



REQUEST FOR DECISION REPORT

Electoral Area B Noise, Nuisance and Disturbance Control
Service Establishment Bylaw No. 1495-2016 and
Electoral Area B Noise Regulation Bylaw No. 1496-2016

Meeting date: November 23, 2016

To: SLRD Board

RECOMMENDATIONS:

THAT bylaw 1495-2016, cited as “Squamish-Lillooet Regional District Electoral Area B Noise, Nuisance and Disturbance Control Service Establishment Bylaw No. 1495-2016” be introduced and read a first, second and third time.

THAT bylaw 1495-2016, cited as “Squamish-Lillooet Regional District Electoral Area B Noise, Nuisance and Disturbance Control Service Establishment Bylaw No. 1495-2016” receive participating area approval and consent of the Electoral Area B Director, pursuant to section 347 of the *Local Government Act*.

THAT bylaw 1495-2016, cited as “Squamish-Lillooet Regional District Electoral Area B Noise, Nuisance and Disturbance Control Service Establishment Bylaw No. 1495-2016” be forwarded to the Inspector of Municipalities for statutory approval.

THAT bylaw 1496-2016, cited as “Squamish-Lillooet Regional District Electoral Area B Noise Regulation Bylaw No. 1496-2016” be introduced and read a first, second and third time.

KEY ISSUES/CONCEPTS:

Local governments may regulate and prohibit noise through the establishment of noise control bylaws. Specifically, regional districts have jurisdiction through s. 324 of the Local Government Act (LGA), whereby *...the board may, by bylaw, regulate or prohibit the making or causing of noises or sounds in or on a highway, or elsewhere in the regional district (i) that disturb or tend to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood, or of persons or public in the vicinity, or (ii) that the board believes are objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public...* In conjunction with this regulatory bylaw, a control service establishment bylaw has been prepared, as required by Section 323 of the LGA.

In light of the issues and resulting Noise Bylaws developed for Electoral Area D and Electoral Area C, the Electoral Area B Director has indicated a desire to establish a Noise Bylaw for Electoral Area B.

At the October 12, 2016 Electoral Area Directors meeting, the EAD resolved:



THAT the Draft Squamish-Lillooet Regional District Electoral Area B Noise Regulation Bylaw No. 1496-2016 be referred to Electoral Area B Agricultural Advisory Committee for comment.

Given a number of recent complaints regarding motorboat noise, SLRD staff have also confirmed that Bylaw 1496-2016 will cover/address motorboat noise, through both the definition of *Noise* and *Unreasonably Loud or Excessive Noise*.

As comments and concerns have been addressed, *SLRD Electoral Area B Noise Regulation No 1496-2016* and corresponding *SLRD Electoral Area B Noise, Nuisance and Disturbance Control Service Establishment Bylaw No. 1495-2016* are being introduced/recommended for first, second and third readings.

RELEVANT POLICIES:

Squamish-Lillooet Regional District Electoral Area C Noise Regulation Bylaw No. 1438-2015
SLRD, Electoral Area D Noise Regulation Bylaw No. 1234, 2011
District of Lillooet Nuisance Bylaw 2006, No. 273

BACKGROUND:

SLRD Noise Bylaws

The SLRD Electoral Area D Noise Bylaw No. 1234, 2011 came into effect in September of 2011 and the SLRD Electoral Area C Noise Bylaw No. 1438-2015 came into effect in February 2016. As recommended by the Board, SLRD staff sought to create/develop a consistent approach and aligned the SLRD noise regulation bylaws with existing municipal noise regulation bylaws, to the extent possible.

Issues

The introduction of a noise bylaw for Electoral Area B may be seen as a pre-emptive measure, ensuring that tools are available should issues arise. Further, it is felt that establishing a noise bylaw for Electoral Area B may assist in addressing issues associated with AirBnB; it will also provide for an aligned approach for the Lillooet area, as the District of Lillooet already has a bylaw in place. As with the other SLRD noise bylaws, enforcement is on a complaint basis; having a noise bylaw in place will enable any future complaints to be addressed in a satisfactory, consistent and timely manner.

Motorboat Noise

During the course of preparing the subject bylaw, the SLRD received a number of complaints regarding motorboat noise on the Fraser River. This issue was discussed at the October 12, 2016 EAD meeting. Following the meeting, staff confirmed that the province provides authorization through land tenures for the use, but there is nothing that speaks to noise and the provincial legislation does not provide for the ability to regulate noise (this is similar for Crown land). A local government would have the authority to regulate river boat noise through a noise bylaw, provided it has one. Further, in reviewing the *SLRD Electoral Area B Noise Regulation Bylaw No. 1496-2016*, staff have confirmed that the bylaw will cover motorboat noise, through both the definition of *Noise* and *Unreasonably Loud or Excessive Noise*. Once the bylaw is passed the SLRD will be able to issue tickets on a complaint basis. Please see below excerpts for details. Enforcement will still be a challenge, but the bylaw will provide tools to address

motorboat noise complaints. Under the SLRD Electoral Area B Noise Regulation Bylaw No. 1496-2016, the following general and specific prohibitions apply:

4.0 GENERAL PROHIBITIONS

4.1 No *person* shall make, cause to be made, or continue to make any *noise* or sound in Electoral Area B, which unduly disturbs the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of reasonable persons at or near the source of such *noise* or sound.

