

NO: R128

COUNCIL DATE: July 13, 2009

REGULAR COUNCIL

TO: Mayor -& Council

DATE: July 13, 2009

FROM: General Manager, Planning and Development

**FILE: 3900-20-7944
0540-20 (AAC)**

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

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Approve amendments to Surrey Noise Control By-law, 1982, No. 7044, as documented in Appendix I, 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 for the required readings.

INTENT

The purpose 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 reflect the revised Provincial guidelines.

BACKGROUND

In 2001, the Ministry of Agriculture and Lands 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 that study, the Ministry of Agriculture and Lands approved a set of guidelines known as "Farm Practices – Wildlife Damage Control" (the "Guidelines"). These Guidelines, updated in June 2008, are attached as Appendix II.

The Guidelines are designed to help municipalities structure related by-law provisions. Municipal by-laws can be more lenient but should not be more restrictive than the Ministry's Guidelines.

The Agricultural Advisory Committee ("AAC"), at its meeting on September 4, 2008, received correspondence from the Ministry of Agriculture and Lands pertaining to the updated Guidelines. The revisions to the Guidelines included:

- Introduction of a mid-day break in the operation of bird scare devices, between 12:00 p.m. and 3:00 p.m.; and
- Increasing the separation distance between a noise scare device and a neighbouring residence from 150 metres to 200 metres.

DISCUSSION

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 Noise Control By-law captures both categories of devices under one definition, "Noise Scare Device".

The Ministry's updated Guidelines include a mid-day break in the use of noise scare devices between noon and 3:00 pm. Previously, the Guidelines provided that noise scare devices could operate continuously between 6:30 am and 8:00 pm or dawn to dusk, whichever hours are shorter in duration.

The second change increases the separation distance between a noise scare device and a neighbouring residence from 150 metres to 200 metres. The Guidelines previously recommended a distance of 150 metres between a noise scare device and a neighbouring residence and a 300-metre separation between a noise scare device and an urban-residential ALR edge. The two situations have now been combined in the Guidelines and the 200-metre separation distance would apply to all residences.

Incorporation of the updated Guidelines into the Noise Control By-law was discussed by the AAC at its September 4, 2008 meeting. The AAC supported the recommendation that noise scare devices not operate between noon and 3:00 pm, but did not support the second revision pertaining to the change in separation distance of 200-metres between a noise scare device and any residence.

The Noise Control By-law currently requires a 150-metre separation between a noise scare device and an adjacent residence. This 150-metre separation distance has been in place since the 2003 amendment to the Noise Control By-law. Prior to that time, there was no specified distance in the Noise Control By-law.

The AAC indicated that increasing the separation distance between a noise scare device and any neighbouring residences would unduly affect smaller, five acre farms, as the typical five acre parcel would be unable to comply. A 150-metre separation distance allows a typical five-acre farm parcel in Surrey (100 metres by 200 metres) to comply with the separation requirements and still operate a bird scare device to protect the berry crop.

On this basis, this report recommends that the existing 150 metre separation distance requirement continue to apply to residences located within the ALR and that the new 200-metre separation distance only be applicable to neighbouring residences located outside the ALR. A 200 metre separation can be achieved between a bird scare device and a residence along the ALR edge due to the 37.5 metre building setback requirement to residences on the developable side of the ALR boundary.

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

CONCLUSION

Based on the above discussion, it is recommended that Council:

- Approve amendments to the Noise Control By-law, as documented in Appendix I, related to the use of audible bird scare devices in protecting agricultural crops from damage by birds; and
- Instruct the City Clerk to introduce the necessary amendment by-law for the required readings.

Original signed by
Jean Lamontagne
General Manager,
Planning and Development

PH/kms/saw

Attachments

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

Appendix II Farm Practices – Wildlife Damage Control Guidelines (June 2008)

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, as amended:

1. Delete existing Sub-Section B.6 (b) in its entirety and replace it with the following:

"(b) the Noise Scare Device may only be operated between 06:30 hours to 12:00 hours and 15:00 hours to 20:00 hours or dawn to dusk (excluding 12:00 hours to 15:00 hours), whichever is of lesser duration;"

2. In Sub-Section B.6 (j) replace the sentence: "a Noise Scare Device shall not be located within 150 metres of a neighbouring residence." with the following phrase:

"(j) a Noise Scare Device shall not be located within 150 metres of a neighbouring residence that is located within the Agricultural Land Reserve and within 200 metres of a neighbouring residence located outside of the Agricultural Land Reserve."



