

Considered at March 23, 2021 Council Meeting

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City of Port Moody Report/Recommendation to Council

Date: January 22, 2021
Submitted by: Community Development Department – Building, Bylaw, and Licensing Division
Subject: Proposed Amendments to the Sound Level Bylaw

Purpose

To address Council direction with respect to the resolutions passed on October 13, 2020 regarding the report dated September 21, 2020 regarding Construction Noise Bylaws from Surrounding Municipalities.

Recommended Resolution(s)

THAT the report dated January 22, 2021 from the Community Development Department – Building, Bylaw, and Licensing Division regarding Proposed Amendments to the Sound Level Bylaw be received for information.

Background

At the Regular Council meeting held on October 13, 2020, Council passed the following resolution:

RC20/373

THAT staff be directed to prepare amendments to relevant sound level bylaws to limit the permitted hours of construction to 7AM to 7PM Monday to Friday, 9AM to 5PM Saturday, with no construction permitted on any Sunday or statutory holiday, as recommended in the report dated September 17, 2020, from Councillor Steve Milani regarding Limiting Construction Noise;

AND THAT a fine be created for those in breach of the bylaw in the amount of \$500 for each hour or portion thereof that the violation continues, for up to 12 hours; after 12 hours, the fine increases to \$1,000 for each one-hour period in violation;

AND THAT staff be directed to seek approval from Council before granting variances to sound level bylaw(s).

In 2018, residents and businesses located in established neighbourhoods affected by active construction sites raised concerns about the impact of construction noise and the availability of on-street parking. In response to these concerns, a trial was launched where by a full-time

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Bylaw Enforcement Officer was reassigned to work as a Construction Liaison, and a project was created as part of the Strategic Plan.

This role was to provide a direct contact for residents, businesses, and contractors with respect to construction sites in the City. The trial was successful. In summary, residents' feedback indicated that it is very helpful to speak with a Bylaw Enforcement Officer who was aware of the construction sites' schedules and methods of construction. It was also very helpful for the contractor to have a single point of contact with the City should they require advice on the best way to achieve a specific task critical to the project's schedule. At the conclusion of the trial, this coordination role became part of regularly scheduled bylaw enforcement duties and continues to be a role that Bylaw Enforcement staff actively provide today.

Discussion

Council requested staff to make changes to the City of Port Moody Sound Level Bylaw, 1980, No. 1399. In the process of preparing the requested changes, staff identified information for Council to consider prior to considering the requested Bylaw changes. Following is a discussion on each of the requested items with recommendations.

Request to Change the Hours Permitted for Construction Activities

The current hours of construction are Monday to Saturday 7am to 8pm. No work is currently permitted on Sundays or statutory holidays.

Staff have received feedback from the development community with respect to the potential impacts the proposed new permitted hours of construction would have on current projects. In summary, contractors have stated they can work with the hours proposed; however, they anticipate that the proposed change will have a negative impact on the length of time each project will take to complete. The reduction of time, particularly on Saturdays, would mean that, for many job sites in the City, they would operate on a five-day workweek instead of a six-day workweek. A shorter workweek will result in an extension to the project timeline and may delay residents from moving into their recently purchased or rented homes.

To facilitate a reduction in the hours of construction while minimizing the overall impact on project timelines, staff recommend that the proposed hours of construction on Monday to Friday be changed to 7:00am-7:00pm as requested by Council, but that further consideration be provided to changing the hours of construction on Saturdays. If the hours of construction were limited to 9:00am-7:00pm on Saturdays, this would allow for construction companies to still arrange for a six-day workweek, minimizing the impact on project timelines while limiting the impact on residents in the early morning and evening hours. A draft Amendment Bylaw 3299 is included as **Attachment 1** based on staff's recommendation.

Request to Change Fines

Staff have consulted the City Solicitor with respect to increasing the fines for violating the Sound Bylaw to ensure that the proposed fines are not in conflict with regulations in the *Community Charter*. Section 265 of the *Community Charter* authorizes a municipality to issue fines for each day an offence continues, but does not give the authority to issue multiple tickets for the same offence on the same day. Based on this consultation, staff are recommending that no changes be made to the fine structure at this time.

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Bylaw Variances

Exemptions to Sound Level Bylaw 1980, No. 1399 are typically requested to perform necessary roadwork at night to facilitate a road closure, perform work beyond the allowable hours for a critical stage of construction such as a long concrete pour that typically take about 16 hours to complete, or to perform work that may be louder than is permitted under the Bylaw such as pile driving.