5.0 SPECIFIC PROHIBITIONS

5.1 The following *noises* are prohibited:

- a) motor vehicles without a functional muffler;
- b) excessive vehicle *noise* such as excessive use of horn, revving of engines, squealing of tires, unattended car alarms, air horns, engine brakes, or exhaust noise;
- c) *unreasonably loud or excessive noise*.

(Motorboats are included under the definition of *noise*; the definition of *noise*, *unreasonably loud or excessive* would also cover motorboats.)

NOISE means any sound that is liable to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public by being unreasonably loud or excessive. Sources of noise can include, but are not limited to:

- a) Sound amplifiers such as stereos or public address systems.
- b) Musical instruments.
- c) Cries of harboured animals.
- d) Intermittent or reiterated cries.
- e) Landing of a helicopter in a residential zone or on a property abutting more than two properties where the primary use is a dwelling.
- f) Landing of a helicopter in an agricultural zone or on a property abutting more than two properties where the primary use is agriculture.
- g) Motorized equipment such as lawnmowers, generators, snow blowers, motorboats, jet skis, dirt bikes, snowmobiles, or similar devices.
- h) Operation of any kind of equipment, machinery, or engine.

NOISE, UNREASONABLY LOUD OR EXCESSIVE means any *noise* deemed as such by a *Bylaw Enforcement Officer* or an *RCMP Officer*, based on the following factors:

- a) The proximity of the sound to sleeping facilities.
- b) The land use and zoning of the area from which the noise emanates and the land use and zoning where it is received.
- c) The time of day the noise occurs.
- d) The duration of the noise.

- e) The volume of the noise.
- f) The nature of the noise.
- g) Whether the sound is recurrent, intermittent, or constant.
- h) The nature of the event or activity from which the noise emanates.

Enforcement – SLRD and RCMP

The SLRD recently adopted Squamish-Lillooet Regional District Bylaw Notice Enforcement Bylaw No. 1447-2016 that establishes a ticketing system for the Regional District. This means that the SLRD can issue tickets (bylaw notices) for a variety of offences and bylaws as outlined in Bylaw No. 1447-2016, including noise regulation bylaw offences. Additionally, the SLRD now has a bylaw enforcement officer. The expansion of the SLRD Bylaw Enforcement program has meant that the SLRD is better able to address enforcement challenges that come with the development of regulatory bylaws. Further, the development of a noise regulation bylaw will enable the RCMP to respond to noise complaints.

The SLRD has received very few noise complaints regarding properties in Electoral Area B over the past ten years. That being said, a noise bylaw, in association with a ticketing bylaw, will enable tickets to be issued in the case that a noise complaint is received.

Area B Agricultural Advisory Committee (AAC) Comments

SLRD staff brought the draft bylaw to the November 3, 2016 Area B AAC meeting for review and input. As the proposed bylaw provides exemption for *agricultural uses and activities permitted in the Agricultural Land Reserve under the Farm Practices Protection Act as normal farm practices*, the AAC confirmed they have no concerns with SLRD Electoral Area B Noise Regulation Bylaw No. 1496-2016 and moved that they do not need to offer further comment.

ANALYSIS:

Section 324 of the *Local Government Act* provides jurisdiction for local governments to regulate and prohibit noise through the establishment of noise control bylaws.

Best Practice/Local Government Alignment

As previously noted, Electoral Areas D and C already have a Noise Regulation Bylaw, as does the Village of Pemberton, Resort Municipality of Whistler, District of Squamish and District of Lillooet. All of these bylaws were reviewed during the consideration of the Electoral Area B Noise Regulation Bylaw No. 1496-2016.

Bylaw Synopsis – how and when the bylaw is triggered

It is recommended that the Electoral Area B Noise Bylaw follow a similar structure and use the same general prohibitions, offence & penalty, administration and severability as the Electoral Area C Noise Bylaw No. 1438-2015 – the newest of the noise regulation bylaws. See Appendix A: *Squamish-Lillooet Regional District Electoral Area B Noise Regulation Bylaw No. 1496-2016* for details. The *Specific Prohibitions* and *Exemptions* are the areas that may warrant variation and thus are the focus of consideration during the following analysis.

Prohibition: the bylaws would control/regulate noise in Electoral Area B which unduly disturbs the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of reasonable persons at or near the source of such noise or sound. Please note that a Noise,



Nuisance and Disturbance Control Service Establishment Bylaw has been drafted, as required by the *Local Government Act (LGA)*, and will allow for other nuisances and disturbances to be added via additional regulatory bylaws at a later date. The service establishment bylaw No. 1495-2016 must be approved by the Inspector of Municipalities prior to the adoption of the noise bylaw No. 1496-2016. The service establishment bylaw No. 1495-2016 must also receive participating area approval and consent of the Electoral Area B Director, pursuant to section 347 of the *LGA*.

