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Date: 2/24/2021 8:43:31 AM
Subject: Staff Responses to Questions on Enhanced Enforcement of Amplified Sound Report

Good morning Mayor and Council,

Please see below for staff responses to your questions related to the Enhanced Enforcement of Amplified Sound Report.

1. How do bylaw amendments contemplate the right to protest, and in particular using bullhorns or portable PAs for purposes of legitimate protest, but that may not have a required permit?

The Charter provides a right to freedom of expression (Section 2(b) that, like all other rights in Canada, is subject to reasonable limits. Canadian law does not recognize a "right to protest". The Noise By-law is content neutral. Any person wishing to use amplification equipment must obtain a permit, regardless of the content of the expression being amplified.

VPD: If the VPD becomes aware of any event where someone wants to use amplification, we would expect them to get a permit. Regardless, VPD exercises proper police discretion when policing protests – balancing justification, proportionality and intrusiveness, and being mindful of Section 2 of the *Charter*.

2. Section 3 of the existing bylaw requires that no person shall disturb the "peace" or "comfort" of people in the neighbourhood – does this effectively target disturbance (amplified or otherwise) that may not legally qualify as Hate Speech but are hateful, abusive or demeaning?

If a noise is considered to be disturbing to the "peace" or "comfort" of the neighbourhood then it could be considered disturbing noise. In general, this term applies to the volume of the noise and not the content of specific speech.

3. Would enforcement be complaints-driven?

DBL: Yes, and also observation based.

VPD: If City bylaw enforcement staff is not available, the VPD would respond to calls for service (on a priority basis) or if there is a public safety component to the call.

- 4. Free permits for religious preachers – is this effectively waiving cost that would otherwise be borne by buskers? How many permits do we give out for this purpose? Does this practice mean we would effectively be obligated to give someone like Dorre Love (the anti-LBGQT preacher) a free permit?**

ENG: Staff are not waiving fees as there is no fee associated with this permit type. At the recommendation of Council, fees for this permit could be introduced.

The quantity “Religious street meeting” permits issued:

- 2017- 25
- 2018 -20
- 2019` 17
- 2020` 0
-

The religious street meeting permit application does not require the applicant to declare religion or content. Specific applicants would not be denied a permit based upon the application for use of public street space.

- 5. Last question, and a bit outside the scope of the proposed amendment, but I note the conditions and process by which to secure a permit for busking require performers to attend Engineering Services in person, with cash and photo ID. Seems unnecessarily onerous, can this process not be completed online? What is the rationale for limiting a busking troupe to only three performers? (I note bands like Toronto’s Barenaked Ladies and Vancouver’s own Hardrock Miners would busk with an ensemble of greater than three)**

ENG: For busking, the in-person application has been needed in order to confirm a “match “ between the person and the identification submitted. The application process is quite straight forward and low cost. The interaction often allows for some dialogue to clarify the program and answer questions posed by the applicant.

The limit to three performers is based on space availability on our streets and sidewalks. Larger groups have been supported through events and other programs such as “Share a Square”.

- 6. Can staff confirm that amplified motorcycle noise is or is not covered in the current Noise Bylaw?**

Correct, the motorcycle noise is regulated under the Motor Vehicle Noise and Emission Abatement By-law 9344 (Section 2).

- 7. Can staff confirm that megaphones specifically would be considered an amplification device? And if so, if they would be prohibited use per the proposed bylaw changes without permission correct? But since they may not be physically 'placed on a street, sidewalk, public property or right of way and could remain on a person, would they therefore not be seizable?**

Yes, megaphones would be considered an amplification device. The City's power to seize items is limited in the *Vancouver Charter* and only extends to those items placed on a street in contravention of a bylaw. The City has no power to seize amplification equipment that is being carried by a person. As a result, there is no ability to seize a megaphone being carried by a person. However, a person would be required to hold a City permit, and could be issued an MTI if they do not have one.

- 8. How do protests in general (given that people have a right to protest) that are not religious get handled with respect to their use of amplification devices? Would they be prohibited from use of bullhorns or?**

As noted above the Noise By-law is content neutral and any person wishing to use an amplification device is required to obtain a permit regardless of the nature of the expression they wish to amplify.

VPD: If the VPD becomes aware of any event where someone wants to use amplification, we would expect them to get a permit. Regardless, VPD exercises proper police discretion when policing protests – balancing justification, proportionality and intrusiveness, being mindful of Section 2 of the Charter.

- 9. VPD: Was the below report at the VPD considered in the preparation of this Council report and recommendations? <https://vancouver.ca/police/policeboard/agenda/2021/0121/SP-3-2-2101C02-Board-Report-Complaint-on-Street-Preachers.pdf>**

VPD: Yes, the report was considered. In fact, the Police Board report makes reference to the August 2020 meeting the VPD had with city legal and bylaw prosecutor to address the Noise Control Bylaw (Page 4, 2nd and 3rd paragraph). This meeting was the impetus for updating the bylaw.

Best,
Paul

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The City of Vancouver acknowledges that it is situated on the unceded traditional territories of the xʷməŋəm (Musqueam), lóowímesh (Squamish), and səlilwətał (Tsleil-Waututh) Nations.