

BOARD REPORT

TO: Chair and Directors

File No: BL 5754 3995 20 04

SUBJECT: Noise Bylaw No. 5754 Second Reading Amendments

DESCRIPTION: Report from Gerald Christie, Manager Development Services, dated January 8, 2018.
Proposed amendments to Noise Bylaw No. 5754.

RECOMMENDATION #1: THAT: CSR D Noise Bylaw No. 5754 be amended as presented, this 18th day of January, 2018.

RECOMMENDATION #2: THAT: CSR D Noise Bylaw No. 5754 be given second reading as amended, this 18th day of January, 2018.

RECOMMENDATION #3: THAT: CSR D Noise Bylaw No. 5754 be read a third time this 18th day of January, 2018.

SHORT SUMMARY:

At the September 21, 2017 Board meeting, Directors discussed the results of the public comments received during the summer in regards to the proposed Noise Bylaw No. 5754. Directors approved the bylaw to move forward with the proposed staff amendments including some other minor changes desired by the Directors. Staff have now incorporated all of these amendments into the proposed bylaw for amendment prior to second, as amended, and third reading, as amended, for the Board's consideration. As noted in the staff report considered by the Board at the September 21, 2017 Board meeting, if the Board proceeds with Bylaw No. 5754, and prior to bylaw adoption, staff will also bring forward changes to CSR D Bylaw Enforcement Policy A-69 detailing how noise-related complaints will be managed by CSR D staff and provided to the RCMP for follow-up.

VOTING: Unweighted Corporate LGA Part 14 (Unweighted) Weighted Corporate Stakeholder (Weighted)

BACKGROUND:

Several changes were recommended by staff, and approved by the Board, to be made to the proposed Noise Bylaw No. 5754 in light of the comments received from the public in the summer of 2017; as noted in the meeting minutes, additional amendments were also desired by Directors as discussed at the September 21, 2017 Board meeting.

"Area A Director spoke in favour but requested construction and homebased business be exempted, as well as weddings and barking dogs.

Area F Director spoke in favour but suggested that rural farm areas should be excluded and Bylaw should be in effect from 12AM to 7AM on weekends. Community events should be exempted.

Area E Director spoke in favour however, the Bylaw needs to be very clear that dogs are not included in Bylaw. Should be earlier than 7AM."

All staff and Director recommended changes have now been incorporated into the bylaw at second reading, as amended, and include:

- Extension of permitted noise hours
 - Original bylaw 10:00 p.m. – 7:00 a.m.
 - Amendment 12:00 a.m. – 6:00 a.m.
- Additional exemptions:
 - Commercial snow clearing and removal operations
 - Commercial deliveries
 - Community events
 - Wedding events
 - Barking dogs.

There was also some discussion at the September Board meeting about exempting home-based businesses and home construction from the bylaw; however, staff are of the opinion that with the new proposed extension of permitted noise hours and a 'quiet time' extending only between 12:00 a.m. and 6:00 a.m. that an exemption to allow noise from such uses is not necessary.

POLICY:

If the Board approves the amendments, second reading as amended, and third reading of Noise Bylaw No. 5754, staff will bring forward proposed changes to Bylaw Enforcement Policy A-69 prior to adoption of the bylaw. Changes to the policy will note the RCMP ability to ticket for such noise-related bylaw contraventions and that there are limited practical abilities of CSRD enforcement staff to address such complaints, e.g. the large geographic size of the regional district, that Noise Bylaw contraventions would only occur outside of normal weekday staff hours, and that there are significant safety issues with investigating complaints which occur at night, with large gatherings, or in remote locations.

1981 Supplementary Letters Patent (SLP) of the CSRD originally contained the authority for the Regional District to regulate or prohibit noise. Upon doing further research into the specifics and confirming which electoral areas were encompassed under the 1981 SLP, and in consultation with legal counsel in relation to the validity of SLP and the numerous changes to the Municipal and Local Government Act since 1981, it will be necessary for the Board to adopt a Noise Service Establishment Bylaw before the Noise Regulation Bylaw is adopted. The Noise Service Establishment Bylaw will be brought forward on the January Late Board agenda for consideration of three readings.

FINANCIAL:

As noted in the September 10, 2017 staff Board report, direct financial impacts to the CSRD primarily consist of providing ticketing books to the RCMP for ticketing of noise-related issues that are not in compliance with Noise Bylaw No. 5754.

Indirect costs are associated with the additional Bylaw Enforcement staff time necessary to receive noise complaints from the public, communicate with complainants and explain the purpose of the bylaw (not for the CSRD to investigate and enforce but to provide an enforcement tool for RCMP), and advise complainants to submit their complaints to the RCMP. Staff are concerned that additional Bylaw Enforcement staff time will still be necessary in administering proposed Bylaw No. 5754 and may make less time available to investigate and enforce other CSRD Bylaws. If the proposed Bylaw No. 5754 is adopted, staff will monitor the impact of this bylaw and report out to the Board at later date.