Specific Prohibitions: include time frames associated with certain noises, whereby no person shall cause or permit such noises during such times. Appendix B provides a comparison of the Electoral Area C, District of Lillooet and Electoral Area D noise regulation bylaws.

The following 5.0 SPECIFIC PROHIBITIONS and 6.0 EXEMPTIONS are excerpts from the DRAFT Squamish-Lillooet Regional District Electoral Area B Noise Regulation Bylaw (Appendix A) and illustrate an option for how the Electoral Area B Noise Regulation Bylaw may be drafted to align with the existing District of Lillooet Nuisance Bylaw.

5.0 SPECIFIC PROHIBITIONS

5.2 Without limiting the generality of the prohibitions contained in Section 4 of this Bylaw, no person shall cause or permit the following to occur

SPECIFIC PROHIBITION	MONDAY – SATURDAY	SUNDAY & STATUTORY HOLIDAY
Any amplified music or singing or speech or sounds made by instrument, radio, stereophonic equipment or other device which is audible outside the premises on the real property from where the music or speech originates which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public outside of the following hours, unless written approval is obtained from an <i>Authorized Person</i> .	Before 9:00am or After 10:00pm	Before 9:00am or After 10:00pm
Any <i>construction noise</i> or vibration, which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public outside of the following hours, unless written approval is obtained from an <i>Authorized Person</i> .	Before 7:00am or After 10:00pm	Before 9:00am or After 9:00pm

5.3 The following *noises* are prohibited:

- d) motor vehicles without a functional muffler;
- e) excessive vehicle *noise* such as excessive use of horn, revving of engines, squealing of tires, unattended car alarms, air horns, engine brakes, or exhaust noise;
- f) *unreasonably loud or excessive noise*.

6.0 EXEMPTIONS

6.1 The provisions of this bylaw shall not apply to:

- a) Police, fire, ambulance or other emergency response vehicles and equipment proceeding upon, or engaged in, an emergency, or persons or agency staff engaged in acts of an emergency nature.
- b) Agricultural uses and activities permitted in the Agricultural Land Reserve under the Farm Practices Protection Act as normal farm practices.
- c) Flood protection works undertaken by or on behalf of a dyking authority.
- d) Ministry of Transportation and Infrastructure (MoTI) staff engaged in the creation of, protection, preservation or maintenance of MoTI road works, rights of way, and infrastructure, or traffic control devices.
- e) Any BC Hydro, or other utility company providing public service, in the creation of, protection, preservation or maintenance of utility rights of way and infrastructure.
- f) The sounding of a horn, bell or other signalling device where such sounding is properly and necessarily used as a danger or a warning signal as part of a public address system.
- g) The use of bells or chimes by churches, schools or any public body.
- h) A special event, where a valid permit has been issued under any Squamish-Lillooet Regional District Special Events Bylaw as amended from time to time, and where such permit allows for an exemption to this bylaw and the terms of that exemption, within the permit.
- i) Any work carried out during restricted hours with the permission of an Authorized Person, in writing, specifying the time during such restricted hours when such work may be performed.

Note that in addition to the exemptions listed above, the District of Lillooet Nuisance Bylaw provides exemption to a lawnmower, power gardening equipment or chainsaw operated between 7:00am to 10:00pm.

REGIONAL IMPACTS ANALYSIS:

The *Electoral Area B Noise Regulation Bylaw No. 1496-2016* would pertain to SLRD Electoral Area B, supporting the policies and objectives of the Electoral Area B Official Community Plan and Agricultural Plan. The bylaw is aligned with *District of Lillooet Nuisance Bylaw 2006, No. 273* and other member municipality approaches.



OPTIONS:

Option 1 (PREFERRED OPTION)

Give the “Squamish-Lillooet Regional District Electoral Area B Noise, Nuisance and Disturbance Control Service Establishment Bylaw No. 1495-2016” first, second and third reading, forward to the Inspector of Municipalities for statutory approval, and seek participating area approval and consent of the Electoral Area B Director, pursuant to section 347 of the *LGA*.

Give the “Squamish-Lillooet Regional District Electoral Area B Noise Regulation Bylaw No. 1496-2016” first, second and third reading.

Option 2

Refer the bylaws back to SLRD Staff for more information, or revision.

Option 3

Do not give readings to either bylaw.

Option 4

As per the Board’s discretion.

FOLLOW UP ACTION:

Advise RCMP if SLRD Electoral Area B Noise Regulation Bylaw No. 1496-2016 is adopted and establish a protocol for dealing with noise complaints with the RCMP. Advise District of Lillooet if SLRD Electoral Area B Noise Regulation Bylaw No. 1496-2016 is adopted.

ATTACHMENTS:

Appendix A: Squamish-Lillooet Regional District Electoral Area B Noise, Nuisance and Disturbance Control Service Establishment Bylaw No. 1495-2016

Appendix B: Squamish-Lillooet Regional District Electoral Area B Noise Regulation Bylaw No. 1496-2016

Appendix C: Specific Prohibitions Comparison Table

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