

Priorities Committee Meeting_Oct18_2016

STRATEGIC INITIATIVE AND UPDATE

Successes and Challenges of Motorcycle Noise Provisions in Community Standards Bylaw

Report Purpose

To provide Priorities Committee with a report on the successes and challenges encountered by the City of Edmonton in implementing the motorcycle noise provisions of its Community Standards Bylaw and provide information on the implications of a similar bylaw in Strathcona County that would apply to noise from all motorized vehicles.

Council History

April 26, 2016 – Council directed that Administration provide a report to Council, by the end of Q3 2016, with information on the successes achieved and challenges encountered by the City of Edmonton in implementation of the motorcycle noise provisions of its Community Standards Bylaw (Bylaw 14600), and provide information on the implications of a similar bylaw in Strathcona County that would apply to noise from all motorized vehicles.

Strategic Plan Priority Areas

Economy: N/A

Governance: N/A

Social: N/A

Culture: N/A

Environment: N/A

Other Impacts

Policy: N/A

Legislative/Legal: The Municipal Government Act, R.S.A. 2000 c. M-26 provides Councils with the authority to pass bylaws for municipal purposes.

Interdepartmental: Enforcement Services and Legislative and Legal Services.

Summary

Section 61 of the Alberta Traffic Safety Act Vehicle Equipment Regulations, along with Section 82 of the Use of Highway, Rules of the Road Regulations, provide the current framework for the enforcement of excessive noise emitted by vehicles in Strathcona County. Enforcement Services researched several metropolitan communities which have enacted and enforced noise bylaws that incorporate a decibel level tolerance. The City of Edmonton enacted the Edmonton Community Standards Bylaw 14600 in June of 2010 with set acceptable decibel levels for motorcycles (Enclosure 1).

Strathcona County Enforcement Services met with Edmonton Police Service (EPS) to discuss the Community Standards Bylaw and the successes and challenges of its enforcement. Presently, EPS has over 100 officers trained on the sound level meter testing equipment. They have 14 sound level meter kits deployed between each Patrol Division with extra kits in use with the Traffic Division.

The Bylaw is applied through enforcement by EPS officers either as a specifically directed operation, or more often ancillary to a routine traffic stop. Vehicles are only tested if EPS officers observe the vehicles while in operation.

According to EPS, officers have issued approximately 600 tickets since the inception of the Bylaw in 2010, or an average of 89 violation tickets per year. The process and general rules followed by EPS are set out below.

Edmonton Police Services Process

- During operations designed specifically to test noise, the motorcycle is pulled over based on noise detected (perception of officer) – minimum 92dB.
- The officer requires that the test be performed at a location where the ambient surrounding noise is less than 82dB, generally requiring that the test be performed at a different (quieter) location.
- For safety reasons, a minimum of two officers are required to perform the testing.
- Testing takes approximately 10 to 20 minutes from start to finish (in addition to the time required to move to an appropriate location).
- The equipment must be tested before each use.

Edmonton Police Services General Rules

- Twin cylinder motorcycle will register 92dB at rest and 96dB at 2000 rpm (enforcement is taken at 94dB and 98dB)
- Sport bikes will register at 96dB at rest and 100 dB at 5000 rpm (enforcement is taken at 98dB and 102 dB)
- The penalty applied for a first time offence, fine is \$250.00, if a second offence occurs within one year of a conviction, the subsequent offence is doubled at \$500.00.
- Refusal to allow testing results is a \$250.00 fine for the first offence and \$500.00 for a subsequent offence.
- There are no provisions for EPS officers to remove vehicles from the road, nor are they required to render their motorcycle compliant with the Noise Bylaw. The riders are advised of the increase in fines if caught again.

