

Request for Decision

New, Consolidated Noise By-Law

Presented To:	City Council
Presented:	Tuesday, Sep 27, 2016
Report Date	Wednesday, Sep 07, 2016
Type:	Managers' Reports

Resolution

THAT the City of Greater Sudbury receives the report entitled New, Consolidated Noise By-Law from the Executive Director, Administrative Services / City Clerk;

AND THAT staff be directed to prepare the new, consolidated Noise By-Law based on the principles previously adopted by Council and the specific framework for that Noise By-Law all as described in that report.

Executive Summary:

The purpose of this report is to briefly summarize the community engagement process and key themes which emerged from both the public meetings and the online survey regarding a new consolidated Noise By-Law. Council's concurrence with the framework for the new Noise By-Law is requested.

Signed By

Report Prepared By

Darlene Barker Coordinator of Compliance and Enforcement Digitally Signed Sep 7, 16

Recommended by the Department

Caroline Hallsworth
Executive Director, Administrative
Services/City Clerk
Digitally Signed Sep 7, 16

Recommended by the C.A.O.

Ed Archer Chief Administrative Officer Digitally Signed Sep 13, 16

BACKGROUND:

In the fall of 2015, Council directed staff to develop a draft consolidated Noise By-Law that adopts one consistent approach to noise and noise related complaints for the City of Greater Sudbury and which incorporates a process of public input and engagement. Also at that meeting, Council adopted five principles that will be the basis of the new by-law as follows:

- 1. Noise can have an adverse effect on Health:
- 2. Certain sounds and noises are acceptable for safety and/or historic reasons;
- There is a need to balance the sometimes competing interests of residents and their rights to use and maintain their property with the impacts of noise on their neighbours;
- 4. Noise parameters should reflect the nature of the community, including the four distinct seasons, shift workers and uses of public versus private spaces; and
- 5. Objective measures of sound levels when combined with discretion of the investigating officer are often the most reasonable method of enforcement of noise complaints

Seven community meetings were held across the City of Greater Sudbury of which four were incorporated with Community Action Network (CAN) meetings and three were held in an Open House format. In total approximately 120 citizens provided feedback through these seven meetings.

An online survey was made available to the public for a three week period in June. 874 responses were received and the survey results are appended to this report. While all the communities were represented in the survey, the largest proportion of respondents came from New Sudbury and the South End. Overall, 53% of respondents have no concerns about noise in their area and 41% identified that they have noise related concerns.

Survey results suggest that the sounds most often identified as unwelcome noise are:

- Music, television and loud voices at a residence / Parties at a residence
- Barking dogs
- Motorcycle, dirt bike, snowmobile and other recreational vehicle noise

In the commentary section, other sounds identified by citizens as being unwelcome included film crews; fireworks; floatplanes; railway and train noises and whistles; truck engine brakes; and wind chimes.

Generally, citizens are amenable to construction and other business activities taking place during daylight hours, including evenings. In the case of road construction, many respondents suggested that it is acceptable for road construction to continue through the night so as to allow for speedier completion of the project and less traffic disruption.

In regards to snow removal, citizens were strongly in favour of having no time restrictions and permitting snow clearing and removal whenever it is required. This would represent a significant change from some current by-law provisions which have restrictions on overnight snow clearing and removal both in residential and commercial settings. When it comes to other forms of home and commercial maintenance, the public suggests that lawn and yard care, power tools and similar noises should be restricted in the overnight period. The proposed by-law standardizes most noise restrictions to the period between 10:00 p.m. and 7:00 a.m.

Another topic that is difficult relates to motorized sports. Currently these are addressed under the general or unusual noise provisions and there are no specific noise restrictions associated with the same. There is a sharp split on this topic with residents whose homes are adjacent to motorized sport racing venues requesting broad restrictions including not permitting these activities at any time in the evening and those who operate or enjoy these facilities desiring no noise restrictions. In the case of motorized sports, a longer restricted time period is proposed being between 7:00 p.m. and 7:00 a.m.

The new Noise By-Law will introduce new enforcement methodology which is more objective and scientific, using quantitative measures to assess the level of unwanted noise, making it easier to enforce and to defend in court, should the matter escalate to the laying of charges. Inspection and penalty provisions are pursuant to Ontario's Municipal Act.

The initial purchase price of five Sound Level Meters, one for each by-law vehicle, is \$10,000 and will be funded through the Administrative Services capital accounts. Training will be provided to By-Law Enforcement Officers in use of the equipment.

The tables appended to this report outline the key elements of the proposed new Consolidated Noise By-Law, all of which are based on the principles previously approved by Council and take into consideration the public feedback received on this topic.

Exemptions to the Noise By-Law will continue to be applied to: emergency vehicles; traffic control devices; CGS maintenance operations for public streets, parks and property; bells and chimes in churches, schools and public buildings; noises incidental to activities for which a City permit has been issued; or exemptions for which Council or the Clerk has approved through the application protocol currently established.

Once confirmed by Council, the By-Law itself will be drafted and presented to Council for final reading no later than the November 1, 2016 meeting with an implementation date of January 1, 2017 to allow time for communication of key changes to the community.

