Edmontonians' perspectives. Consistent feedback includes topics on:

- not being able to sleep,
- increased stress levels,
- hot spots,
- equipment used to make the noise, usually performance exhaust systems,
- noise level thresholds,
- gathering in neighbourhood parks and parking lots after hours, and
- behaviour of drivers, including playing loud music and revving their engines.

## GBA+

Those who live, work and play near vehicle noise hotspots are disproportionately impacted by the actions of others who choose to purchase, modify or not maintain and still drive their vehicles, resulting in excess vehicle noise. Edmontonians living and working in these areas may not be able to change residence or their place of employment due to the impacts of excessive vehicle noise. These impacts can have health implications in the long term.

Vehicle maintenance affordability is a consideration as income and time disparities exist for those who have vehicles that cause excessive noise. There are four different categories of individuals that enforcement encounters on this file:

- those who purchase stock vehicles with equipment that generates excessive noise and drive them in an objectionable manner,
- Those who purchase stock vehicles with equipment that generates lawful amounts of noise and who drive them in a responsible manner as a perceived safety means to announce their presence to other motor vehicle drivers and others around them,
- those who modify their vehicle to create excessive noise, and

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- those who do not maintain their vehicle due to a wide variety of reasons, resulting in excessive noise.

The impacts to both drivers and those experiencing noise external to the vehicle are short and long-term, with significant impacts during the spring and summer months.