

**- ADDENDUM -**  
**- GUELPH CITY COUNCIL MEETING -**  
**- March 25, 2013 -**

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**2013 CAO Performance Objectives**

- Presentation by Ann Pappert, CAO

**CAFE-2013.6 Renegotiation of The Elliott Promissory Note Agreement**

- Trevor Lee, CEO The Elliott Community, will be present to answer questions.

**OTES-2013.1 Public Nuisance By-law**

Delegations:

- Barry Milner
- Hugh Whitely
- Norah Chaloner
- Evelynne Sundholm
- Dave Sills, President, Guelph Civic League
- Andrew Eisen
- Richard Chaloner
- Keith Bellairs, on behalf of the Council for Canadians, Guelph Chapter
- Devin Foley
- Mike Schreiner
- James Reinhart
- Brian D. Skerrett

Correspondence:

- Barry Milner
- Morris Haley
- Dan Maitland
- Ram Das Soligo

**CON-2013.3 City of Guelph Response to Proposed Amendment 2 to The Growth Plan For The Greater Golden Horseshoe**

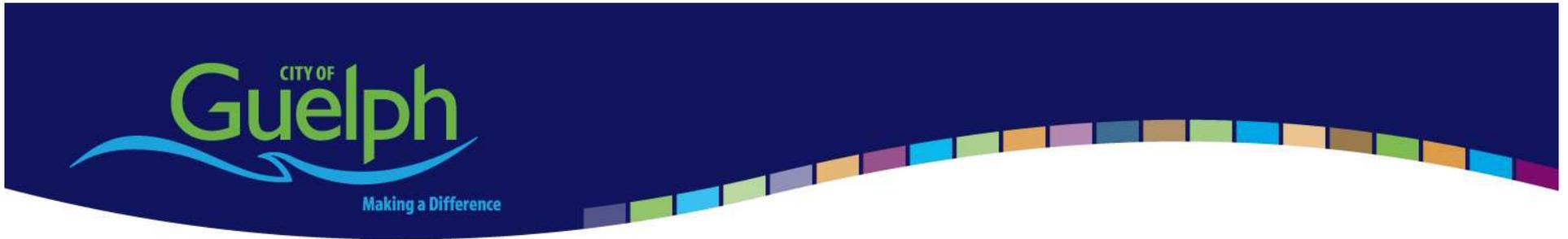
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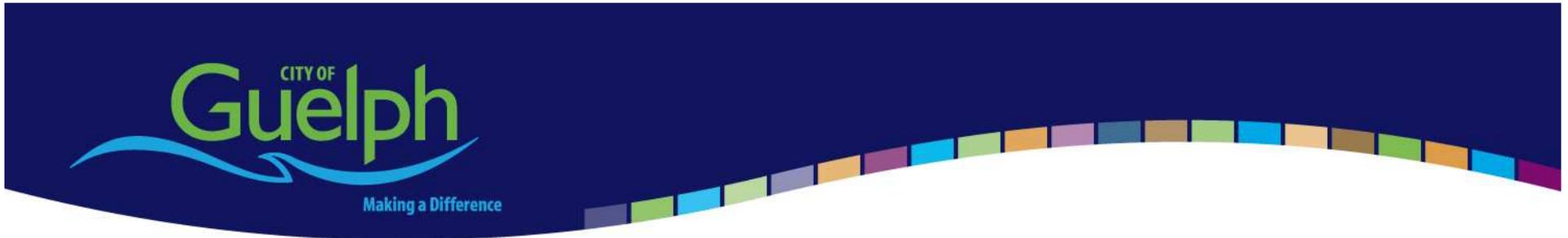
***"THAT By-law Numbers (2013)-19533 to (2013)-19548, inclusive, are hereby passed."***

## **BY-LAWS**

<p>By-law Number (2013)-19546 A by-law to authorize the execution of an Agreement between Coco Paving and The Corporation of the City of Guelph. (Contract No. 2-1301 for the annual asphalt contract)</p>	<p>To execute Contract No. 2-1301 for the annual asphalt contract as per Consent Report 2013.5.</p>
<p>By-law Number (2013)-19547 A by-law regulating public nuisances with the City of Guelph.</p>	<p>To regulate public nuisances within the City of Guelph as per OTES-2013.1 clause.</p>
<p>By-law Number (2013)-19548 A by-law to confirm the proceedings of meetings of Guelph City Council held March 4, 5 and 25, 2013.</p>	<p>To confirm Guelph City Council meetings of March 4, 5 and 25, 2013.</p>