New, Consolidated Noise By-Law Report: Table One

Noise By-Law Framework		
Type of Unwanted Noise	Proposed Noise By-law Response	Rationale
Amplified Sound (includes speakers and similar audio devices, televisions, computers, cellphones etc)	Prohibit overnight between 10:00 p.m 7:00 a.m. AND At all other times must not be heard in other buildings in excess of 45 dBA; and must not be heard outside in excess of 55 dBA Exemptions exist for city approved events	Hours and introduction of quantitative enforcement methods reflect best practices in municipalities surveyed. Quantitative sound levels are set at levels recommended by Ministry of Environment (MOE). Using quantifiable measures assists in resolving complaints, compliance and enforcement.
Combustion Engines (including construction equipment)	Required to have mufflers which are in good working order and constant operation	Best practices identified through the municipal survey. Consistent with current CGS by-laws.
Commercial Building Construction (large building projects, new residential construction etc)	Prohibit overnight between 10:00 p.m 7:00 a.m.	Reflects best practices in municipalities surveyed. In some instances, commercial and industrial noise may also be regulated though MOE. Noise exemptions from the City and MOE may be obtained if overnight noise is required.
Deliveries - Unloading and Loading of goods and merchandise	Not Restricted	Consistent with current CGS by-laws. Most survey respondents seem tolerant of noise related to this activity and many businesses require products for the start of the business day. Where egregious noise disturbs the public, the Noises of Public Concern clause may be enforced
Manufacturing Noise	Prohibit overnight between 10:00 p.m 7:00 a.m.	Reflects best practices in municipalities surveyed. In some instances manufacturing noise may also be regulated though MOE. Noise exemptions from the City and MOE may be obtained if overnight noise is required.
Motor Vehicle Noise	Prohibit squealing of tires; noise	Consistent with current CGS by-laws.

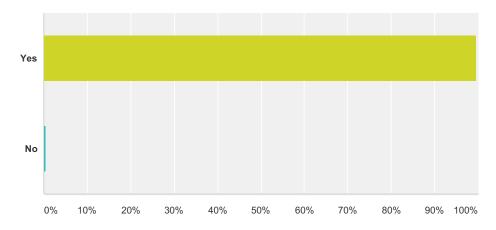
Noise By-Law Framework		
Type of Unwanted Noise	Proposed Noise By-law Response	Rationale
(includes ATVs and Off Road Motorcycles)	from disrepair or maladjustment of any motor vehicle or accessory thereof; use without a muffler; excessive engine revving and use of a radio or amplifier in or on any vehicle; unless authorized by the City or other legislation	Responds to concerns identified in the Noise Survey. Specific applications to motor vehicles on private property. See also Table Two for public roadways.
Motor Vehicle Repair Noise	Prohibit the sounds created by the repairing, wrecking or modifying of any motor vehicle unless carried on in an enclosed structure	Consistent with current CGS by-laws.
Motorized Sport Racing on Private Property	Prohibit overnight between 7:00 p.m 7:00 a.m.	CGS has history of complaints regarding motorized sports on informal "practice tracks". Identified as an issue through public consultation process – most wish to restrict these noises. Most municipalities surveyed either prohibit or regulate the times of operation.
Noise Makers (Horns, Bells, Whistles, Chimes) Shouting, Yelling, Banging	Prohibit excessive and disturbing noise makers and voices unless exempt or authorized by the City or any other legislation. Must not be heard in other buildings in excess of 45 dBA; and must not be heard outside in excess of 55 dBA.	Consistent with current CGS by-laws. Quantitative sound levels are set at levels recommended by Ministry of Environment (MOE). Using quantifiable measures assists in resolving complaints, compliance and enforcement.
Noises of Public Concern – Unwanted and/or unnecessary noise from sources not specifically addressed in the by-law that significantly disturbs multiple citizens	A general exemption based provision for unanticipated and problematic noise that affects the community – not intended to be used in neighbour to neighbour disputes.	Consistent with current CGS by-laws. Reflects best practices in municipalities surveyed.

Noise By-Law Framework		
Type of Unwanted Noise	Proposed Noise By-law Response	Rationale
Residential Appliances (Air Conditioners, Heat Pumps, Water Pumps, Compressors, Pool Pumps, Exhaust Fans and similar HVAC/Water Appliances)	Must not be heard in other buildings in excess of 45 dBA; and must not be heard outside in excess of 55 dBA.	Quantitative sound levels are set at levels recommended by Ministry of Environment (MOE). Reflects best practices in municipalities surveyed. Assist in resolving complaints, compliance and enforcement.
Residential Power, Yard and Construction Tools (Lawn mowers, leaf blowers, drills, saws, etc.)	Prohibit overnight between 10:00 p.m 7:00 a.m.	Reflects best practices in municipalities surveyed. Survey responses indicate a desire to prohibit in the overnight period, but no consistent response on start and end times.
Road Construction	Not Restricted	Survey indicates that public is tolerant to noise later at night and overnight for road construction to shorten project duration and reduce traffic concerns. This is a significant change from the past by-law which required Noise By-Law exemptions for overnight road work, which exemptions were almost always granted.
Snow Clearing and Removal – both public and private property	Not Restricted	91% of survey responses indicate tolerance for noise related to snow clearing and removal activities. Reflects best practices in municipalities surveyed and public safety as a priority. The former City of Sudbury restricted overnight snow clearing however all the other municipalities permitted it.
Toy /Model Replica Vehicles/Engines	Prohibit overnight between 10:00 p.m 7:00 a.m.	Identified as an issue through the public consultation process. Reflects best practices in municipalities surveyed.