Staff have recently reviewed the procedure for granting Sound Bylaw exemptions and have made several changes to the program including:

- an online application process, submitted at minimum of five business days prior to the request,
- Building Official review of the exemption request to confirm the validity of the request and to minimize the exemption where possible,
- staff review of the notification that will be provided to residents prior to distribution,
- an increase in the notification period from 24 hours to 48 hours prior to the noise exemption, and
- notification to the City Manager to forward to Council so that Council is aware when a noise exemption has been granted.

Sound Bylaw exemption dates are generally estimated a week prior to the request, and date adjustments may need to be made while in the application process to address the complexity of construction scheduling. While staff understands Council interest in being involved in the exemption process, the timeline that is generally available to process these requests does not align with the Council meeting schedule. As an alternate process, staff recommend establishing a Council policy that specifies the exemptions that can be considered at a staff level. Exemption requests that are not identified specifically in the Policy would need Council approval. Draft Corporate Policy – 09-3760-2021-01 – Temporary Exemption from Sound Bylaw is included as **Attachment 2**.

There are extraordinary circumstances where variations from the standard requirements to the Sound Bylaw are required. Staff will attempt to address an alternate solution and, in many circumstances, an alternate solution may be agreed to, and the exemption would not be granted.

If Council supports staff authorization to approve exemptions outlined in the Policy, applications will continue to be considered on a timeline that facilitates construction while respecting that exemptions should only be granted in extraordinary circumstances as defined in the Policy and in a way that allows residents to be properly notified. The public notification procedures have been included in the policy to emphasize the importance of timely and comprehensive notification.

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Currently, there is no fee associated with the application for a Sound Bylaw exemption. Staff recommend adding a fee to this application as a deterrent to contractors applying for frivolous or unnecessary exemptions from the Sound Bylaw. The fee would also assist in cost recovery for staff time to review each application. A draft Amendment Bylaw No. 3304 to City of Port Moody's Fee Bylaw 2020, No. 3278, incorporating the recommended new fee is included as **Attachment 3**.

Other Options

The recommended changes to the Sound Level Bylaw, Fees Bylaw, and a new Corporate Policy – Temporary Exemption from Sound Bylaw have been included in this report for reference. If Council would like to proceed with the recommendations outlined in this report, the following alternate motion could be made:

THAT City of Port Moody Sound Level Bylaw, 1980, No. 1399, Amendment Bylaw No. 7, 2021, No. 3299 be read a first, second, and third time as recommended in the report dated February 22, 2021, from the Community Development Department – Building, Bylaw and Licensing Division regarding Proposed Amendments to the Sound Level Bylaw;

AND THAT City of Port Moody Fees Bylaw, 2020, No. 3278, Amendment Bylaw No. 2, 2021, No. 3304 be read for a first, second, and third time;

AND THAT Corporate Policy – 09-3760-2021-01 – Temporary Exemption from Sound Bylaw be approved.

If Council would like to proceed as previously directed, the following alternate motion or motions could be made, and the Amending Bylaw can be placed on an April 2021 agenda for consideration:

1. THAT the permitted hours of construction in City of Port Moody Sound Level Bylaw, 1980, No. 1399 be amended to limit the hours of construction from 7AM to 7PM Monday to Friday and, 9AM to 5PM Saturday.
2. THAT exemptions to City of Port Moody Sound Level Bylaw, 1980, No. 1399 be amended to require all exemption requests to be considered by Council.

Financial Implications

The proposed fee for Sound Bylaw Exemptions will assist in recovering costs associated with staff time to administer this process.

Communications and Civic Engagement Initiatives

Communication to the construction industry will be required to update them on any changes. The City website will also be updated with all process changes.

Council Strategic Plan Objectives

This is an operational project.

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Attachment(s)

1. Draft City of Port Moody Sound Level Bylaw 1980, No. 1399, Amendment Bylaw No. 7, 2021, No. 3299
2. Draft Corporate Policy – 09-3760-2021-01 – Temporary Exemption of Sound Bylaw
3. Draft City of Port Moody Fees Bylaw 2020, No. 3278, Amendment Bylaw No. 2, 2021, No. 3304.

