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MANAGER'S REPORT NO.	28
COUNCIL MEETING	1979 04 09

RE: ENFORCEMENT OF THE VEHICULAR SECTIONS  
BURNABY NOISE OR SOUND ABATEMENT BY-LAW 1978, #7228

The following report from the Technical Sub-Committee on Noise contains information on proposed amendments to the Noise or Sound Abatement By-Law and related matters.

RECOMMENDATION:

1. THAT the recommendations of the Technical Sub-Committee on Noise be adopted.

\* \* \* \* \*

TO: MUNICIPAL MANAGER 79 03 26  
FROM: TECHNICAL SUB-COMMITTEE ON NOISE  
RE: ENFORCEMENT OF THE VEHICULAR SECTIONS  
BURNABY NOISE OR SOUND ABATEMENT BY-LAW 1978, #7228

RECOMMENDATIONS

1. THAT vehicular noise enforcement signs not be posted within the Municipality.
2. THAT a continuing noise measurement evaluation monitoring station not be implemented.
3. THAT the Municipality proceed with charges under the vehicular noise control sections using the existing identification procedures.
4. THAT the words licenced gross weight of 2800 kilograms presently contained in sections of the Burnaby Noise or Sound Abatement By-law be amended to read licenced net weight of 2200 kilograms.
5. THAT appropriate amendment to Burnaby Noise or Sound Abatement By-law 1978, #7228, be brought forth.

REPORT

On 1978 June 12, a report from the Technical Sub-Committee on Noise was submitted to and considered by the Municipal Council. The recommendations contained in the report were accepted and adopted by Council. One of the

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recommendations, however, required a further report. This recommendation read as follows:

"THAT a separate report be submitted by the Technical Sub-Committee and the Municipal Solicitor on the following subjects of concern all of which relate to the enforcement of the vehicular sections of the Burnaby Noise or Sound Abatement By-law 1972, #6052:

- (a) Vehicular noise enforcement signs.
- (b) Implementation of a continuing noise measurement evaluation monitoring station.
- (c) Requirement of visual identification of vehicular operator in Court actions.
- (d) Method of substantiating gross vehicle weight for Court action."

Each of the above points have been carefully considered by the Technical Sub-Committee with the Municipal Solicitor attending one meeting at which the legal requirements were discussed.

Your Technical Sub-Committee would report as follows:

1. VEHICULAR NOISE ENFORCEMENT SIGNS

Concern

A Provincial Court opinion was that a person who had been charged with a violation of the Burnaby Noise or Sound Abatement By-law under the vehicular section of the By-law had not received adequate warning of the violation by reason that signs setting forth the fact that Burnaby enforced standards of vehicular noise emission were not posted within the Municipality.

The Municipal Solicitor is of the opinion that the posting of such signs within the Municipality is not a legal requirement in the enforcement of the Burnaby Noise or Sound Abatement By-law. The Technical Sub-Committee did consider the posting of noise control signs for educational purposes. While this might appear to be beneficial to the general public, the Municipal Solicitor is of the opinion that the posting of such signs could prove detrimental to Noise By-law enforcement as officials might have great difficulty in proving that the operator of the vehicle had passed or seen such a sign. (As a matter of interest, there are approximately 106 vehicular entry points into Burnaby).

Recommendation

The Technical Sub-Committee would recommend that noise control signs not be posted due to the numbers of such signs that would be required, the difficulty of proving that the vehicle operators had passed or seen such signs and the fact that the Municipal Solicitor is of the opinion that such signs are not a legal requirement in the enforcement of the vehicular sections of the Burnaby Noise or Sound Abatement By-law 1978, #7228.

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2. IMPLEMENTATION OF A CONTINUING NOISE MEASUREMENT EVALUATION MONITORING STATION

Concern

During a Provincial Court proceeding involving a charge laid under the Vehicular section of the Burnaby Noise or Sound Abatement By-law the fact that this Municipality while laying charges under the said By-law did not maintain a noise measurement evaluation monitoring station at which vehicle operators could have their vehicles monitored for noise emission levels was questioned by the presiding Provincial Court Judge.