Noise Cor	cerns Identified through Public Consultation Process and Regulated Elsewhere
Noise	Regulatory Framework
Concern	
Barking Dogs and other Animal related Noises	CGS Animal Care and Control By-law 2016 This By-Law prohibits persistent noise made by all domestic animals
Engine Compre ssion / Air Brakes	Highway Traffic Act Drivers require an air brake endorsement on their driver's licence. Courtesy signage is used to discourage use of these types of brakes but is not enforceable.
Film Crews	CGS Film By-Law 2015-227 This By-Law regulates noise created from filming activities and provides a process for mitigating noise, notifying residents in advance of filming activities that may create noise, and for following up with complaints.
Float Planes and other Aircraft Noise	Aeronautics Act Canadian Aviation Regulations (SOR/96-433) Transport Canada regulates and registers all aircraft and flight facilities.
Fireworks	CGS Fireworks By-law 2011-100 This by-law regulates the discharge of fireworks which is limited to specified holidays or by issue of a permit.
Motor Vehicle/ Traffic Noise	Highway Traffic Act The Act requires that all motor vehicles, including motorcycles, be equipped with a muffler in good working order that prevents excessive or unusual noise.
Trains Whistles and Activities	Canadian Rail Operating Rules (CROR 14) These rules require that all trains whistle whenever they approach a public grade crossing. Transport Canada has a Procedure for Eliminating Whistling at specific Public Grade Crossings which meet the cessation requirements specified in the Grade Crossings Regulations and Appendix D of the Grade Crossing Standards. See Council Report: http://www.greatersudbury.ca/content/static/nas/corpserv/Meetings/2004_Meetings/CouncilAgenda_August12_Part2.pdf

Q1 Please note: You must complete the following field. Please read the following Notice of Collection for the gathering of personal information. Notice of Collection: Personal information is collected under the authority of section 10 of the Municipal Act, 2001, S.O. 2001, c. 25 for the purpose of gathering comments and suggestions related to preparation of a draft by-law to regulate noise throughout the City of Greater Sudbury for the consideration of **Greater Sudbury Council. Comments** submitted on this matter, including the originator's name and address, become part of the public record, may be viewed by the general public and may be published in a report to Council, included in a Council Agenda and posted on the City's website. Questions relating to the collection, use and disclosure of this personal information may be addressed to the Manager of Compliance and Enforcement Services at PO Box 5000, Stn A, 200 Brady St. Sudbury, ON, P3A 5P3.I have read and understand the above noted Notice of Collection.