KEY ISSUES/CONCEPTS:

The intent of Noise Bylaw No. 5754 is to deal with unneighbourly and nuisance noise during nighttime hours. With the proposed bylaw amendments extending the permitted noise hours, and the additional exemptions added to the proposed bylaw, the expectations for a 'quiet time' extending between 12:00 a.m. and 6:00 a.m. is clear. However, although the bylaw will allow for the RCMP to write tickets to nuisance property owners in contravention of the bylaw the ability to effectively enforce the bylaw will be difficult and following-up on such complaints remains at the discretion and priority of the RCMP.

Some Directors also enquired about the ability to have the proposed Noise Bylaw to only apply to portions of a particular Electoral Area. The bylaw as currently proposed applies to all Electoral Areas and the lands contained therein within which the CSRD has regulatory jurisdiction. Given the Noise Bylaw's limited regulation, additional proposed exemptions, and extended permitted noise hours, the need to have the bylaw only apply to a portion of an Electoral Area should not be necessary. Staff is not supportive of implementing this regulation on a Sub-Electoral Area basis, however, if a Director wished to have the bylaw apply to only a portion of an Electoral Area, a referendum or alternative approval process (AAP) for property owners in the proposed service area would be necessary to obtain the requisite authority to implement the bylaw and establish the service area.

If Bylaw No. 5754 is given second reading as amended, and third reading, the bylaw will be brought back to the Board for consideration of final reading at the same time further amendments are proposed to CSRD Bylaw Enforcement Policy A-69 to clarify how Bylaw No. 5754 will be administered by CSRD staff. The effective date of the Noise Bylaw No. 5754 will be as of the date of final reading of the bylaw.

SUMMARY:

As previously directed by the Board, amendments have now been made to proposed Noise Bylaw No. 5754. If the Board grants the amendments and proceeds to the third reading stage, staff will bring back the bylaw for final reading early in 2018 for adoption along with recommended changes to the CSRD Bylaw Enforcement Policy A-69. As mentioned in the Policy section of this report, a Noise Service Establishment Bylaw will need to be adopted by the Board before the Noise Regulation Bylaw is adopted. The adoption of the Service Establishment Bylaw and the Noise Regulation Bylaw may be considered in tandem.

IMPLEMENTATION:

If adopted, Noise Bylaw No. 5754 will be placed on the CSRD webpage that has been created for the bylaw and a news release will be issued noting that the Noise Bylaw is now in effect. RCMP detachments will also be notified about the adoption of the bylaw, provided with copies for their information, and provided with ticketing books once the CSRD Municipal Ticket Information Bylaw is amended to set out the offences and associated fines.

COMMUNICATIONS:

CSRD Bylaw Enforcement staff will continue to liaise with the RCMP as necessary and provide the local detachments with ticketing books and applicable bylaws as required. The public will be made aware of the new bylaw via the CSRD website, social media, and newspaper advertisements.

DESIRED OUTCOMES:

That the Board consider the amendments proposed and proceed with second reading, as amended, as well as third reading of Noise Bylaw No. 5754.

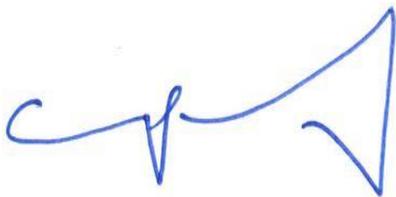
BOARD'S OPTIONS:

1. *Endorse the Recommendations.*
2. *Deny the Recommendations.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

Report Approval Details

Document Title:	2018-01-18_Board_DS_BL5754_Noise_Bylaw_2nd_reading.docx
Attachments:	- Noise BL 5754 - 2nd as amended (final).docx - 2017-09-21_Board_DS_BL5754 - Noise Bylaw consultation results.pdf
Final Approval Date:	Jan 10, 2018

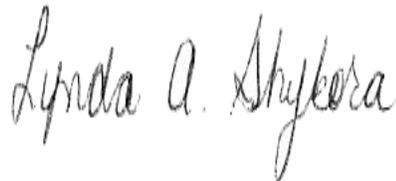
This report and all of its attachments were approved and signed as outlined below:



Corey Paiement - Jan 9, 2018 - 4:25 PM

No Signature - Task assigned to Jodi Pierce was completed by assistant Sheena Haines

Jodi Pierce - Jan 9, 2018 - 4:35 PM



Lynda Shykora - Jan 10, 2018 - 11:04 AM



Charles Hamilton - Jan 10, 2018 - 11:29 AM