The Municipal Solicitor has advised that there is no legal obligation on the part of the Municipality to operate a scheduled vehicular noise monitoring station to enable the Municipality to proceed with the lawful enforcement of the vehicular sections of the Burnaby Noise or Sound Abatement By-law 1978, #7228.

The Technical Sub-Committee is of the opinion that such a vehicular noise monitoring station would be prohibitive in cost and not satisfactory in practise as many infractions are caused by the method and manner in which the vehicle is operated, i.e., loading, vehicle maintenance, driving practices. It is quite conceivable that an operator of a vehicle found to be in violation whilst passing through a monitoring station could return to that monitoring station having done nothing to that vehicle and not be in violation of the sound control standards by driving in a modified manner that would decrease vehicle noise emission.

Recommendation

The Technical Sub-Committee would recommend that the Municipality not operate a scheduled vehicular noise monitoring station by reason of the following:

1. THAT it is not a legal requirement.
  2. THAT it is prohibitive in cost.
  3. THAT it is not satisfactory in practise due to the reasons stated in the foregoing.
3. REQUIREMENT OF VISUAL IDENTIFICATION OF VEHICULAR OPERATOR IN COURT ACTIONS

Concern

On 1978 January 23, the trial date of a charge as laid by the Health Department, the Crown Prosecutor interviewed the concerned Inspector and during this interview insisted that one of the primary requirements to the case was the positive visual identification of the vehicle operator. As the length of elapsed time between laying the charge and trial date was fourteen (14) months, positive identification of the vehicle operator was not possible. The Prosecutor then stated that he was not prepared to proceed with the case and as such, the case was withdrawn.

The Municipal Solicitor has advised that while visual identification could be of assistance, it is not mandatory for Court purposes as the information that is presently collected at the time of detainment at the noise monitoring station is a satisfactory and acceptable identification, i.e., driver's name, address, driver's licence number, vehicle registration, vehicle description, registered vehicle weight, vehicle licence number and the signature of the vehicle operator.

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Recommendation

The Technical Sub-Committee would recommend that should future vehicular Noise By-law charges be challenged by the Crown Prosecutor's office on the inability of staff to visually identify vehicle drivers, the Crown Prosecutor's office be requested to contact the Municipal Solicitor prior to the withdrawal of any such charge.

4. METHOD OF SUBSTANTIATING GROSS VEHICLE WEIGHT FOR COURT ACTION

Concern

A dismissal of a vehicular Noise By-law charge due to the Crown not substantiating the registered gross weight of the accused's vehicle.

The vehicle, in question, was a passenger car and the weight of this vehicle category is shown on the registration form as a net vehicle weight, whereas commercial vehicles have both net and gross weights shown on their individual registration forms. As passenger type vehicle registration forms do not show gross vehicle weights there is no way, short of sending the vehicle to a weigh scale, of ascertaining gross weight. This weighing procedure is not feasible.

After extensive study, the Technical Sub-Committee recommends replacing the 2800 kilograms gross vehicle weight standard presently contained in the vehicular sections of the Burnaby Noise or Sound Abatement By-law with 2200 kilograms net vehicle weight.

The Municipal Solicitor has commented that changing the existing gross vehicle weight standard to an equivalent figure in net vehicle weight would satisfy the Court's previous objection.

SUMMATION

We are attaching a copy of the "Burnaby Noise or Sound Abatement By-law 1979, #7332," which contains the changes authorized at the 1978 June 12 meeting of Council and the amendments recommended in this report.

*G.H. Armson*  
 G.H. Armson, C.P.H.I. (C)  
 CHIEF PUBLIC HEALTH INSPECTOR

*H.B. Bacon*  
 for H.B. Bacon  
 TRAFFIC SUPERVISOR - ENGINEERING

*E.L. Hill*  
 S/Sgt. E.L. Hill  
 TRAFFIC SECTION - R.C.M.P.

*W.L. Stirling*  
 W.L. Stirling  
 MUNICIPAL SOLICITOR

GHA:HB:ELH:WLS:pm  
 Att.