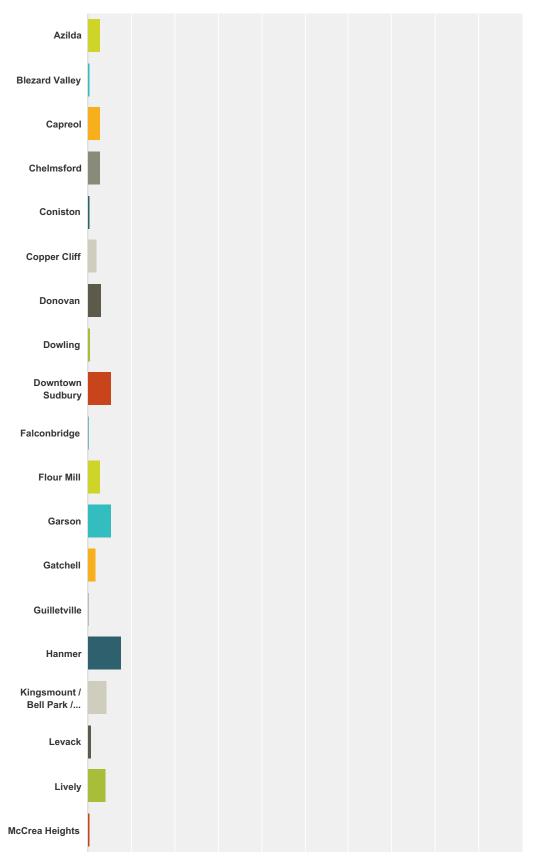


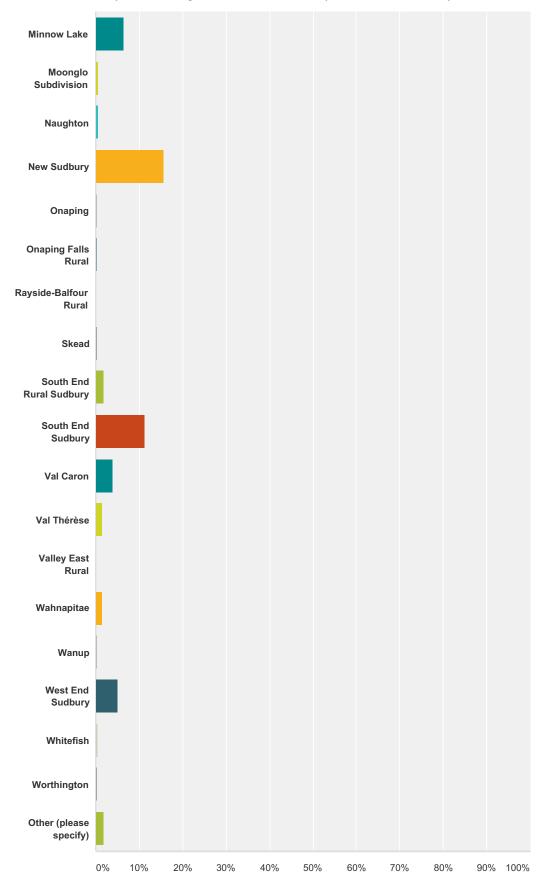
Answer Choices	Responses	
Yes	99.66% 87	1
No	0.34%	3

Total 874

Q2 Where do you reside in the City of Greater Sudbury?

Answered: 874 Skipped: 0



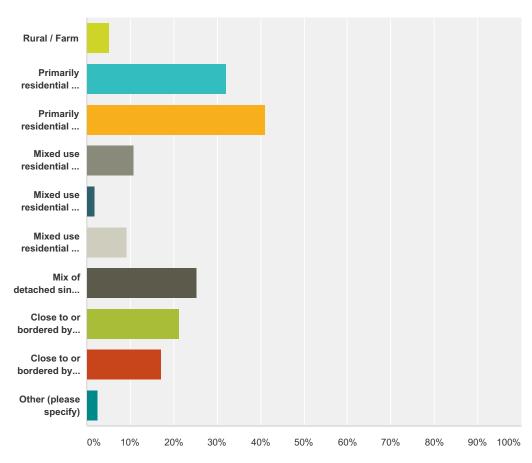


Azilda	2.97%	26
Blezard Valley	0.34%	3
Capreol	2.86%	25
Chelmsford	2.86%	25
Coniston	0.34%	3
Copper Cliff	2.06%	18
Donovan	3.20%	28
Dowling	0.57%	5
Downtown Sudbury	5.38%	47
Falconbridge	0.23%	2
Flour Mill	2.86%	25
Garson	5.38%	47
Gatchell	1.95%	17
Guilletville	0.11%	1
Hanmer	7.67%	67
Kingsmount / Bell Park / Hospital area	4.46%	39
Levack	0.92%	8
Lively	4.12%	36
McCrea Heights	0.34%	3
Minnow Lake	6.52%	57
Moonglo Subdivision	0.57%	5
Naughton	0.57%	5
New Sudbury	15.56%	136
Onaping	0.11%	1
Onaping Falls Rural	0.11%	1
Rayside-Balfour Rural	0.00%	0
Skead	0.23%	2
South End Rural Sudbury	1.95%	17
South End Sudbury	11.21%	98
Val Caron	3.89%	34
Val Thérèse	1.37%	12
Valley East Rural	0.00%	0
Wahnapitae	1.37%	12
Wanup	0.23%	2

West End Sudbury	5.03%	44
Whitefish	0.46%	4
Worthington	0.23%	2
Other (please specify)	1.95%	17
Total		874

Q3 Describe your neighbourhood. Choose all that apply.

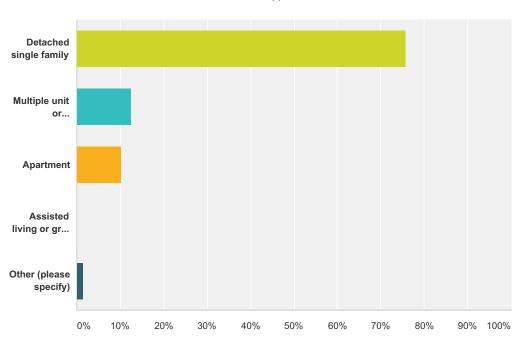
Answered: 872 Skipped: 2



nswer Choices	Responses	
Rural / Farm	5.16%	45
Primarily residential in a small community (e.g. Azilda, Hanmer, Lively)	32.11%	280
Primarily residential in the city (i.e. Sudbury)	41.06%	358
Mixed use residential / commercial	10.89%	95
Mixed use residential / industrial	1.83%	16
Mixed use residential / institutional (e.g. hospital, schools)	9.29%	81
Mix of detached single family, multiple unit or semi-detached, and/or apartments	25.34%	221
Close to or bordered by major arterial roads/highways	21.33%	186
Close to or bordered by railway lines	17.20%	150
Other (please specify)	2.52%	22
otal Respondents: 872		

Q4 Describe your place of residence.

