

April 7, 2024

To Lord Mayor and all Town Councilors

The Town of Niagara-on-the-Lake has grown steadily for the past three decades and growth is expected to continue well into the future. The Town's population grew from 12,945 in 1991<sup>1</sup> to 19,088 in 2021<sup>2</sup>. The New Regional Official plan forecasts a population of 28,900 by 2051<sup>3</sup>.

With continued growth, Niagara-on-the-Lake will need to be more proactive when it comes to meeting the needs of its residents and businesses. New By-laws will be required and others will need to be amended to cope with ongoing growth and other important issues as they arise.

One by-law that has gained headlines in recent years is the current Noise By-law. This By-law came into effect in 2012, and in many cases, it has been difficult to enforce. Between January 2020 and January 2024, the Town's Enforcement Department recorded 229 noise complaints of which 31.4% (72) were specific to music.

Four years ago, Town staff proposed a change to the Noise By-law. The change recommended measuring the level of noise created throughout the Town by using maximum decibel levels as a new enforcement tool. Unfortunately, certain business enterprises objected to the By-law being updated. These businesses argued the change would impact their business and curtail them from holding concerts, celebrating weddings and having musical events etc.

The proposed update to the Noise By-law came before Council on August 10, 2020. After some discussion, the Lord Mayor of the day moved a motion for staff to no longer pursue the noise by-law change, rather the Lord Mayor introduced a motion to direct staff to provide a workshop on the existing noise by-law and provide a staff report on any existing enforcement challenges. As a follow up, a subsequent newspaper article stated there were not enough By-law officers in Town to enforce the current By-law.

Since 2020, St. Davids Ratepayers Association has become aware of further noise complaints related to excessive noise generated by residential neighbours. In one case, a couple of local senior citizens have been impacted regularly since moving into their new home over five years ago. They have endured a 'neighbour's unreasonably loud nuisance noise (music) played for hours on end' during the day, both during the week and on weekends and particularly during the summer months. By-law officers and the police were not able to prevent the excessively loud music due to the wording in the current Noise By-law.

The General Provisions in the current Noise By-law state: "No person shall make, cause or permit Sound or Vibration at any time, which is likely to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the inhabitants of the Town. Furthermore, the By-law acknowledges people expect, and have a right to an environment free from unusual, unnecessary, or excessive Sound or Vibration or which may degrade the quality and tranquility of their life or cause nuisance.

1. Official Plan Review-Growth Analysis - by Watson & Associates Economists Limited - Oct. 16, 2015
2. Canada Census 2021
3. Niagara Region Official Plan 2022.

The adversely affected seniors recently sought out legal expertise. Their solicitor advised them the current Noise By-law is antiquated and cannot be enforced during the day. The reason lies in the fact that the prohibition by time and place (Schedule C) of the By-law supersedes the General Provisions noted above, however well meaning they may be.

It has become obvious the town's noise by-law requires updating, not only to protect existing residents and businesses but to be prepared for a greater population and building intensification.

We understand that a comprehensive update of the Noise By law would be a sizable undertaking. It might include (a) reviewing noise by-laws from other Ontario municipalities and possibly other provincial jurisdictions, (b) understanding the benefits of using approved sound metering devices to measure the level of sound and vibration in decibels, (c) retaining an acoustical engineer to analyze and recommend the best sound measuring devices/equipment and for the collection of data and (d) analyzing the needs of businesses and residents within the Town, based on zoning classification and distance separation (agricultural, residential, commercial and industrial zones etc.).

A more modest proposal is to only change the Noise By-law with regards to residential noise emitters ie. not to change the general restriction timing for non-residential purposes. Instead allow the general provisions in the current noise by-law to be enforceable twenty-four hours a day specifically for residential noise emitters; or create modified general provisions for daytime noise to allow some sort of daytime enforcement for excessive residential noise emitters.

Noise has an important environmental and mental health impact and should be a concern for all NOTL residents and businesses. Our Association supports an effective and fair Noise By-law that can be enforced by the Town and other enforcement authorities at any time of day.

Sincerely

The St. Davids Ratepayers Association Executive

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