Order No. 870.218-59
June 2008

FARM PRACTICES SOUTH COASTAL BC WILDLIFE DAMAGE CONTROL

Description

Wildlife can disrupt, damage and harm agricultural crops and livestock, the land they are raised on and the infrastructure and equipment needed to raise them. Wildlife can also spread undesirable insects, weeds and diseases.

Numerous methods are used to control or reduce the impact wildlife has on agricultural enterprises. These include fencing, netting, scare tactics, repellents, trapping, the use of firearms and poisoning, habitat modification and cultural management.

Nuisance Concerns

The three main disturbances mentioned in the *Farm Practices Protection (Right to Farm) Act* are odour, noise and dust. Of particular concern to wildlife damage control practices is noise.

Noise

Farmers engage in a variety of activities that generate noise. Most equipment generates some noise. Noise is defined as any sound that is audible but judged to be an unwanted, irregular or erratic disturbance. Wildlife scare devices may create noise as a scare tactic. Noise may be generated continuously or intermittently.

See Nuisance Reference: Noise

Activities and Operations

Fencing

A fence is a constructed barrier intended to prevent the intrusion or escape of undesirable species. Common fence designs to protect crops from wildlife are woven wire fences and electric fences or a combination of the two. Electric fences along pedestrian areas should be posted with warning signs.

Habitat Modification and Management

Habitat that may be especially suited and attractive to wildlife can be modified or eliminated. Similarly, access to the food, water and shelter wildlife requires can be reduced or eliminated. Cultural management techniques such as mowing, cutting down weeds and plant debris, and removing breeding and hiding places are also effective. Land leveling or contouring to reduce water ponding may be effective in reducing the birds' attraction to a field.

See Farm Practice: Farmstead Maintenance
 Habitat Management

Netting

Netting is used to prevent birds and animals from entering valued areas. Overhead nets covering the entire production area are normally used in crops that are harvested multiple times such as blueberries. Nets covering individual rows are often used in grapes and sometimes in cherries. Screens or netting should be incorporated in new buildings to keep birds out of farm structures that contain feed or feeding areas. Plastic strips can be used to cover drive-through openings in the barn.

Repellents and Deterrents

Repellents that keep predators away or reduce their numbers include, but are not limited to, the following:

- natural repellents including plants, animals and natural products that are unpleasant to unwanted species of wildlife and
- chemical repellents that repel unwanted species of wildlife.

See Farm Practice: Pesticides

Scare Tactics

Various devices are used to scare wildlife away from crop land, livestock and farm animals. The most common methods are:

- Audible devices including, but not limited to:
- propane-fired cannons or exploders;
- broadcasting general sounds designed to unsettle birds;
- broadcasting bird calls such as distress, alarm and predator calls;
- shell launcher (orchard pistol) with various shells (screecher and banger);
- motor cycles or vehicles; and
- people clapping hands, banging pails, blowing air horns etc.

Visual devices including, but not limited to:

- inflated owls and other fake predators;
- kites with likenesses of predatory birds such as owls, hawks, etc.;
- scarecrows;
- Mylar strips or flash tape; and
- scare-eye balloons.

To be effective in scaring wildlife, a variety of scare tactics should be used in a manner that prevents the birds from becoming used to the scare tactics. Farmers should monitor the wildlife, their habits and the crop damage and develop an integrated wildlife management plan to minimize crop damage and loss.

The following guidelines can help reduce the impact noisemakers have on neighbors:

- use noise devices only when required for the protection of specific crops and only when a problem is evident;
- operate noise devices only between dawn and dusk;
- where possible, aim directional sound-producing devices away from neighbors;
- maintain the devices properly to avoid continuing noise when exploders are shut off; and
- screen pens containing fur bearing animals to reduce attraction of birds.