Report Author

Robyn MacLeod, RBC, CRBO

Manager of Building, Bylaw, and Licensing

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Report Approval Details

Document Title:	Proposed Amendments to Sound Level Bylaw.docx
Attachments:	<ul style="list-style-type: none">- Attachment 1 - Draft City of Port Moody Sound Level Bylaw, 1980, No. 1399, Amendment Bylaw No. 7, 2021, No. 3299.pdf- Attachment 2 - Draft Corporate Policy - 09-3760-2021-01 - Temporary Exemption from Sound Bylaw.pdf- Attachment 3 - Draft City of Port Moody Fees Bylaw 2020, No. 3278, Amendment Bylaw No. 2, 2021, No. 3304.pdf
Final Approval Date:	Mar 15, 2021

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

Kate Zanon, General Manager of Community Development - Mar 11, 2021 - 8:31 AM

Dorothy Shermer, Corporate Officer - Mar 11, 2021 - 11:44 AM

Rosemary Lodge, Manager of Communications and Engagement - Mar 11, 2021 - 1:57 PM

Paul Rockwood, General Manager of Finance and Technology - Mar 11, 2021 - 3:48 PM

Tim Savoie, City Manager - Mar 15, 2021 - 10:50 AM

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City of Port Moody

Bylaw No. 3299

A Bylaw to amend City of Port Moody Sound Level Bylaw, 1980, No. 1399 to change the hours of construction.

The Council of the City of Port Moody enacts as follows:

1. Citation

- 1.1 This Bylaw may be cited as “City of Port Moody Sound Level Bylaw, 1980, No. 1399, Amendment Bylaw No. 7, 2021, No. 3299”.

2. Amendments

- 2.1 City of Port Moody Sound Level Bylaw, 1980, No. 1399 is amended by replacing the following section 4.2.1:

“4.2.1 No person in the City shall on any day before 07:00 hours or after *20:00 hours, construct, erect, reconstruct, alter, repair or demolish any building, structure or thing or excavate or fill in land in any manner which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity.”

with the following section 4.2.1:

“4.2.1 No person in the City shall construct, erect, reconstruct, alter, repair, or demolish any building, structure, or thing, or excavate or fill in land in any manner which disturbs the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood or of persons in the vicinity before 07:00 hours or after 19:00 hours on Monday to Friday, or before 09:00 hours or after 19:00 hours on Saturday.”

3. Severability

- 3.1 If a portion of this Bylaw is found invalid by a court, it will be severed and the remainder of the Bylaw will remain in effect.

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Read a first time this ___ day of ____, 20__.

Read a second time this ___ day of ____, 20__.

Read a third time this ___ day of ____, 20__.

Adopted this ___ day of ____, 20__.

R. Vagramov
Mayor

D. Shermer
Corporate Officer

I hereby certify that the above is a true copy of Bylaw No. 3299 of the City of Port Moody.

D. Shermer
Corporate Officer

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Corporate Policy

100 Newport Drive, Port Moody, BC, V3H 5C3, Canada
Tel 604.469.4500 • Fax 604.469.4550 • www.portmoody.ca

Section:	Legislative and Regulatory Services	09
Sub-Section:	Building	3760
Title:	Temporary Exemption from Sound Bylaw	2021-01

Related Policies

Number	Title

Approvals

Approval Date:	Resolution #:
Amended:	Resolution #:
Amended:	Resolution #:
Amended:	Resolution #:

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Corporate Policy Manual

Temporary Exemption from Sound Bylaw

Policy

Bylaw Enforcement staff, Building Officials, the General Manager of Community Development, and other staff as identified will review requests for temporary exemptions from sections 4.2.1 or 6 of Sound Level Bylaw, No. 1399 under the authority granted under sections 4.2.3 and 11, respectively.

Registered property owners, their agents, or the developer of record for a private parcel under construction may submit an Application for Temporary Exemption from the Sound Level Bylaw for consideration.

Procedures

Upon receipt of an Application for Temporary Exemption from the Sound Level Bylaw (Application) and the application fee, Bylaw Enforcement staff (Staff) shall enter the application into the department's application tracking system.

Staff will conduct a preliminary review and determine if the Application for an exemption from the permitted hours and days of construction, granted under section 4.2.3 of the Sound Level Bylaw, is reasonable, required, or otherwise necessary, as defined in the Bylaw.