THE CORPORATION OF THE DISTRICT OF BURNABY

BY-LAW NO. 7332

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A BY-LAW to regulate noise or sound within the Municipality of Burnaby.

The Council of The Corporation of the District of Burnaby ENACTS as follows:

1. This By-law may be cited as "BURNABY NOISE OR SOUND ABATEMENT BY-LAW 1979".

2. (1) Words defined in the "Motor Vehicle Act" and the "Municipal Act" shall have the same meaning when used in this by-law unless otherwise defined in this by-law or unless the context otherwise requires.

(2) In this by-law, unless the context otherwise requires:

"A" means the "A" scale and "slow" meter reading of a sound level meter.

"Agricultural District" means an area in the Municipality defined as such in By-Law No. 4742, being "Burnaby Zoning By-Law 1965".

"Commercial District" means an area in the Municipality defined as such in By-Law No. 4742, being "Burnaby Zoning By-Law 1965".

"Comprehensive Development District" means an area in the Municipality defined as such in By-Law No. 4742, being "Burnaby Zoning By-Law 1965".

"Continuous Noise" means any noise continuing for a period or periods totalling more than three minutes in any fifteen minute period of time.

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"Continuous Sound" means any sound continuing for a period or periods totalling more than three minutes in any fifteen minute period of time.

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"Corporation" means The Corporation of the District of Burnaby.

"Council" means the Council of The Corporation of the District of Burnaby.

"dB" means a decibel which is a unit of level which denotes the ratio between two quantities that are proportional to power, the number of decibels corresponding to the ratio of two amounts of power is 10 times the logarithm to the base 10 of this ratio.

"Highway" includes every highway within the meaning of the "Highway Act", and every road, street, lane, thoroughfare, bridge, public way, or right-of-way designed or intended for or used by the general public for the passage of vehicles, and every private place or passage-way to which the public, for the purpose of the parking or servicing of vehicles, has access or is invited, and every boulevard and sidewalk.

"Industrial District" means an area in the Municipality defined as such in By-Law No. 4742, being "Burnaby Zoning By-Law 1965".

"Inspector" means the person appointed from time to time by the Council as Medical Health Officer of the Corporation and includes any person or persons designated by the Medical Health Officer to act on his behalf.

"Municipality" means the Municipality of Burnaby.

"Multiple Family Residential District" means an area in the Municipality defined as such in By-Law No. 4742, being "Burnaby Zoning By-Law 1965".

"Noise or Sound Level" means the noise or sound level in decibels as measured on the "A" scale which is the weighted sound pressure level meter whose weighting characteristics are specified in the latest revision of the American Standards Association standard on sound level meters. The reference pressure is 0.0002 microbar, the International reference level or such revision as may occur from time to time.

"Non-continuous Noise" means any noise continuing for a period or periods totalling less than three minutes in any fifteen minute period of time.

"Non-continuous Sound" means any sound continuing for a period or periods totalling less than three minutes in any fifteen minute period of time.

"Peace Officer" shall have the same meaning as in the Interpretation Act R.S.B.C. 1960 Chapter 199.

"Person" includes any company, corporation, owner, partnership, firm, association, society or party.

"Public and Institutional District" means an area in the Municipality defined as such in By-Law No. 4742, being "Burnaby Zoning By-Law 1965".

"Real Property" means land, other than a highway, together with all improvements which have been so affixed to the land as to make them in fact and in law a part thereof, and includes such land should there be no such improvements so affixed thereto.



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"Residential District" means an area in the Municipality defined as such in By-Law No. 4742, being "Burnaby Zoning By-Law 1965".

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"Sound Level Meter" shall mean a device which meets the International Electro-Technical Commission Standard No. 123 or the British Standard No. 3539 Part 1, or the U.S.A. Standard S1.4 - 1961.

3. No person shall, except as in this by-law may be provided,

- (a) make or cause any noise or sound in or on a highway or elsewhere in the Municipality which disturbs, or tends to disturb, the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood, or of persons in the vicinity;
- (b) make or cause any noise or sound or continuous noise or continuous sound or non-continuous noise or non-continuous sound in the Municipality that exceeds the dBA's authorized by this by-law.

