



Policy Name:	NOISE COMPLAINTS		
Policy #:	OP 4.37	Last Updated:	2022-09-29
Issued By:	COMMUNITY POLICING BUREAU	Approved By:	SURREY POLICE BOARD
		Review Frequency:	AS REQUIRED

RELATED POLICIES

OP 4.51.4 *Intoxicated Young Persons*

1. PURPOSE

1.1. To ensure Surrey Police Service (SPS) Members manage noise complaints in accordance with City by-laws, and provincial and federal laws.

2. SCOPE

2.1. This policy applies to all SPS Members.

3. POLICY

3.1. Members must use a measured and incremental approach to enforcement of noise complaints.

3.2. Members may enforce City by-laws including the *Noise Control By-Law No. 7044*. This by-law contains offences that may be enforced by the police.

3.3. In the most serious situations of multiple and persistent noise violations, or where the person responsible for the noise violation refuses to identify themselves, Members may consider an arrest for the noise violation under the *Offence Act*, or charges of causing a public disturbance or mischief under the *Criminal Code*.

4. PROCEDURE

Noise Control By-Law No. 7044

4.1. Under City By-Law No. 7044, 1.B.2, “No person being the owner or occupier of real property shall allow or permit such real property to be used so that noise or sound which emanates therefrom, disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of any person or persons in the neighbourhood or vicinity.”

- 4.2. Under City By-Law No. 7044, 1.B.3, *“No person shall play or operate any radio, stereophonic equipment or other instrument or any apparatus for the production or amplification of sound either in or on private premises or in any public place in such a manner as to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity.”*
- 4.3. Under City By-Law No. 7044, 1.C.1, *“No person in the City shall on any day before 07:00 hours or after 22:00 hours, construct, erect, reconstruct, alter, repair or demolish any building, structure or thing or excavate or fill in land in any manner which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity.”*
- 4.4. Under City By-Law No. 7044, 1.C.2, *“No person in the City shall for profit or gain on a Sunday construct, erect, reconstruct, alter, repair or demolish any building or thing, or excavate or fill in land in any manner which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of the persons in the vicinity.”*

Note: Most contractors are aware of the content of the by-law regarding construction noise and on occasion may obtain a letter of authorization (permit) from the City, which will allow violations outside normal hours. In such cases, a copy of the letter of authorization must be produced by the contractor when requested by Members investigating an alleged offence.

Investigation

4.5. If the Noise By-law complaint appears to be valid the Member will:

- i. query the location prior to speaking to the person(s) responsible for the noise for previous incidents;
- ii. speak with the complainant (where practicable) to determine the cause and all other relevant aspects of the complaint;
- iii. speak to the person(s) responsible for the noise (and/or the residence, if applicable) and obtain their name(s);
- iv. tell the person(s) responsible that a complaint has been received, but do not release name or location of complainant;
- v. explain that the noise is an offence under City By-law No. 7044;
- vi. if appropriate, and there are no previous complaint investigations, advise that if the noise continues the persons will be charged under By-law No. 7044;
- vii. if there is a history of noise complaints, consider issuing a Municipal Ticketing Information (MTI) charging the person responsible for the noise under By-law No. 7044 (ensuring the appropriate section number and fine on the MTI); and
- viii. tell the person responsible for the noise that *Criminal Code* charges for mischief may also be considered for persistent and extreme noise violations.

- 4.6. If the person responsible for the noise and/or residence refuses to identify themselves, every effort should be made to establish their identity, (e.g., location query, speaking to neighbours or landlord, etc.).
- 4.7. The investigating Member must contact the complainant to ensure they are informed of the action taken and tell them to call back if the noise continues.
- 4.8. Unless a Member can give direct evidence regarding the noise, Members must obtain written or audio/video statements from complainant(s) to support a charge.

Powers of Arrest under *Noise Control By-Law No. 7044*

- 4.9. Members must attempt to de-escalate a noise complaint and resolve the incident before taking enforcement action.
- 4.10. Section 133 of the *Offence Act* states the provisions of the *Criminal Code* relating to offences punishable on summary conviction apply. Therefore, the summary conviction powers of arrest in section 495 of the *Criminal Code* can apply to Noise By-law offences when a person is found committing an offence and either refuses to identify themselves or the Member has reasonable grounds to believe there will be a continuation of the offence.
- 4.11. Once a Member is satisfied that the person responsible for the noise has been identified and that there will not be a continuation of the offence, the Member must release the person and swear a long form information before a provincial court judge recommending a charge under *Noise By-Law 7044* and request a summons.

