Updated August 2025

re: prohibition of amplified music and performance in public spaces

The Problem

The regulation of amplified music and public performance has fostered a false notion in municipal administration and the public; that amplified music or public performance is the edge of a slippery slope to chaos. There are other behaviours that are precursors to conflict, but music is more often associated with celebration and socializing, not conflict. Compared to other major cities in the world, Vancouver stands in stark contrast, with an almost sterile public social scene. Aside from a small set of major events, there is a void of free, spontaneous and diverse interaction centred around music and socializing.

A simple observational study will prove the majority of public space users either enjoy the presence of entertainers and small gatherings, or they're indifferent. Musical gatherings are a visceral indication of vibrant and healthy social activity and celebration. The collective motivation is toward enjoyment, not conflict.

Instead we have a regulatory framework that establishes absolute barriers to amplified music, and rewards a tiny minority of chronic complainers. The negative social effect is dramatic, pernicious, and pervasive, most public spaces are completely barren of spontaneous music and entertainment. It has actually been so long since these activities were common in Vancouver, that many people have a confused or suspicious response to them today. We've actually lost the sense that music and gathering is an intrinsically good thing.

The source of antagonism in current regulation is the desire of Administration for simple and swift resolution of "noise" complaints. Hence, we have a bylaw written far too broadly in an attempt to create a simple, binary situation: amplified music – bad / no amplified music – good. This is in direct opposition to the public right to the full and rich 'Reasonable Enjoyment' of public space. This type of regulation draws the line too far toward simplicity, at a devastating cost to reasonable enjoyment and social cohesion.

Finally, there is actually deep legal support for including amplified music in the definition of reasonable enjoyment and it's surprising no one has challenged the validity of the bylaws thus far. From the Universal Declaration of Human Rights, the Canadian Charter of Rights and Freedoms, and the body of case law, the right to free expression in the public square, by any means or medium, is practically spelled out specifically. A residence is the location of special protections for peace and solitude, but public space is the place to protect the diverse social interaction that is essential to human health. So the task remains to do a much better job of reducing conflict and improving administration, as Vancouver society attempts to transition to a more normative social context.

Unfortunately, both the parks and the streets have seen a steady pressure of negative enforcement instead, from contract security guards, park wardens, bylaw officers, and police. So despite the overwhelming legal support for freedom in public spaces, literally thousands of enforcers are dispatched every day, with misinformed instructions, unreasonable triggers for action, and armed with aggressive penalties, to swiftly stop music and performance.

Solutions

Solutions are found in addressing the narrow sources of conflict. The following points describe the sources of conflict under the current regime and I describe clear amendments to the regulation to solve each of them;

1) The Science of Sound

Metrics is a very important part of an impartial standard; that is, measurement of a sound level that can support a definition of nuisance. Science shows us that sound drops off dramatically as a factor of distance, so knowing the sound level at the source, we can accurately infer the maximum sound level possible at a complainant's location.

In my case I know the sound level of my speakers at the street is often 10 db lower than the sound level of the traffic noise. Outdoor sound intensity drops as the inverse square of the distance from the source. This results in a 6 dB reduction in sound pressure level each time the distance from the source doubles. In an apartment just a block away, the sound of my music will be lower than the sound of the refrigerator or air conditioner, since we are starting at less than 65db at my speakers.

2) The Psychology of Sound

Here we come to the rub. The problem is actually not the measurable sound level at a residential window. It can be proven it is most often lower than the sound of the city. The problem is that music is identifiable at a significantly lower level than the sound of the city and music is a unique identifier of the source, providing complainers with an easy target.

This is where we cross over into psychology from physics. Although the general noise of the city is loud, it provides no particular focus for remedy. It also falls into a category of "accepted" sounds even though sirens, horns and engines regularly exceed the volume levels of the music by a factor of 2 or 3. A tiny rhythmic sound, at a very low level, is often identified as nuisance sound for well known reasons:

- It can readily be associated with a source.
- That source is considered by the complainant to be non-essential, or at worst an irritant.
- The identity of the music also indicates a cultural context the listener may not agree with. (in less polite terms it may activate a prejudice in the listener)

None of these motivations are directed at background city noise even though it has higher volume levels.