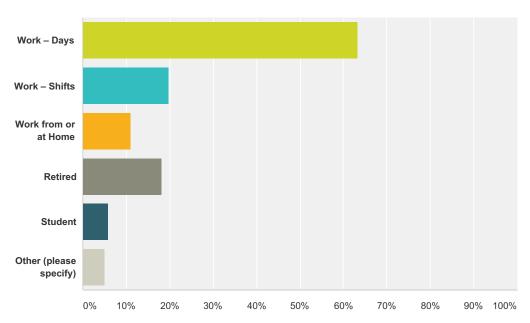




Answer Choices	Responses	
Detached single family	75.78%	657
Multiple unit or semi-detached	12.46%	108
Apartment	10.27%	89
Assisted living or group home	0.00%	0
Other (please specify)	1.50%	13
Total		867

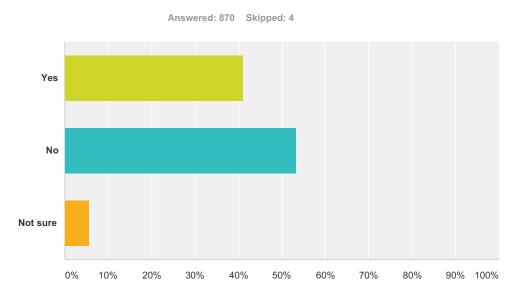
Q5 What best describes your lifestyle? Choose all that apply.

Answered: 873 Skipped: 1



Answer Choices	Responses	
Work – Days	63.34%	553
Work – Shifts	19.93%	174
Work from or at Home	11.00%	96
Retired	18.10%	158
Student	5.84%	51
Other (please specify)	4.93%	43
Total Respondents: 873		

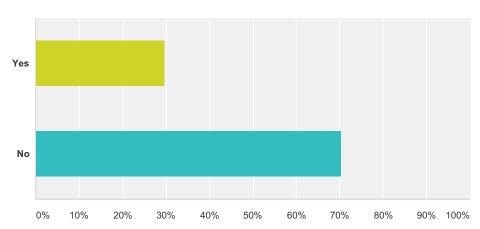
Q6 Do you believe there is a problem with noise in your area?



Answer Choices	Responses	
Yes	41.15%	358
No	53.22%	463
Not sure	5.63%	49
Total		870

Q7 Have you ever made a complaint about noise?

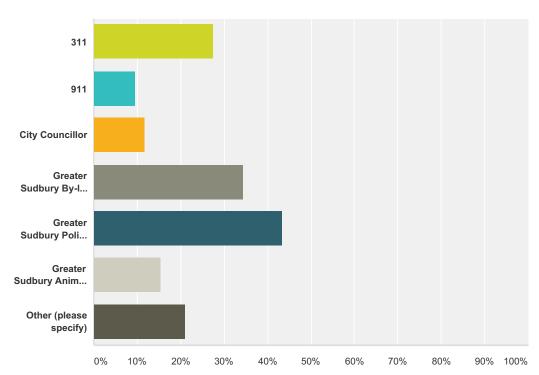




Answer Choices	Responses	
Yes	29.61%	257
No	70.39%	611
Total		868

Q8 If you have made a complaint about noise, who did you contact? Choose all that apply.

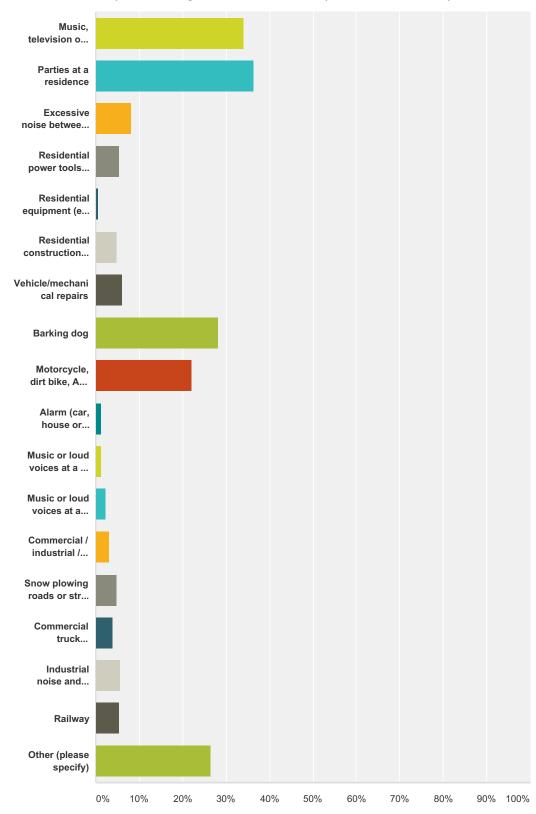
Answered: 290 Skipped: 584



Answer Choices	Responses	
311	27.59%	80
911	9.66%	28
City Councillor	11.72%	34
Greater Sudbury By-law Department	34.48%	100
Greater Sudbury Police Service	43.45%	126
Greater Sudbury Animal Control Service	15.52%	45
Other (please specify)	21.03%	61
Total Respondents: 290		

Q9 If you have made a complaint about noise, what type of noise did you report? Choose all that apply.