See Farm Practice: Mobile Equipment
Stationary Equipment

Audible Bird Scare Devices – South Coastal BC Only

Audible bird scare devices can be annoying to nearby residents. The Farm Industry Review Board (May 1999) and the Ministry (February 2002 and February 2004) have reviewed this issue. As a result of these reviews, the Ministry has revised the guidelines for the use of audible bird scare devices. Audible bird scare devices are divided into two main categories.

Category 'A' bird scare devices create an impulse sound. Impulse sound is from impacts or explosions. Propane-fueled exploders or cannons are an example of Category 'A' devices. Firearms and shell launchers such as orchard pistols are not included.

Category 'B' bird scare devices are any other stationary device, not in Category 'A', which generate sounds to scare or disturb birds. Examples are devices that broadcast birdcalls or other sounds through loudspeakers. Firearms and shell launchers such as orchard pistols are not included.

Guidelines applying to both Category A and B devices are as follows:

Farmers:

- should operate devices only between 6:30 a.m. and 8:00 p.m. local time or dawn to dusk, whichever is of lesser duration;
- should operate as few as possible on a given farm site up to a maximum of one device per two hectares of cropland at any one time;
- should try to alternate or relocate devices being used on a farm operation at least every 4 days;
- should maintain devices, including timing mechanisms, to ensure they operate properly and not outside the recommended hours of operation;
- should use devices only as part of a wildlife predation management plan;
- should establish a local contact person for each farm where the owner/operator does not live within a reasonable distance of the farm where devices are used; and
- may use devices for the protection of crops.

Guidelines applying only to Category A devices are as follows:

Farmers:

- should operate devices with a firing frequency of no more than one firing per 5 minutes for single shot devices and no more than 11 activations or maximum of 33 shots in any hour for a multiple-shot device. Multiple shots from a device are considered as one activation if they occur in less than a 30-second period;
- should maintain a 200 meter separation distance between a device and a neighbouring residence. Where written permission from the owner of a neighbouring residence is obtained, the separation distance can be waived.
- Should not operate devices between noon and 3pm.

Guidelines applying only to Category B devices are as follows:

Farmers:

- should maintain a 100 meter separation distance between a device and a neighbouring residence. Where written permission from the owner of a neighbouring residence is obtained, the separation distance can be waived.

Guidelines for shell launchers (orchard pistols) :

Farmers:

- Should operate shell launchers following guidelines for Category A devices except for the guidelines on number of devices per hectare, firing frequency and mid-day break.
- Should not operate "bear bangers" as a bird scare device.

Wildlife Control

Sometimes it is necessary to remove certain wildlife species or individuals that are doing too much damage to the crops or livestock which are being farmed. Removal methods include:

- trapping (both live and lethal traps can be used);
- crossbow or bow and arrow;
- firearms to scare away or kill wildlife; and
- poisoning with registered rodenticide baits and/or fumigants (pocket gophers, ground squirrels).

See Farm Practice: Pesticides
Pest Management

Legislation

Information on federal and provincial legislation can be found in Appendices B and C. Acts, regulations and bylaws that regulate or may affect wildlife damage control practices include, but are not limited to, the following:

Federal

Fisheries Act – protects fish and fish habitat

Migratory Birds Convention Act – protects migratory birds

Pest Control Products Act – ensures the safety, merit and value of pest control products

Provincial

Fish Protection Act – protects fish and fish habitat by limiting licences in water short regions and providing directives for residential, commercial and industrial development

Pesticide Control Act - regulates all aspects of pesticide sale, transport, storage and use

Wildlife Act – regulates hunting and declares and protects endangered species

Local Government

Applicable *Firearms Bylaws* where in place.

Publications

Publications that provide further information on wildlife damage control include, but are not limited to, the following (refer to Appendix D for details):

British Columbia Environmental Farm Plan Reference Guide

BC Agricultural Fencing Handbook

Integrated Bird Management – Blueberries

Netting for Bird Control in Blueberries – A Decision-making Guide

Netting for Bird Control in Cherries – A Decision-making Guide

Netting for Bird Control in Grapes – A Decision-making Guide

Rodent and Bird Control in Farm Buildings

Rodent Control on Agricultural Land in British Columbia

Suppliers of Bird Control Materials and Equipment

Watershed Stewardship: A Guide for Agriculture