

Required Updates to the Anti-Noise Bylaw

Issue(s): *The Medicine Hat & District Chamber of Commerce has had concerns from members regarding Bylaw 1926, the Medicine Hat Anti-Noise Bylaw, in relation to commercial snow removal and the difficulty to remove snow in commercial areas within certain times.*

EXECUTIVE SUMMARY

The current Anti-Noise Bylaw, adopted in 1979, has had some concerns associated to relaxation and relief related to the application of commercial snow removal in areas that abut residential properties. While the City of Medicine Hat can provide relief from requirements in section 3 of the bylaw it has still hampered commercial snow removal and has resulted in ticketing of member companies under the noise bylaw for removal of snow during early morning hours. The Medicine Hat and District Chamber of Commerce recommends City Council immediately request a revision to the Anti-Noise bylaw #1926 to add a relaxation for commercial snow removal, as well as to update the noise bylaw to encompass current standards, regulations and requirements for enforcement.

BACKGROUND

Bylaw 1926, a bylaw for the purpose of prohibiting, eliminating or abating noise, was adopted in 1979 without consideration of updates since that time to accommodate the needs of regulatory change, a growing population and the changing needs of a City.

More specifically, from time to time, there have been concerns associated to relaxation and relief related to the application of commercial snow removal in areas that abut residential properties. While the City of Medicine Hat can provide relief from requirements in section 3 of the bylaw it has still hampered commercial snow removal and has resulted in ticketing of member companies under the noise bylaw for removal of snow during early morning hours.

While the City of Medicine Hat does provide a 24 hour allowance for snow removal after a snow fall, many commercial areas require snow removal before the start of a business day to ensure that their sidewalks and parking lots are safe for individuals and that fallen snow does not become packed and icy.

The current bylaw does allow for any person to make an application to the Chief of Police to be granted an exemption from any of the provisions of the bylaw with respect to any source of sound for which he may be prosecuted. However, the Chief of Police may refuse to grant an exemption or may grant the exemption and specify time periods for which it is effective and may contain terms and conditions as seen fit.

Through research, it was found that other cities have implemented exemptions or time accommodations under their municipal noise bylaw. Two such examples include:

Lethbridge Bylaw #5270:

“Notwithstanding any other provision of this bylaw, where an open area is provided for parking of patrons or employees in connection with a retail store, office, or medical and health facility, the owner or person in charge of the parking area, after having obtained written permission from the City Manager and making no more noise than is reasonably necessary in connection therewith may use a machine for clearing snow or debris from that open area during such hours as is necessary or expedient to keep that area clear of snow and debris.”

Calgary Bylaw #5M2004:

Notwithstanding subsection 31(1)(e), a person may operate a snow clearing device powered by an engine for the purpose of commercial and non-commercial removal of snow and ice from streets, parking lots and sidewalks during the 48 hour period following a snowfall, rain or freezing rain, subject to the right of the Chief Bylaw Officer to withdraw this relaxation on a site-specific basis.

ANALYSIS

While it is beneficial to have an option to apply for relief from requirements available to individuals or businesses, this type of relief and process can also be perceived as burdensome to a business and requires extra cost to the Police Department for administration of this type of application for relief.

If nothing is changed and the status quo remains, there can also be a potential conflict between snow removal, as it pertains to safety concerns, and the regulations within the noise bylaw.

Many businesses find it necessary to begin snow removal prior to opening in the early morning. As such, it is reasonable to allow for noise related snow removal as it facilitates the safety of clientele and can be seen as a reasonable requirement during the winter.

RECOMMENDATIONS

The Medicine Hat and District Chamber of Commerce recommends the City of Medicine Hat:

1. Immediately add a relaxation for commercial snow removal similar to Calgary Bylaw #5M2004.
2. Immediately work on plans to update the noise bylaw, with a specific focus on best practice, current regulatory practices and requirements for enforcement and penalty.

Date Approved: May 19, 2010

Revised: March 29, 2014

Date Approved: September 17, 2014