4. No owner or occupier of real property shall, except as in this by-law may be provided,

- (a) allow such real property to be used so that noise or sound emanates therefrom which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood, or of persons in the vicinity;
- (b) allow such real property to be used so that noise or sound or continuous noise or continuous sound or non-continuous noise or non-continuous sound emanates therefrom that exceeds the dBA's authorized by this by-law.



5. No person shall in any Residential District, Public and Institutional District or Multiple Family District in the Municipality make or cause continuous noise or continuous sound, the noise or sound level of which

(a) between the hours of 7:00 o'clock in the forenoon and 10:00 o'clock in the afternoon exceeds 55 dBA's;

(b) between the hours of 10:00 o'clock in the afternoon and 7:00 o'clock in the forenoon exceeds 45 dBA's.

6. No person shall in a Commercial District, Industrial District, Comprehensive Development District, or Agricultural District in the Municipality make or cause continuous noise or continuous sound, the noise or sound level of which

(a) between the hours of 7:00 o'clock in the forenoon and 10:00 o'clock in the afternoon exceeds 65 dBA's;

(b) after the 1st day of June, 1981 between the hours of 7:00 o'clock in the forenoon and 10:00 o'clock in the afternoon exceeds 60 dBA's;

(c) between the hours of 10:00 o'clock in the afternoon and 7:00 o'clock in the forenoon exceeds 60 dBA's;

(d) after the 1st day of June, 1981 between the hours of 10:00 o'clock in the afternoon and 7:00 o'clock in the forenoon exceeds 55 dBA's.

7. No person shall between the hours of 7:00 o'clock in the forenoon and 10:00 o'clock in the afternoon make or cause non-continuous noise or non-continuous sound in the Municipality, the noise or sound level of which exceeds 80 dBA's.

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8. No person shall between the hours of 10:00 o'clock in the afternoon and 7:00 o'clock in the forenoon make or cause non-continuous noise or non-continuous sound in the Municipality, the noise or sound level of which exceeds 75 dBA's. 111

9. (a) When the continuous noise or continuous sound is emanating from real property, the continuous noise or continuous sound shall be measured at any point on the property line or within six (6) metres of the property line of the real property from which the said continuous noise or continuous sound is emanating.

(b) When the continuous noise or continuous sound is emanating from a highway, the continuous noise or continuous sound shall be measured at a distance of not less than six (6) metres from the source of the continuous noise or continuous sound.

(c) When the non-continuous noise or non-continuous sound is emanating from real property, the non-continuous noise or non-continuous sound shall be measured at any point on the property line or within six (6) metres of the property line of the real property from which the said non-continuous noise or non-continuous sound is emanating.

(d) When the non-continuous noise or non-continuous sound is emanating from a highway, the non-continuous noise or non-continuous sound shall be measured at a distance of not less than six (6) metres from the source of the non-continuous noise or non-continuous sound.

10. No person shall operate on a highway a motor-vehicle

(a) with a licensed net vehicle weight in excess of 2,200 kilograms which makes or causes noise or sound the noise or sound level of which shall exceed 88 dBA's in a fifty (50) kilometres per hour zone and 92 dBA's in an over fifty (50) kilometres per hour zone,

- (b) with a licensed net vehicle weight of 2,200 kilograms or less which makes or causes noise or sound the noise or sound level of which exceeds 80 dBA's in a fifty (50) kilometres per hour zone and 85 dBA's in an over fifty (50) kilometres per hour zone,
- (c) after the 1st day of June, 1981 with a licensed net vehicle weight in excess of 2,200 kilograms which makes or causes noise or sound the noise or sound level of which shall exceed 80 dBA's in a fifty (50) kilometres per hour zone and 87 dBA's in an over fifty (50) kilometres per hour zone,
- (d) after the 1st day of June, 1981 with a licensed net vehicle weight of 2,200 kilograms or less which makes or causes noise or sound the noise or sound level of which exceeds 75 dBA's in a fifty (50) kilometres per hour zone and 80 dBA's in an over fifty (50) kilometres per hour zone.
11. No person shall operate on a highway a motor-cycle alone or with or near another motor-cycle or motor-cycles
- (a) which makes or causes noise or sound the noise or sound level of which exceeds 80 dBA's in a fifty (50) kilometres per hour zone and 85 dBA's in an over fifty (50) kilometres per hour zone,
- (b) which after the 1st day of June, 1981 makes or causes noise or sound the noise or sound level of which exceeds 75 dBA's in a fifty (50) kilometres per hour zone and 80 dBA's in an over fifty (50) kilometres per hour zone.



