



# WHISTLER

## REPORT | ADMINISTRATIVE REPORT TO COUNCIL

**PRESENTED:** August 17, 2021  
**FROM:** Corporate and Community Services  
**SUBJECT:** NOISE REGULATION BYLAW – BYLAW NOTICE ENFORCEMENT AMENDMENT BYLAW

**REPORT:** 21-092  
**FILE:** 4700

### COMMENT/RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

**That** the recommendation of the General Manager of Corporate and Community Services be endorsed.

### RECOMMENDATION

**That** Council consider giving first, second and third readings to “Bylaw Notice Enforcement Amendment Bylaw No. 2296, 2021.”

### REFERENCES

Appendix A - Bylaw Notice Penalty Comparisons of Sample Municipalities (as of July 14, 2021)

Noise Control Bylaw Update Report No. 21-073 File No. 4700 – July 6, 2021 (not attached)

### PURPOSE OF REPORT

This report presents “Bylaw Notice Enforcement Amendment Bylaw No. 2296, 2021” for Council’s consideration. This bylaw would replace the existing Noise Control Bylaw Notice Enforcement Amendment Bylaw that currently allows for bylaw notices to be issued for Noise Control Bylaw violations.

### DISCUSSION

#### Background

At the July 6, 2021 Council meeting a new Noise Regulation Bylaw 2295, 2021 received the first three bylaw readings. This bylaw will replace the existing Noise Control Bylaw 1660, 2004. Prior to receiving the corresponding Bylaw Notice Enforcement Amendment Bylaw that sets the penalty amounts, Council requested staff to compare the bylaw notice penalty amounts to other municipalities and to explore the potential for higher bylaw penalty notices in Whistler.

### BYLAW NOTICE ENFORCEMENT AMENDMENT BYLAW

The amended Bylaw Notice Enforcement Amendment bylaw will allow for enforcement of noise violations for the new Noise Regulation Bylaw by setting the penalty amounts for infractions under the Noise Regulation Bylaw.

## **LOCAL GOVERNMENT COMPARISONS – NOISE THAT DISTURBS**

As requested by Council, staff reviewed ten local governments bylaws to compare the “Noise that disturbs” bylaw notice penalty amounts in those communities and these have been included as Appendix A. Staff also spoke with a number of local governments that had higher penalties to determine their experience in dealing with noise specific to parties and the issuance of bylaw notices within the \$400 to \$500 range. Information gathered from other local governments was used to inform staff recommendations when contemplating increasing penalty amounts.

## **BYLAW NOTICE PENALTY AMOUNTS**

Resort Municipality of Whistler (RMOW) Bylaw staff were also consulted to see if they were comfortable with issuing a penalty in the \$300 to \$500 range. A warning/education was preferred with the first interaction, depending on the situation, but staff were comfortable issuing a discounted penalty of \$400 if paid within 14 days and with the penalty being \$500 after 14 days.

Staff recommend that all of the bylaw notice penalties be increased from \$200 to \$400 for the discounted penalty. The penalty for a bylaw notice paid after the 14 day discount period be increased from \$250 to \$500. This penalty structure continues to provide incentive for payment of bylaw notice in a timely manner.

Should the RMOW adopt this new penalty structure, the RMOW would be at the higher end of the penalty amounts (Appendix A) comparable to the City of Coquitlam and the District of Squamish. It's important to have penalties high enough to discourage any noise issues contrary to the Noise Regulation Bylaw. The RMOW discourages noise issues that interrupt the community's sleep and higher bylaw notice penalties may potentially reduce the number of noise complaints.

## **ENFORCEMENT OPTIONS**

Voluntary compliance is the goal with any bylaw enforcement complaint. Bylaw staff deal with noise complaints as they are received. Generally, bylaw staff will seek voluntary compliance with the noise complaint by letting the homeowners or tenants know about the noise bylaw rules. If the homeowners do not comply then a bylaw notice can be issued. The bylaw notice can be issued to the property owner or tenants or both the owner and tenant. A bylaw notice could be issued to a person at the property and the homeowner resulting in a total of \$1000 in potential penalties under the updated Noise Regulation Bylaw. It should be noted that a bylaw notice can also be issued without a warning, if necessary. Bylaw staff have found recent success with compliance by issuing the bylaw notice to the property owner. The property owner may not have been aware of the noise issue and the property owner can speak with the tenants regarding their behaviour to ensure more consistent compliance.

The RCMP respond to overnight noise complaints in Whistler. The RCMP tend to issue the “Noise that disturbs” bylaw notices because the RCMP attend parties after hours when there is no bylaw staff on shift. Multiple bylaw notices can be issued to address the “noise that disturbs.” For example, if the RCMP attended a property because of a noise complaint at 11pm and 3am the RCMP could issue a bylaw notice for the 11pm and 3am noise bylaw violations. Bylaw Staff support the RCMP by following up with property owners on a case by case basis.

## **OFFENCE ACT PROSECUTIONS**

The Noise Regulation Bylaw allows for *Offence Act* prosecutions which establishes a maximum fine of up to \$50,000 for any offence. The court, in a prosecution for an offence under the Noise Regulation Bylaw, may impose a maximum fine of up to \$50,000, together with the costs of prosecution. The *Offence Act* prosecution has been used by the RMOW mainly against illegal Tourist Accommodation providers in Whistler. If there was a repeat Noise Bylaw offender the *Offence Act* prosecution would be pursued at Council's discretion.

## **AIRBNB NOISE COMPLAINTS**

Any concerns with noise or parties with Airbnb listings can be addressed via: <https://www.airbnb.ca/neighbors>. Neighbours are able to report the noise or party to the Neighbourhood Support Team with Airbnb. The neighbour can provide the listing to Airbnb and they can get in touch with the Airbnb listing to address the issue. RMOW staff can also contact Airbnb staff through the City Portal on the Airbnb website to address any problem properties or situations. It should be noted that Airbnb is one of the only major online Tourist Accommodation providers to engage with the RMOW on a regular basis and provide contact information to staff via the City Portal to deal with any Airbnb issues as they arise. Bylaw Notices can still be issued by RMOW staff or *Offence Act* prosecutions can still be pursued with Council approval if voluntary compliance with the Noise Bylaw is not achieved.

## **POLICY CONSIDERATIONS**

### **Official Community Plan**

#### **Community Vision**

Whistler is a place where residents and visitors enjoy the resort community peacefully and safely. Whistler residents have strong community connections and people look out for one another.

#### **Goals, Objectives and Policies**

The following key OCP goals, objectives and policies relate to the report's recommendation. The report's recommendation seeks to move the community towards each of the policy directions noted below:

### **8.7. Goal - Ensure Whistler is a safe and secure resort community.**

**8.7.3 Objective** - Maintain a safe and enjoyable community by encouraging compliance with bylaws.

**8.7.3.2. Policy** - Prioritize direct, proactive enforcement of key priority issues.

**8.7.3.3. Policy** - Deliver effective education programs to promote and enhance bylaw compliance.

**8.7.3.4. Policy** - Conduct patrols of Whistler Village and surrounding neighbourhoods to ensure compliance with bylaw, including bylaws related to illegal nightly rentals.

**Other Relevant Policies**

**BUDGET CONSIDERATIONS**

Legal expenses to draft and prepare the bylaw were included in the 2020/21 bylaw operating budget.

**COMMUNITY ENGAGEMENT AND CONSULTATION**

N/A

**SUMMARY**

The “Bylaw Notice Enforcement Amendment Bylaw No. 2296, 2021” will allow for bylaw notices to be issued for the new Noise Regulation Bylaw infractions.

Respectfully submitted,

Kevin Creery  
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