Staff will determine if the Application if for an exemption from the permitted decibel level for the residential or commercially-zoned property under construction, granted under section 11 of the Sound Level Bylaw is reasonable, required, or otherwise necessary, under the Bylaw.

Staff will ensure that the Application contains all information required by section 11 of the Bylaw, as well as a draft of the Notice to Impacted Residents.

Applications will then be forwarded to Building Officials, and will only be considered if it is determined that the Application meets one or more of the following criteria:

- the method of construction will de facto contravene the prescribed decibel level for a specifically-zoned property, due to the nature of construction, and there is no other method to complete the work that is available, feasible, or practical (e.g.: Pile Driving);
- the method of construction is such that it requires a longer duration to complete than is permitted under the Bylaw, and all other options to complete said work would compromise the integrity of the construction itself, rendering it unsafe or otherwise impractical (e.g.: Long Concrete Pour); and/or
- an emergent issue is present at or near the property that would: 1) cause damage to property or related infrastructure; 2) cause related safety concerns; or 3) cause potential hazards to the site, its workers, or the surrounding residents if addressing the issue were delayed; and where allowing the issue to be addressed beyond the limitations imposed by the Bylaw would prevent the damage, safety concerns, or potential hazards.

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Corporate Policy Manual

Temporary Exemption from Sound Bylaw

Any application outside the scope of these considerations for an exemption will be rejected by Staff, and the applicant would have to seek Council authorization for an exemption from any section of the Sound Level Bylaw.

All Applications must be received by Staff no later than five (5) business days before the date and time of the requested exemption, so as to allow for review, revision, and approval of the Application, as well as the review, revision, approval, and distribution, by the applicant, of the Notice to Impacted Residents to any property within 250m of the parcel or construction site, at least 48 hours prior to the commencement of work under the approved exemption.

The Application, the Notice to Impacted Residents, and any other relevant information submitted by the applicant to the City, will be provided to the General Manager of Community Development for review, revisions, and approval.

If approved, a copy of the signed and dated exemption will be sent back to the applicant with the final approved draft of the Notice to Impacted Residents (Notice). The applicant must provide confirmation that the Notice was provided to impacted residents at least 48 hours prior to the date and time of the commencement of construction under the exemption.

If no confirmation of the Notice being provided 48 hours in advance is provided, the approved exemption would be considered void, and any work occurring outside any of the regulations within the Sound Level Bylaw would be considered a contravention and result in enforcement action under the Bylaw.

Any work not explicitly occurring within the approved dates or times of the approved exemption will be considered a contravention of the Sound Level Bylaw and will result in enforcement action under the Bylaw.

Any change to the dates or times of an approved exemption, prior to the commencement of construction or once construction has begun, will require a re-submission of the Application for Exemption from the Sound Level Bylaw and the Notice to Impacted Residents, and the approval process would have to be re-initiated.

Any extension beyond the dates and times approved in the Temporary Exemption will require a new application and Notice to Impacted Residents.

Monitoring/Authority

Monitoring and implementation of this policy is delegated to the Community Development Department – Building, Bylaw, and Licensing Division. Changes to this policy require the approval of Council.

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City of Port Moody

Bylaw No. 3304

A Bylaw to amend City of Port Moody Fees Bylaw, 2020, No. 3278 to add a fee for Application for Temporary Exemption from the Sound Level Bylaw.

The Council of the City of Port Moody enacts as follows:

1. Citation

- 1.1 This Bylaw may be cited as "City of Port Moody Fees Bylaw, 2020, No. 3278, Amendment Bylaw No. 2, 2021, No. 3304".

2. Amendments

- 2.1 City of Port Moody Fees Bylaw, 2020, No. 3278 is amended by adding the following Building Fee in Schedule A:

Exemption from Sound Level Bylaw		\$
Application for Temporary Exemption from Sound Level Bylaw		250.00

3. Severability

- 3.1 If a portion of this Bylaw is found invalid by a court, it will be severed and the remainder of the Bylaw will remain in effect.

Read a first time this ___ day of ____, 20__.

Read a second time this ___ day of ____, 20__.

Read a third time this ___ day of ____, 20__.

Adopted this ___ day of ____, 20__.

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R. Vagramov
Mayor

D. Shermer
Corporate Officer

I hereby certify that the above is a true copy of Bylaw No. 3304 of the City of Port Moody.

D. Shermer
Corporate Officer