3) Conflict from complainants:

a) Some people are offended because their own **definition of the public space** conflicts with the temporary and reasonable use others have in mind, or that they incorrectly expect authorities to enforce the same peace in the public space, as they have at their

residence. This is in error. The designation of ‘small party’ zones and performance spaces would send a clear signal to all, that tranquility or some other definition of order, is not a reasonable expectation in the public square. The municipal regulation must set out and protect the public social freedoms outlined in higher charter rights.

b) **One-in-a-thousand** cannot set the tone for all. This issue is dealt with repeatedly in the body of case law, but frequently in a residential setting, where access to peace is a primary right at home. The transfer of the ‘expectation of peace’ directly to the public square, is a mistake, and inverts the concept of the freedoms set out in the charter. In the public square the diversity and freedom of social interaction is paramount, as there are alternative, quiet spaces outdoors for an aggrieved individual to retire to.

   Current regulation has empowered the one-in-a-thousand complainers so much, that a transition period must now be used to determine a fair minimum number of complaints required before enforcement is triggered. The lone chronic complainer cannot expect immediate action against reasonable enjoyment and assembly in the public square.

   The concept of protecting reasonable enjoyment of the public square requires preventing a negatively motivated minority (one-in-a-thousand complainers) from having an oppressive effect on a positively motivated majority.
   i. some people are offended because their individual routine is interrupted
   ii. some people are just having a bad day and quickly engage in conflict
   iii. a few carry underlying mental health or socialization burdens

   None of these personal definitions of nuisance are a sufficient cause for enforcement action against the reasonable enjoyment of public space. i) and ii) will generally be satisfied with their complaint call being handled in a courteous and informative manner and they will move themselves on to another location. iii) is often characterized by an obsessive desire to remain engaged with the conflict and will likely require a site visit by officials to apply active disengagement. A very small minority of people will walk up to an event in progress, declare it a blight on society, and then remain seated in close proximity, venting anger the entire time.

4) Just Cause for Action:

The reasonable and spontaneous enjoyment of public space is one of the highest protected rights around the world. Since we can frequently prove the sound levels are far below the background of the city noise at a residence window, that leaves us with the enforcement requests that simply flow from the sound being identifiable as in Section 2 or the rare cases of Section 3, and those causes for action do not meet the standard for an individual to curb the reasonable enjoyment, spontaneous assembly or social engagement of a group in a public space.

5) Is the Activity Causing Disorder:

This factor is often absent in enforcement activities, yet it is essential to a lawful enforcement. It is also common that disinformation or misinformation is transmitted by the enforcing officer at the time of such an engagement.

This type of enforcement infraction fails to meet the following test; is the activity primarily a cause of social disorder, noting this type of ‘disorder’ is not the same as a disgruntled observer imposing conflict on a group engaged in orderly reasonable enjoyment. Is the activity, by design or intent, largely causing harm, nuisance, breaking other regulations, or failing to respect the rights of others, which must be triggers other than those discussed in Sections 2 & 3.

Conflict emanating from a malign event is quite rare and would likely become rarer within a complete and well established regulatory framework. Most poor quality buskers will eventually give up when they are unable to garner an audience and this is a small, temporary nuisance society should bear in the name of protecting diversity. A healthy society must have at least this much tolerance in order to function effectively and a small annoyance in a park is an effective exercise of that skill. The not-acting-on-a-small-number-of-complaints concept applies in this case.

A cluster of complaints in a short period of time is the signal to act. This is a clearer indication that a person or group is clearly rising to the test of public nuisance causing disorder. Caution should still be the standard, since 911 is available for violent and threatening situations. A simple and effective enforcement code should be developed to define ‘offensive activity’, such that protected activity can be easily distinguished from disorderly conduct such as; extreme amplified volume (as measured at a residence), hate speech, threatening, violence, safety concerns.

Offensive, disorderly activity is the expected target of current regulation, but its current implementations capture reasonable enjoyment instead of nuisance. We already have tested definitions of intoxication, aggression, nuisance, mischief, and rights violations in common law, that can capture this problem narrowly and effectively. Adding such definitions to the regulation of public space would actually allow for a more timely enforcement of the rare and antisocial shoulder cases.