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12. The noise or sound emanating from a motor-vehicle or a motor-cycle shall be measured at a distance of not less than six (6) metres from the motor-vehicle exhaust pipe opening or from the motor-cycle.

13. No person shall use or operate a horn or other warning device on a motor-vehicle except to avoid an accident.

14. No person shall between the hours of 7:00 o'clock in the forenoon and 10:00 o'clock in the afternoon

(a) use or operate any power lawn mower or power gardening tool which makes or causes noise or sound the noise or sound level of which exceeds 87 dBA's,

(b) after the 1st day of June, 1981 use or operate any power lawn mower or power gardening tool which makes or causes noise or sound the noise or sound level of which exceeds 77 dBA's,

(c) No person shall, between the hours of 10:00 o'clock in the afternoon and 7:00 o'clock in the forenoon operate any power lawn mower or power gardening tool within the Municipality,

(d) When the noise or sound is emanating from real property in the Municipality the noise or sound shall be measured at any point on the property line or within six (6) metres of the property line of the real property from which the said noise or said sound is emanating. When the noise or sound is emanating from a highway in the Municipality the noise or sound shall be measured at a distance of not less than six (6) metres from the source of the said noise or said sound.



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15. No person shall, before 7:00 o'clock in the forenoon and after 10:00 o'clock in the afternoon from Monday to Saturday, construct or demolish any building, structure or thing or excavate or fill in land in the Municipality.

16. No person shall, before 9:00 o'clock in the forenoon and after 10:00 o'clock in the afternoon on Sunday, construct or demolish any building, structure or thing or excavate or fill in land in the Municipality.

17. The Inspector and a Peace Officer are hereby authorized to measure noise or sound levels.

18. The Inspector or a Peace Officer shall measure noise and sound levels with a Sound Level Meter. Noise and sound levels shall be measured on the A-weighting network and the slow meter response. The Sound Level Meter shall be complete with calibrator and wind screen and shall be operated in the manner as set out in Schedule "A".

19. Every person who violates any of the provisions of this by-law shall be guilty of an offence punishable on summary conviction and shall be liable to a fine not exceeding \$2,000.00 and in default of payment to imprisonment not exceeding thirty days.

20. By-Law No. 7228 is repealed.

Read a first time this                    day of March, 1979.

Read a second time this                day of March, 1979.

Read a third time this                 day of March, 1979.

Reconsidered and adopted this        day of March, 1979.

CERTIFIED A TRUE COPY THIS  
DAY OF                    1979.

M A Y O R

CLERK

C L E R K

SCHEDULE "A"

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- (1) All sound levels shall be determined with a sound level meter on the "A" scale and "slow" meter reading.
- (2) Sound level meters shall be used and operated in accordance with manufacturers' instructions. The sound level meter shall be calibrated before and after readings have been taken.
- (3) When determining the sound level from a source the ambient or background noise or sound level shall be established at the appropriate position and during the relevant period of time wherever possible before taking sound measurements from the source. No measurement should be attempted if the difference is 3 db or less.
- (4) Noise or sound measurement should, in general, be made at a height of approximately one (1) metre and a distance of three (3) metres from any wall, building, or other reflecting structure with the microphone appropriately oriented.
- (5) Precautions shall be taken to ensure that the values recorded correspond to the noise or sound being investigated and are not due to wind, or extraneous sources.
- (6) When the wind velocity is above eight (8) kilometres per hour, a wind screen must be used. No test should be attempted when the wind velocity is above forty (40) kilometres per hour.