Answered: 297 Skipped: 577

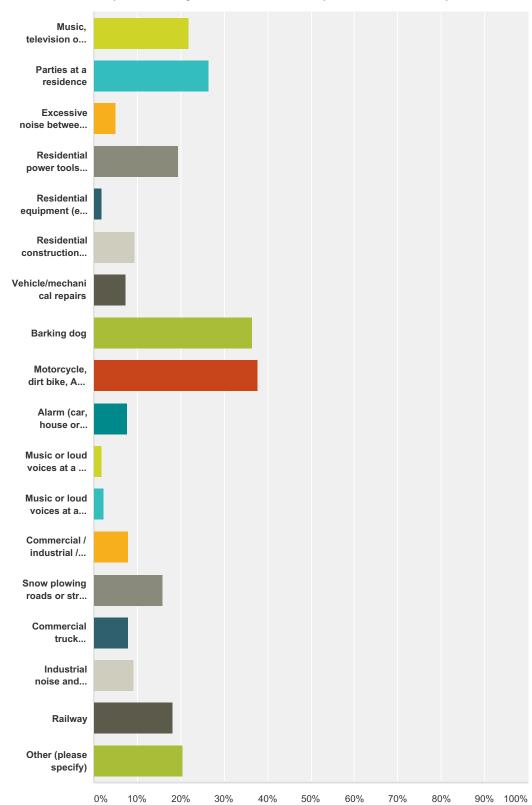


Answer Choices	Responses	
Music, television or loud voices at a residence	34.01%	101
Parties at a residence	36.36%	108

Excessive noise between attached/semi-detached dwelling units	8.08%	2
Residential power tools (e.g. lawn mower, snow blower, leaf blower, power saw)	5.39%	
Residential equipment (e.g. pool pumps, air conditioners)	0.67%	
Residential construction/renovations	4.71%	
Vehicle/mechanical repairs	6.06%	
Barking dog	28.28%	
Motorcycle, dirt bike, ATV, snowmobile, no muffler	22.22%	
Alarm (car, house or emergency vehicle siren)	1.35%	
Music or loud voices at a bar or restaurant	1.35%	
Music or loud voices at a concert	2.36%	
Commercial / industrial / road construction	3.03%	
Snow plowing roads or street sweeping roads	4.71%	
Commercial truck deliveries and commercial waste removal activities	4.04%	
Industrial noise and associated equipment	5.72%	
Railway	5.39%	
Other (please specify)	26.60%	
al Respondents: 297		

Q10 If you have NOTmade an official complaint about noise, what type of noise in your opinion most often disturbs your residential neighbourhood? Choose all that apply.

Answered: 719 Skipped: 155

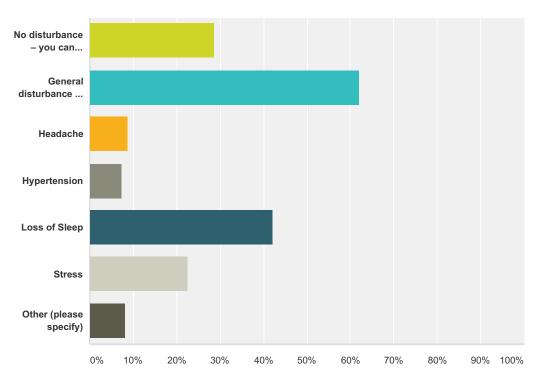


Answer Choices	Responses	
Music, television or loud voices at a residence	21.84%	157
Parties at a residence	26.56%	191

Excessive noise between attached/semi-detached dwelling units	5.01%	
Residential power tools (e.g. lawn mower, snow blower, leaf blower, power saw)	19.33%	
Residential equipment (e.g. pool pumps, air conditioners)	1.95%	
Residential construction/renovations	9.46%	
Vehicle/mechanical repairs	7.37%	
Barking dog	36.58%	
Motorcycle, dirt bike, ATV, snowmobile, no muffler	37.69%	
Alarm (car, house or emergency vehicle siren)	7.79%	
Music or loud voices at a bar or restaurant	1.81%	
Music or loud voices at a concert	2.23%	
Commercial / industrial / road construction	7.93%	
Snow plowing roads or street sweeping roads	15.86%	
Commercial truck deliveries and commercial waste removal activities	7.93%	
Industrial noise and associated equipment	9.18%	
Railway	18.08%	
Other (please specify)	20.45%	

Q11 How does noise affect you? Choose all that apply.

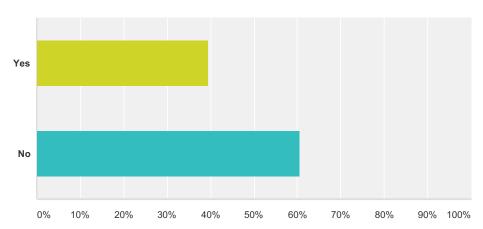
Answered: 870 Skipped: 4



Answer Choices	Responses	
No disturbance – you can tolerate it.	28.62%	249
General disturbance – irritation	61.95%	539
Headache	8.74%	76
Hypertension	7.36%	64
Loss of Sleep	42.07%	366
Stress	22.53%	196
Other (please specify)	8.16%	71
Total Respondents: 870		

Q12 If you have made complaint(s) about noise in the past, were you satisfied with the action taken to resolve the complaint?