Success Rate of Prosecutions

According to legal counsel for the City of Edmonton, the initial prosecution success rate when the Bylaw was enacted in 2010 was only 40% to 50%. Since then, the prosecution success rate has risen to nearly 100%. Most violation tickets are now paid, and there is no need to proceed with prosecution. Legal counsel estimates that approximately two motorcycle tickets per month during the summer (10 to 12 per year), proceed to prosecution, with most of these being paid prior to trial. There are less than 4 trials conducted per year.

City of Red Deer

The City of Red Deer is considering amending Part 1 of their Community Standards Bylaw 3383-2007 to include a violation provision for vehicles emitting excessive noise that will include a decibel range within the definition. The study is continuing through their Community Standards Directorate, and they are not certain when they will bring the report forward to Council.

Red Deer submitted a resolution to the Alberta Urban Municipalities Association (2016-B18 attached as Enclosure 2). They are requesting that the Province of Alberta establish a provincial standard with respect to noise produced in connection with a vehicle and define what constitutes an objectionable noise, along with a consistent method of determining and

prohibiting the use or operation of a vehicle that emits a noise above an established regulated level.

Other Municipalities

The other municipalities researched were Calgary and Saskatoon. Excerpts from their bylaws are attached (Enclosure 3 and 4). Calgary has had significant challenges, as the decibel meeting reading system they used was not the same as Edmonton's, and the readings were successfully challenged in court. Saskatoon has not continued with enforcement of their bylaw, as the challenges encountered with the enforcement process have been seen to outweigh any benefits.

Use for Other Vehicles

The sound level meter instruments can be used to measure sounds from cars, trucks, ATVs, snowmobiles, and boats. The City of Edmonton only applies decibel level enforcement to motorcycles and property (e.g., stereos, commercial equipment). This is because it can be very difficult to test the noise level emitted by larger and modified vehicles. Access to the exhaust system on larger vehicles can be difficult, making the test extremely time consuming and in some cases, requiring specialized equipment.

PROS to Enactment of a Noise Bylaw Provision

Noise emission offences in Strathcona County are enforced through Provincial Legislation. The sections under the Traffic Safety Act require a subjective interpretation of the noise emanating from offending vehicles. This creates an additional challenge in the legal process as it is dependent upon the officer's ability to convey the accuracy of their judgement to the court to support a conviction. Unlike matters where a scientific reading has been obtained, such as speed, interpretative data is not given a high value regardless of the evidentiary presentation. Enacting a bylaw with a scientific reading (dB level) takes out the subjective evidence required when utilizing the Traffic Safety Act sections. This provides better evidence in court, which in turn would likely result in a higher percentage of conviction rates, as has been the case in Edmonton.

CONS to Enactment of a Noise Bylaw Provision

The equipment required to capture the proper decibel reading is expensive. The sound level meter equipment is currently only available from a U.S. company. Equipment is \$3500 per kit, training is \$300 per student, and maintenance is \$500 to \$600 per year, per kit. Strathcona County would likely require 4 sound level meter testing kits to provide adequate enforcement.

Enforcing a bylaw provision, including a proper test of an offending vehicle, will likely present officers with considerable difficulty and resistance. The perceived road safety return on investment ratio for traffic operations under such a bylaw provision is extremely low. The intricate set up and time requirements to perform the testing present significant challenges for officers and potentially offending drivers. In addition to a possible need to move to an appropriate location for testing, potential offenders are required to wait with enforcement officers for at least thirty minutes while the test is performed and results obtained.

Next Steps

Administration will monitor developments in the provincial legislative framework, including the progress of Red Deer's AUMA Resolution to have the province establish guidelines for controlling operational noise levels of consumer products, equipment and vehicles. A report will be provided to the Priorities Committee on any developments related to this issue.

Enclosure

1. Edmonton Community Standard Bylaw and Traffic Safety Act Sections (Document: 9281478).
2. Red Deer's AUMA Resolution 2016-B18 (Document: 9275729).
3. City of Calgary Noise Bylaw Enforcement (Document: 9280083).
4. City of Saskatoon Noise Bylaw Enforcement (Document: 9278488).