Noise – Parties and Gatherings

- 4.12. Members attending a noisy party or gathering complaint will attempt to get the cooperation of a person in charge of the premises or of the occupants to reduce the volume of the noise to a point where it no longer disturbs people in the neighbourhood.
- 4.13. Prior to speaking to the person in charge of the premises, the investigating Member should consider speaking to the complainant to obtain all the relevant facts, if possible, including:
 - i. the full particulars of the persons owning or renting the premises, if known;
 - ii. the duration of the noise;
 - iii. how the noise is affecting the complainant(s); and
 - iv. incident history of noise complaints at the location.
- 4.14. If a noisy party is occurring outside a dwelling house and has escalated to a disturbance, police action is necessary to restore order in the neighbourhood. The assigned Member will notify their Supervisor of the nature of the disturbance, including the name of the person in control of the premises, approximate number of people present, age group, attitude of the group, and signs of intoxication, yelling, swearing, or fighting.

4.15. If there are indications that the house party may become unruly or that large numbers of people are involved, the Supervisor must attend the scene, assess the situation, and then ensure if practicable, that the following information is obtained:

- i. the name and age of the person responsible for the premises;
- ii. the name, address, and telephone number of the property owner, and
- iii. the number of people invited to attend.

4.16. Members will attempt to establish communication with those responsible for the premises, emphasizing that the objective is to keep the peace, prevent a continuation of the disturbance, and only take enforcement action where necessary.

4.17. Members will inform the person responsible for the premises, that further complaints may result in an escalation of enforcement action, up to and including arrest.

4.18. If attendees of the party are under 19 years, and have been or are consuming alcohol, consider taking action under OP 4.51.4 *Intoxicated Young Persons*.

Powers of Arrest

4.19. If people are found in a public place who are intoxicated and/or who are committing a breach of the peace or causing a disturbance, consider the remedies available under the *Liquor Control and Licensing Act* (LCLA) and the *Criminal Code*:

- i. Section 74 of the LCLA authorizes Members to arrest any person found to be intoxicated in a **public place**;
- ii. Section 31 of the *Criminal Code* provides Members the authority to arrest a person whom the Member witnesses committing a breach of the peace in a **public place**; and
- iii. Section 175 of the *Criminal Code* provides Members the authority to arrest a person causing a disturbance in a **public place**.

Note: there is no authority to arrest a person for breach of the peace or cause a disturbance that is occurring in a private premises.

4.20. In the most serious situations of multiple and persistent noise violations, Members may consider a charge of mischief under s. 430 (1) of the *Criminal Code*. In these situations, Members must:

- i. obtain prior approval from a Supervisor before arresting or recommending charges against the person responsible; and
- ii. obtain written or audio/video statements from one or more complainant(s) that provides specific detail how the noise interferes in the lawful use, enjoyment, or operation of that person's property.

4.21. In all cases where enforcement action is taken, the assigned Member must complete a PRIME-BC General Occurrence report (including Report to Crown Counsel, as required).

APPENDIX A: DEFINITIONS

“Complainant” means a person who contacts SPS requesting assistance or police action.

“Member” means a sworn Police Officer appointed by the Surrey Police Board.

“PRIME-BC” means the Police Records Information Management Environment, British Columbia's police records management system.

“SPS” means Surrey Police Service.

“Supervisor” means a Sergeant, Staff Sergeant, Inspector, Superintendent, Deputy Chief Constable, Chief Constable, and any other person acting in a Supervisory capacity who is accountable for a particular area or shift on behalf of SPS.

APPENDIX B: REFERENCES

Criminal Code, R.S.C. 1985, c. C-46

Surrey Noise Control By-law, 1982, No. 7044

Liquor Control and Licensing Act, S.B.C. 2015, c. 19

Offence Act, R.S.B.C. 1996, c. 338