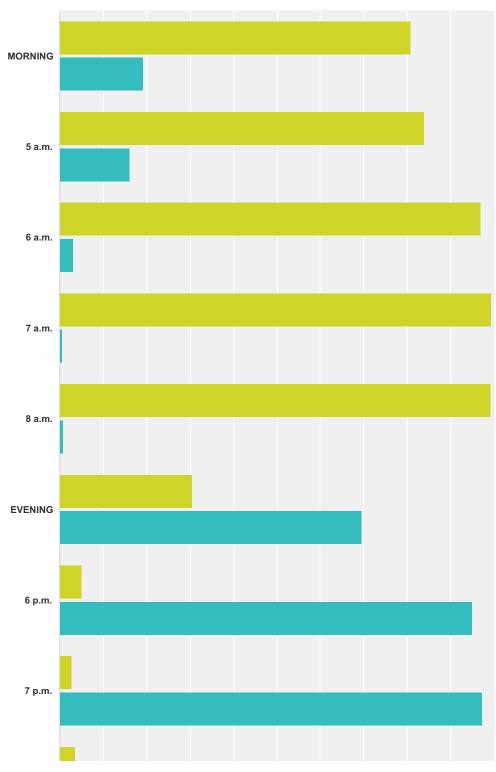


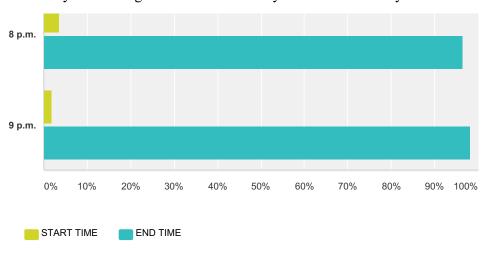


Answer Choices	Responses	
Yes	39.53%	117
No	60.47%	179
Total		296

Q13 Some noise by-laws prohibit construction activities for large projects during certain times of day. In your opinion, what times of day are reasonable to expect noise from large commercial, industrial or road construction projects?

Answered: 820 Skipped: 54

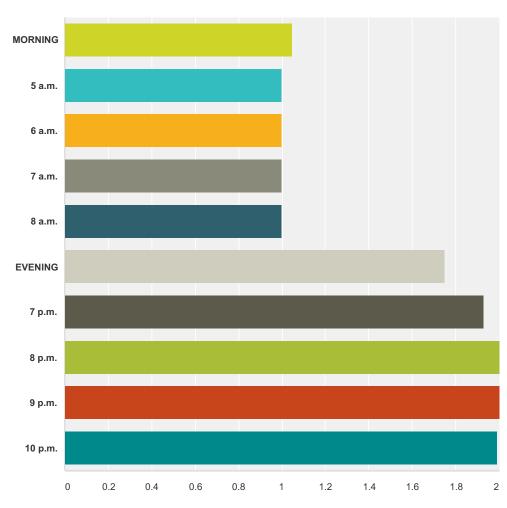




	START TIME	END TIME	Total
MORNING	80.77%	19.23%	
	21	5	26
5 a.m.	83.87%	16.13%	
	52	10	62
6 a.m.	96.83%	3.17%	
	61	2	63
7 a.m.	99.32%	0.68%	
	290	2	292
8 a.m.	99.16%	0.84%	
	354	3	357
EVENING	30.43%	69.57%	
	7	16	23
6 p.m.	5.11%	94.89%	
	9	167	176
7 p.m.	2.62%	97.38%	
	5	186	191
8 p.m.	3.59%	96.41%	
	7	188	195
9 p.m.	1.90%	98.10%	
	4	206	210

Q14 Some noise by-laws prohibit use of residential power tools and recreational vehicles on private property during certain times of day; for example, use of snow blowers, lawn mowers, power saws and ATVs. In your opinion, what times of day are reasonable to expect noise from residential activities? When answering this question, please consider the variety of lifestyles in a neighbourhood, such as shift work, day work, at home work, and the need to perform work during optimum weather conditions, such as lawn mowing during cooler evening temperatures.



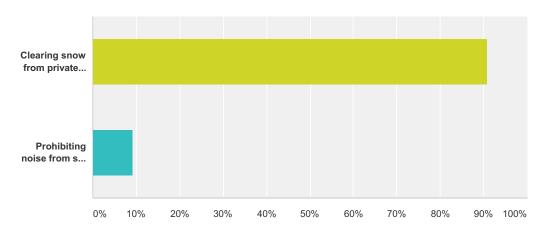


START TIME END TIME Total Weighted Average

MORNING	95.24%	4.76%		
	20	1	21	
5 a.m.	100.00%	0.00%		
	56	0	56	
6 a.m.	100.00%	0.00%		
	82	0	82	
7 a.m.	100.00%	0.00%		
	232	0	232	
8 a.m.	99.75%	0.25%		
	398	1	399	
EVENING	25.00%	75.00%		
	4	12	16	
7 p.m.	6.67%	93.33%		
	8	112	120	
8 p.m.	0.45%	99.55%		
	1	222	223	
9 p.m.	0.40%	99.60%		
	1	250	251	
10 p.m.	0.98%	99.02%		
	2	203	205	

Q15 In the winter, it is necessary to plow private roads, lanes, driveways, and commercial and multi-residential parking areas following a major accumulation of snow. Contractors often have limited time to complete this task. In your opinion, which is more important?

