



## STAFF REPORT

**Meeting Date:** 17 Feb 2015

**To:** Council

**Prepared By:** Chris Tye

**Reviewed/Approved By:** Michael Rutter, Neil Allanson

**Department Report No:** PWK-2015-02

**Subject:** Engine Assisted Braking System Signage

**Corporate Strategic Plan:** Communications, Customer Service

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### **Council Recommendation:**

**BE IT RESOLVED** that Council receive Staff Report PWK-2015-02, being a report regarding Engine Assisted Braking System Signage, as information.

**AND FURTHER**, that enforcement of heavy vehicle noise related issues be left to the Ontario Provincial Police and Provincial Motor Vehicle Enforcement officials through the provisions of the Provincial Highway Traffic Act at this time.

**AND FINALLY**, that staff consider the installation of Courtesy Signage at locations with demonstrated noise issues related to engine braking system as these types of concerns arise.

### **1. Purpose/Nature of the Proposal:**

The purpose of this report is to provide Council with information regarding the use of signage to discourage or prohibit the use of engine assisted braking systems within urban areas. Further, staff would like to provide recommendations regarding how to proceed with noise related issues within the Municipality of Trent Hills that could be associated with engine braking systems.

### **2. Background/Rationale:**

As a result of a request from Council, staff undertook an investigation into the use of signage to discourage or prohibit the use of engine assisted braking systems within urban areas.

Members of the Inter-Municipal Public Works Committee for Northumberland were contacted to determine if other Municipalities in the area have implemented any signage programs or prohibitions. None of the respondents indicated that they had a program in place. However, the County of Northumberland indicated that one Courtesy type sign has been installed along Elgin Street East in Cobourg at the request of the local municipality. This location had a demonstrated noise issue related to engine braking system usage with a history of multiple complaints.

Through further research, it was found that a number of Municipalities within Ontario had varied approaches to discourage or prohibit the use of engine assisted braking systems within residential areas. This includes but is not limited to a complete prohibition, a prohibition with an exception (emergencies), or a signage program requesting that the use of engine assisted braking systems be avoided in residential areas.

**Prohibition :** Some Municipalities have banned the use of engine assisted braking systems within residential areas through by-law. This is usually through a noise by-law defining the noise generated from the use of these systems as "likely to disturb".

**Prohibit with Exception :** Some Municipalities have chosen to ban the use of engine assisted braking systems within residential areas through by-law. However, the by-law contains wording that exempts their use in emergency situations.

**Courtesy Signage Program :** A number of Municipalities have implemented a courtesy signage program requesting that drivers avoid the use of engine assisted braking systems. These signs are generally placed at strategic locations where noise concerns related to engine assisted braking systems are prevalent. These locations are generally on major arterial roadways entering urban areas.

It should be noted that commercial vehicles are manufactured to comply with current safety and noise regulations. Factory installed engine assisted braking systems are intended to be a safety device and this type of braking assistance system has been tested and approved by Transport Canada. Noise emissions formed a part of this testing and if operating correctly, this type of system should not create excessive noise that would be likely to disturb surrounding bystanders. Generally, excessive noise associated with engine assisted braking systems are a result of the vehicle being altered, modified, or in dis-repair.

Through discussions with other Road and Traffic Safety colleagues several concerns were expressed regarding discouraging or prohibiting the use of engine assisted braking systems. It was a general consensus that engine assisted braking systems are an important component of the safety systems available to truck drivers in the event of an emergency. Prohibiting or unnecessarily discouraging their use could expose the Municipality to liability and put the general public at risk. Further, enforcement of noise related infractions is extremely difficult. Drivers must be caught in the act of creating the excessive noise by enforcement officials equipped to monitor and document noise levels. The noise must be associated to a particular truck and the driver pulled over and ticketed.

Given current resources it is unlikely that enforcement could be carried out with any measurable success.

Staff contacted the Municipality's Insurer to obtain an opinion regarding potential prohibitions, restrictions or signage installations. Representatives from the insurance company indicated that, should the Municipality implement measures discourage engine brake usage in residential areas, either a "Prohibit with Exception" or a "Courtesy Signage Program" would make the most sense from a risk management perspective. A full prohibition was not advisable as they felt that a driver should be allowed to use their engine assisted braking systems when they deem it is necessary for their safety and the safety of others.

A review of our records did not indicate that any concerns were received regarding noise related to the use of engine assisted braking systems on roadways under the jurisdiction of the Municipality of Trent Hills over the past 5 years.

As a result of the information provided above, staff recommend that enforcement of heavy vehicle noise related issues be left to the Ontario Provincial Police and Provincial Motor Vehicle Enforcement officials through the provisions of the Provincial Highway Traffic Act at this time. And further that, staff consider the installation of Courtesy Signage at locations with demonstrated noise issues related to engine braking system as these types of concerns arise.

### **3. Relevant Options/Consultations:**

#### **Option #1 – Status-quo**

Maintain the status-quo leaving enforcement of heavy vehicle noise related issues to the Ontario Provincial Police and Provincial Motor Vehicle Enforcement officials through the provisions of the Provincial Highway Traffic Act.

#### **Option #2 - Prohibition**

Ban the use of engine assisted braking systems within residential areas through by-law. This is usually through a noise by-law defining the noise generated from the use of these systems as "likely to disturb".

#### **Option #3 - Prohibit with Exception**

Ban the use of engine assisted braking systems within residential areas through by-law. However, the by-law contains wording that exempts their use in emergency situations.

