

Corporate Report

NO: R102

COUNCIL DATE: May 12, 2003



REGULAR COUNCIL

TO: **Mayor &
Council** DATE: **May 9, 2003**

FROM: **General Manager, Planning
& Development** FILE: **3900-20-
7044**

SUBJECT: **Proposed Amendments to the Surrey Noise
Control By-law –
Use of Audible Bird Scare Devices**

RECOMMENDATION

It is recommended that Council:

1. Approve amendments to Surrey Noise Control By-law, 1982, No. 7044 as documented in Appendix I, that reflect the revised Provincial guidelines related to the use of audible bird scare devices in protecting agricultural crops from damage by birds; and
2. Instruct the City Clerk to introduce the necessary amendment by-law.

INTENT

The intent of this report is to advise Council of revised Provincial guidelines related to the use of audible bird scare devices in protecting berry crops from damage by birds and to recommend amendments to Surrey Noise Control By-law, 1982, No. 7044 (the "Noise Control By-law") to include provisions consistent with the revised Provincial guidelines.

BACKGROUND

The Provincial Ministry of Agriculture Food and Fisheries conducted a study to determine where, how and when audible bird scare devices should be used to protect agricultural crops from damage by birds while at the same time minimizing the nuisance that the use of such devices causes to neighbouring residents. The study resulted in a set of recommended guidelines on the use of such devices. Based on the results of the study, the Minister of Agriculture, Food and Fisheries approved a set of guidelines known as "Farm Practices – Wildlife Damage Control" (the "Guidelines") that are attached as Appendix II.

The Agricultural Advisory Committee ("AAC"), at its meeting on March 1, 2002, received and considered correspondence from the Minister of Agriculture, Food and Fisheries that included the Guidelines. The AAC, at that meeting, resolved to recommend to Council that staff consult with the City Solicitor and the B.C. Blueberry Council on the implementation of the Guidelines in the City of Surrey. Council considered and approved the AAC recommendation at its Regular Council meeting on March 11, 2002.

DISCUSSION

The Noise Control By-law provides the basis for the regulation of noise within the City. The Guidelines referenced in the Background Section of this report do not have the effect of law and cannot be enforced by the City unless they are adopted as part of a by-law. This report recommends amendments to the Noise Control By-law, as documented in Appendix I, to incorporate most of the Guidelines as provisions of the Noise Control By law.

The Guidelines reference two categories of audible bird scare devices. Category A devices are those which create an intermittent impulse sound such as propane cannons. Category B devices include other stationary devices not included in Category A; for example, those that broadcast sounds continuously through loudspeakers. The proposed amendments to the Noise Control By-law capture both categories of devices under one definition, "noise scare device".

The matter of the incorporation of the Guidelines as provisions in the Noise Control By law, was discussed by the AAC at its April, 2003 meeting. The AAC recommended that the guideline related to providing a 300 metre separation between a noise scare device and the urban-residential/ALR edge not be included in the Noise Control By-law at this time. It was the AAC's view that the provision of a 150 metre separation between a noise scare device and an adjacent residence was sufficient.

The B.C. Blueberry Council has advised the City in writing that they are in support of the proposed amendments to the Noise Control By-law (Appendix III).

Legal Services staff has reviewed the Noise Control By-law amendments and has no concerns.

CONCLUSION

The Province has adopted revised guidelines on the use of audible bird scare devices in relation to protecting agricultural crops from damage by birds. In 2002, Council adopted an AAC recommendation that staff consult with the City Solicitor and the B.C. Blueberry Council on the implementation of the Guidelines in the City of Surrey. Staff has completed the requested consultation and is recommending that Council adopt amendments to the Noise-Control By-law, as outlined in Appendix I, that will incorporate most of the Provincial guidelines as provisions in the Noise Control By-law.

Original signed by

Murray Dinwoodie
General Manager,
Planning and Development

GS/kms/saw

Attachments

- Appendix I Proposed Amendments to Surrey Noise Control By-law, 1982, No. 7044
- Appendix II Farm Practices – Wildlife Damage Control Guidelines
- Appendix III Letter of Support dated April 10, 2003 from the B.C. Blueberry Council

Appendix I

Proposed Amendments to Surrey Noise Control By-law, 1982, No. 7044

The following amendments are proposed to Surrey Noise Control By-law, 1982, No. 7044:

1. Insert the following definition of "Noise Scare Device" immediately before the definition of "Peace Officer":

"Noise Scare Device" means any device that uses sound as a means of bird control.

2. Delete existing Sub-Section 1.B.6 in its entirety and replace it with the following:
 6. A Noise Scare Device may be used to protect berry crops within the City, subject to the following conditions:
 - (a) the property on which the Noise Scare Device is used is zoned to permit agricultural uses;
 - (b) the Noise Scare Device is only operated between 06:30 hours and 20:00 hours or dawn to dusk, whichever is of lesser duration;
 - (c) no more than one Noise Scare Device per two hectares of crop shall be operated at any one time;
 - (d) each Noise Scare Device being used shall be alternated or relocated at least once every four days;
 - (e) each Noise Scare Device, including its timing mechanism, shall be maintained to ensure its proper operation and that the device does not operate outside the hours permitted under (b) above;
 - (f) each Noise Scare Device shall only be used as part of a wildlife predation management plan and may not be operated on any lot prior to the onset of bird damage to the crop on the lot or after the crop on the lot is harvested;
 - (g) each Noise Scare Device shall be registered with the City's By-law Enforcement and Licensing Services Section by the owner or occupier of the lot on which the device is to be operated, such registration to specify a telephone number at which the owner or occupiers of the lot can be immediately contacted on a 24 hours-a-day and 7-days-a-week basis;
 - (h) each Noise Scare Device shall be legibly marked with the operator's name and 24-hour telephone number as referenced in (g) above;
 - (i) an owner/operator shall operate each Noise Scare Device with a firing frequency of no more than one firing per five minute period in the case of a single shot Noise Scare Device and not more than 11 activations or a maximum of 33 shots in any hour for each multiple shot Noise Scare Device. Multiple shots from a noise scare device are considered as one activation if the shots occur within a period of less than 30 seconds;

- (j) a Noise Scare Device shall not be located within 150 metres of a neighbouring residence. Where written permission from the owner of such neighbouring residence is obtained and submitted to the City in relation to reducing or waiving the separation distance, the Manager of By-law Enforcement and Licensing may approve a reduction or waiver of the specified separation distance between a Noise Scare Device and that neighbouring residence.

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