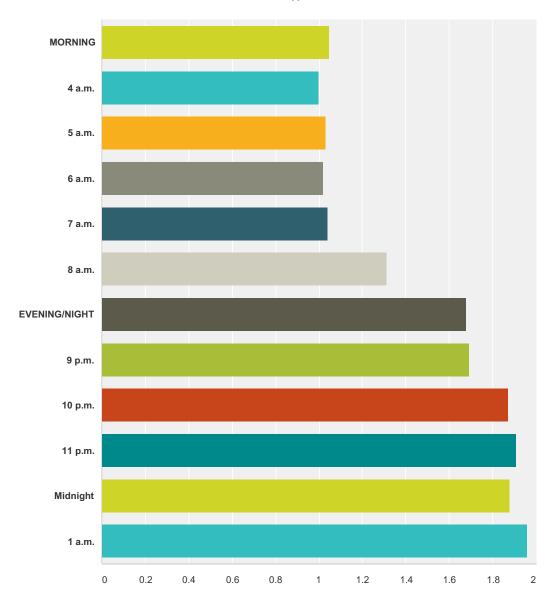




Answer Choices		Responses	
Clearing snow from private roads and commercial parking areas immediately following an accumulation of snow.	90.76%	766	
Prohibiting noise from snow plowing and removal during certain times of day.		78	
Total		844	

Q16 In your opinion, what times of day are reasonable to expect noise from snow plowing and removal?

Answered: 692 Skipped: 182

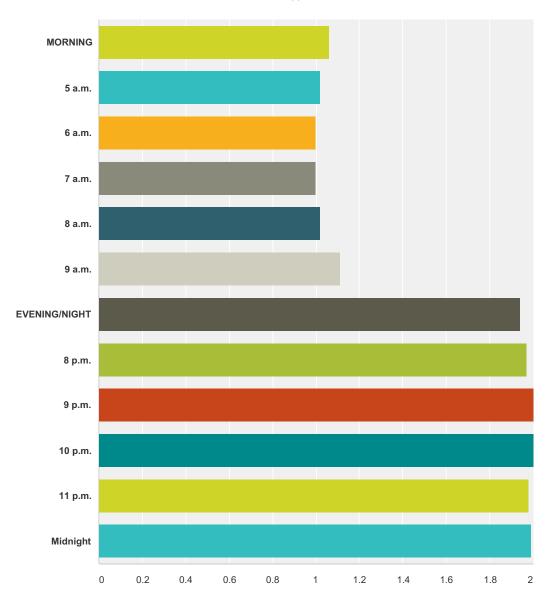


	START TIME	END TIME	Total	Weighted Average
MORNING	95.29%	4.71%		
	162	8	170	1.05
4 a.m.	99.58%	0.42%		
	237	1	238	1.00
5 a.m.	97.09%	2.91%		
	100	3	103	1.03
6 a.m.	97.97%	2.03%		
	145	3	148	1.02

7 a.m.	95.65%	4.35%		
	66	3	69	1.04
8 a.m.	68.75%	31.25%		
o d.m.	44	20	64	1.3
EVENING/NIGHT	31.82%	68.18%		
	14	30	44	1.6
9 p.m.	31.18%	68.82%		
·	29	64	93	1.6
10 p.m.	13.25%	86.75%		
	11	72	83	1.8
11 p.m.	8.70%	91.30%		
	10	105	115	1.9
Midnight	11.76%	88.24%		
, and the second	12	90	102	1.8
1 a.m.	4.17%	95.83%		
	12	276	288	1.9

Q17 Some noise by-laws limit commercial truck deliveries and commercial waste removal to certain times of day. In your opinion, what times of day are reasonable to expect noise from these activities?

Answered: 815 Skipped: 59

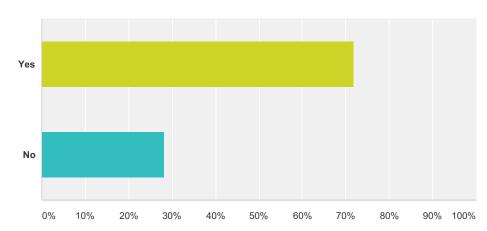


	START TIME	END TIME	Total	Weighted Average
MORNING	93.55%	6.45%		
	29	2	31	1.06
5 a.m.	97.80%	2.20%		
	89	2	91	1.02
6 a.m.	100.00%	0.00%		
	112	0	112	1.00

7 a.m.	100.00%	0.00%		
	324	0	324	1
8 a.m.	98.04%	1.96%		
	200	4	204	
9 a.m.	88.68%	11.32%		
	47	6	53	
EVENING/NIGHT	5.56%	94.44%		
	1	17	18	
8 p.m.	3.01%	96.99%		
	11	354	365	
9 p.m.	0.00%	100.00%		
	0	178	178	
10 p.m.	0.00%	100.00%		
	0	93	93	
11 p.m.	2.50%	97.50%		
	1	39	40	
Midnight	1.14%	98.86%		
-	1	87	88	

Q18 Are you aware that the City grants noise exemptions for specific events and activities?

Answered: 870 Skipped: 4



Answer Choices	Responses	
Yes	71.84%	625
No	28.16%	245
Total		870

Q19 Please share any additional comments or suggestions.

Answered: 275 Skipped: 599

Q20 Thank you for your participation. Deadline for submission of this survey is 5 p.m. on Thursday, June 30.

Answered: 41 Skipped: 833