#### **Option #4 - Courtesy Signage Program**

Install courtesy signage requesting that drivers avoid the use of engine assisted braking systems at strategic locations where noise concerns related to engine assisted braking systems are prevalent.

### **4. Risk/Safety Considerations:**

As detailed above, engine assisted braking systems are intended to be a safety device. Prohibiting or discouraging their use could result in an increased risk of liability and potential danger for the general public.

### **5. Legal Implications/Legislative Requirements:**

The Municipality of Trent Hills current noise by-law does not contain wording that could be applied specifically to the enforcement of noise resulting from the use of engine assisted breaking systems.

Subsection 75 (1) of the Highway Traffic Act, R.S.O. 1990, Chapter H.8, as amended, states the following :

“Every motor vehicle or motor assisted bicycle shall be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and excessive smoke, and no person shall use a muffler cut-out, straight exhaust, gutted muffler, hollywood muffler, by-pass or similar device upon a motor vehicle or motor assisted bicycle.”

Further, subsection 75 (4) of the Highway Traffic Act, R.S.O. 1990, Chapter H.8, as amended, states the following :

“A person having the control or charge of a motor vehicle shall not sound any bell, horn or other signalling device so as to make an unreasonable noise, and a driver of any motor vehicle shall not permit any unreasonable amount of smoke to escape from the motor vehicle, nor shall the driver at any time cause the motor vehicle to make any unnecessary noise, but this subsection does not apply to a motor vehicle of a municipal fire department while proceeding to a fire or answering a fire alarm call.”

### **6. Policy/Staff Implications:**

As the majority of major roadways entering residential areas within Trent Hills are under the jurisdiction of the County of Northumberland, the County's co-operation regarding any proposed program(s) would be required. County of Northumberland staff have indicated that they will consider requests for Courtesy Signage on a case per case basis.

Should Council wish to implement a signage program at key gateway locations throughout the Municipality, several hours of Municipal, and/or County staff time will be required to conduct utility locates, and to assemble and install the associated signage. Any signage along County roadways would be the responsibility of the County of Northumberland. A preliminary review of the surrounding road network revealed that approximately fourteen (14) locations could serve as potential installation locations. Of the fourteen (14) locations, only one (1) fell under the jurisdiction of the Municipality of Trent Hills.

In the event that the use of engine assisted breaking systems are restricted or prohibited through by-law, several hours of Police/Ministry time per occurrence may be required to conduct an investigation, impose fines, and complete the required documentation and administration.

Through discussions with our By-Law Enforcement Department, it was determined that enforcement of a by-law restricting or prohibiting the use of engine assisted breaking systems by municipal staff would be extremely challenging given current resources, equipment, and legal constraints.

**7. Major Benefits:**

- Increased potential to reduce noise associated with engine assisted breaking systems;
- Improved quality of life;
- Ability of enforcement strengthened.

**8. Financial Analysis:**

Generally, the approximate cost associated with the installation of signage is \$300.00 per sign. This includes the sign, post, hardware, and labour. This does not include ongoing maintenance, required repairs, or yearly retro-reflectivity assessments. In the event a gateway signage program is implemented, the total cost for the sign installation could reach \$4,200.00 excluding future maintenance and repairs.

Given the difficult nature of enforcement related to noise infractions resulting from the use of engine assisted breaking systems, a cost could not be easily estimated at this time.

**9. Means of Communicating Decision:**

The means of communicating Council's direction and/or decision(s) will be conducted through a number of ways. Council will communicate its direction and/or decision through Council Resolution(s). Upon receiving a Council direction, staff will be instructed by management to complete any required works in support of Council's direction.

Subject: FW: jakes

# No Jaking Around: Truckers reject mandatory engine brake testing

TORONTO -- Ontario should do a better job of enforcing the existing noise pollution laws rather than make carrier inspections of engine brakes mandatory.

According to the province's largest trucking group, the Ontario Traffic Conference (OTC) -- an organization that acts on behalf of municipalities to co-ordinate traffic management -- is working with the government on a proposal that would require carriers to conduct annual noise level testing for all trucks.

The Ontario Trucking Association takes the position that such an inspection program would be ineffective and too costly as it would force carriers to buy new, expensive, noise testing equipment.

Instead, OTA is calling on provincial enforcement officials to utilize the existing law (section 75 (1) of the Highway Traffic Act) which requires that all vehicles have properly functioning mufflers and is urging that increased emphasis be placed on enforcement of modified truck exhausts during vehicle inspections throughout the year in Ontario by fixed and mobile enforcement.

"The real problem with unnecessary noise from trucks has to do with modified truck exhausts not engine brakes," says Geoff Wood, VP of Operations and Safety at OTA. "The fact is that modern engine brakes, when operated properly, do not actually cause any increase in noise levels. Proposing new laws and by-laws prohibiting the use of engine brakes is a mistake based on a misunderstanding of the real culprit causing the excessive noise problem that municipalities are trying to address."

Wood compares the plan to the development of Ontario's Drive Clean program, which forces "100 percent of trucks to go through a costly program in order to identify 1 percent of trucks that are a problem."

It's already illegal to modify exhausts in a manner that would increase the noise they create, adds Wood. Plus, carriers already are required to check exhaust systems annually as part of the trucks annual inspection.

"OTA supports the removal of both passenger and commercial vehicles from public roads when they fail to comply with the law. It's time that laws already on the books are applied to vehicles breaking noise laws. We don't need a new program to resolve this matter."