6) Simple changes with a profoundly positive social effect:

a) Correctly define the target for enforcement. The broad prohibition of all amplified music or performance is not only the wrong target, it is the wrong target in the wrong place and violates the principle that law must be written narrowly. There are antisocial activities that should be the target, to ensure safe and diverse reasonable enjoyment.
b) Designated ‘small party’ zones and performance spaces – the experience during Covid showed public spaces can support a significant amount of diverse, prosocial activity. These zones should be common, not the exception, acknowledging the protection of the fundamental freedoms in public space, while separating them from residential conflicts. Quiet zones should be the minority.
c) Fees for licensing of performance represent a significant percentage of tip revenue for individual buskers and as such are an impediment to diverse and pro-social entertainment activities. Licensing and fees do not add to the quality of social engagement in public space, are a minor revenue source, and should be abolished. Arbitrary regulation and fees should not be a barrier to performers motivated to give their work to the public. Instead there should be places for this to happen safely, freely and spontaneously.

d) A small number of complaints should not be the threshold for enforcement action, but should instead trigger an ‘eyes on site’ response to gather facts. The difference between healthy social activity and provocation is clear and well defined in law. An enforcement visit can confirm this and also ensure there is not a ‘one-in-a-thousand’ complainant who has not availed themselves of the opportunity to move away to a more appropriate location.
e) A high volume of complaints is a signal of an extraordinary antisocial conflict. Extraordinary events require staff to have extraordinary communication training, a clear process for gathering actionable evidence, regulation to expressly protect reasonable enjoyment from provocation or fomenting, and a requirement to review the quality, conformity, and results of each response as a means to improve outcomes.
f) The trigger for enforcement must show there is a cause of clear and present disorder.
g) Develop a code of complaint handling and enforcement response that preserves the tone of social interaction you’re responsible to protect. An aggressive military response to preserving an enjoyable social experience runs counter to the goal of the regulation. We can codify a pro-social enforcement response, that starts with de-escalation and active disengagement. When dealing with the one-in-a-thousand complainers [see *section 1) b) above*], the call centre for receiving complaints must also be used as a point of public education. Every call should be seen as an opportunity to improve the pro-social behaviour of citizens. Any interaction that implies justification for, or rewards one-in-a-thousand behaviour with enforcement action on the ground, only trains the complainer to repeatedly act against reasonable enjoyment in the future. Clear and effective scripts should be developed for this purpose to ensure a consistent and effective response.
h) Escalation is always available when needed, but it should never be the first response.
i) Commercial property owners are often required to ‘set back’ the street level of their buildings so as not to create the ‘concrete canyons’ effect. They are also often required to enhance these setbacks with art and street furniture to facilitate public comfort and socializing. The City of Vancouver has a policy requiring such “Privately Owned Public Spaces” to afford the public all the rights they would have on the adjacent public sidewalk. This is not currently the case. Owners are hiring security services that are incorrectly instructed to clear the spaces, who act outside the established policy, and often engage police to clear lawful users from the “POP”. This activity needs to be addressed at multiple levels to ensure the spirit of public policy is correctly implemented, development agreements are honoured, and access rights are protected.
j) There are commercial operators adjacent to publicly owned plazas. The plazas have been specifically designed to enhance public gathering on public lands. Restaurants, Cafes, and Business Associations are using the broadcast of music from their places of business to impose on the public spaces. They make music in the public space impossible, due to the conflict with their outdoor speakers. The arrival of music from citizens or buskers in these plazas should require the business to immediately shut off the outdoor music they are broadcasting. Citizen activity takes priority in publicly owned plazas, and businesses must not interfere or impose on that activity.

Conclusion:

A simple five point implementation of amendments to regulation can have a long lasting and profoundly positive social effect on Vancouver social health;

I. Amend bylaws to designate ‘small party’ zones and performance spaces as the norm not the exception. These should not be close to residential spaces.

II. Abolish licensing and permit fees for performers, they block spontaneous events, and do not improve the quality of reasonable enjoyment.

III. Develop simple complaint-handling scripts for call centres, that protect reasonable enjoyment, prioritize disengagement and educate complainants on prosocial behaviour. Individual complaints are not the threshold for enforcement in the public square.

IV. The trigger for enforcement in public space should be a rapid cluster of multiple complaints in a short space of time. For multiple complaint situations, develop an enforcement code that starts with pro-social de-escalation and disengagement, before moving to strict enforcement as a last resort. Prolonged or intransigent interference, with the reasonable enjoyment of any location in the park, should draw the highest penalty for anti-social behaviour.

V. Ensure commercial property owners are complying with “Privately Owned Public Space” municipal policy.

Government has a responsibility to protect reasonable enjoyment and freedom of assembly, and is barred from writing sweeping prohibitions in law. Vancouver citizens have the right to open opportunities for vibrant, spontaneous and diverse social engagement.

Thank you for your attention to this matter.

Regards,

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