



# Staff Report

## Legal Services – By-law

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**Report To:** COW-Finance, Admin, Fire, Legal, Community Services  
**Meeting Date:** June 26, 2023  
**Report Number:** FAF.23.102  
**Title:** Follow-Up Report to Astec Request for Exemption under Noise By-law  
**Prepared by:** Debbie Young, Interim Manager of By-law and Licensing

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### A. Recommendations

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THAT Council receive Staff Report FAF.23.102, entitled “Follow-Up Report to Astec Request for Exemption under Noise By-law”;

AND THAT Council does not extend the exemption Noise By-law and rely upon the Ministry of the Environment Conservation and Parks (“MECP”) requirements;

### B. Overview

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This report outlines what steps have been taken on behalf of staff to assist in the mitigation of the noise complaints by neighbours. It also sets out remediation attempts between Astec and the neighbours. The Town’s Noise By-law has been unclear as to whether or not Astec can operate daily and under what time frame. Staff agree that the noise by-law is old and requires some update and clarity. The MECP regulates the noise decibels of industries and have monitor’s Astec’s noise levels based on acoustic engineer reports provided.

### C. Background

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This matter was before council on May 8, 2023, at which time a deputation was made on behalf of Astec requesting an extension of an exemption under the Town’s Noise By-law. Staff have conducted some investigations into the noise complaints and have met with representatives of Astec to attempt to mitigate the issues in relation to the noise complaints.

When noise complaints have come into staff, a request is made from Astec to provide data that outlines the date and time of the noise event. Astec has a noise monitoring system in place and provides us with the noise decibel level and sometimes a video is attached to that noise event. These have been forwarded to the neighbours for their information.

## D. Analysis

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There appeared to be some concerns from neighbours of Astec surrounding the interpretation of the Town's Noise By-law 2002-09 (attached). Specifically section 3e) which states:

**"Noises or sounds related to the non-residential use of land that is permitted by a by-law enacted by the municipality pursuant to Section 34 of the *Planning Act* between the hours of 7:00 hours and 19:00 hours (By-law 2002-60)".**

The neighbours of Astec believe that the noise by-law means that Astec can only operate from Monday to Friday 7 a.m. to 7 p.m.

Astec's interpretation of the noise by-law is that they can operate anytime as they are zoned as Industrial.

Based on the discussions with the neighbours of Astec and with Astec, staff felt it was prudent to obtain a legal interpretation of that section of the noise by-law. On June 8, 2023, staff received such a legal interpretation that indicated as follows;

***"It is my opinion that the Town's by-law ought to be interpreted as exempting any noise or sound related to the nonresidential use of land where that non-residential use of land is permitted under the Town's Zoning By-law (or by the Niagara Escarpment Planning and Development Act). Further, and for clarity, the exemption does not require that a noise or sound exemption itself be specifically written into the Zoning By-law or NEPDA, as the case may be."***

After consideration of the legal opinion received, staff do not feel that an exemption under the Noise By-law is required for Astec.

Staff also have had discussions with the MECP, and they have advised that the acoustic engineer reports have deemed Astec to fall within the allowable limits of noise decibels.

Since May 8, 2023, there has only been one noise complaint which was received on May 14, 2023.

## E. Strategic Priorities

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### 1. Communication and Engagement

We will enhance communications and engagement between Town Staff, Town residents and stakeholders.

### 3. Community

We will protect and enhance the community feel and the character of the Town, while ensuring the responsible use of resources and restoration of nature.

#### **4. Quality of Life**

We will foster a high quality of life for full-time and part-time residents of all ages and stages, while welcoming visitors.

#### **F. Environmental Impacts**

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N/A

#### **G. Financial Impacts**

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None

#### **H. In Consultation With**

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Ryan Gibbons, Director of Community Services

#### **I. Public Engagement**

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The topic of this Staff Report has not been the subject of a Public Meeting and/or a Public Information Centre as neither a Public Meeting nor a Public Information Centre are required. However, any comments regarding this report should be submitted to Debbie Young, Interim Manager of By-law and Licensing at [bylawadmin@thebluemountains.ca](mailto:bylawadmin@thebluemountains.ca).

#### **J. Attached**

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None

Respectfully submitted,

Debbie Young  
Interim Manager By-law and Licensing

For more information, please contact  
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### Report Approval Details

Document Title:	FAF.23.102 Follow up report in response to Astec Request for Exemption under Noise By-law.docx
Attachments:	
Final Approval Date:	Jun 19, 2023

This report and all of its attachments were approved and signed as outlined below:

**Ryan Gibbons - Jun 19, 2023 - 9:08 AM**