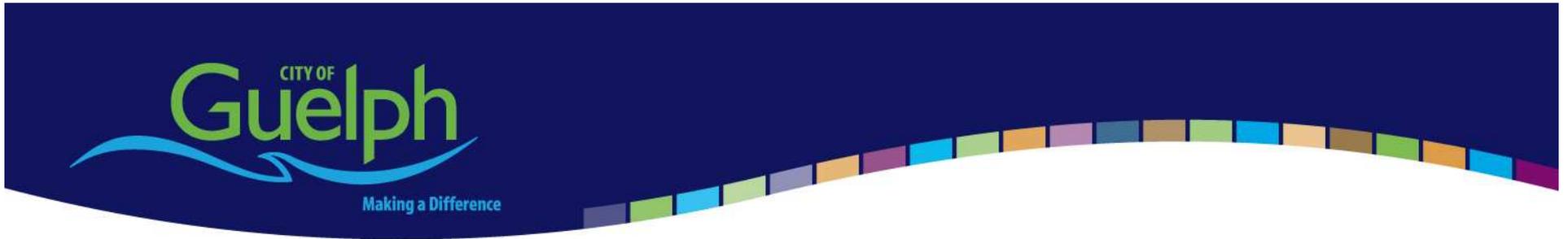
# CAO Performance Goals & Objectives



## **CAO Performance Goals**

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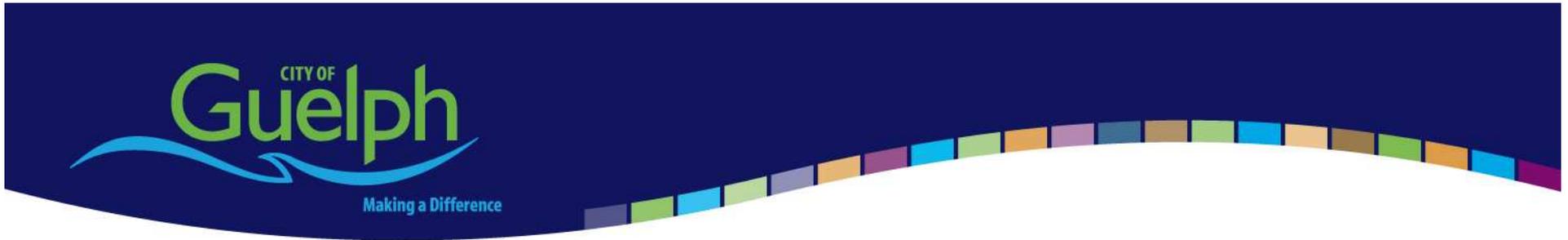
1. Transform local government to achieve community vision and mission.
2. Invest in employees to revitalize organization.
3. Build accountability, performance & renewal, through increased alignment & optimization.



4. Strengthen confidence, transparency and predictability of City budget.

5. Influence and assert Guelph interests with other levels of government.

6. Contribute a positive corporate reputation that attracts opportunity & prosperity.



## **2013 Performance Objectives**

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1. Report progress (KPIs)
2. Employee Engagement Action Plans
3. Organizational Assessment
4. Budget model: predictable & multi-year
5. Intergovernmental Action Plan
6. Corporate Identity

(12) “In respect of City Land, or applicable parts thereof, the Executive Director, in his/her sole discretion, considering the purposes of this by-law and the best interests of the City, is authorized to:” ...

..(12. (b)) “Issue and post or refuse to issue and post Signs prohibiting or \_\_\_\_\_ restricting activities that would otherwise be permitted pursuant to this by-law;” ..

(12. (c)) “On Signs, make permissions, prohibitions and restrictions of activities subject to such conditions, including, without limitation, conditions as to time, location, area, equipment, number of participants, types of activities, securing of other necessary approvals, indemnification and insurance coverage, as the Executive Director may find to be appropriate;”

## Draft Nuisance By-law

(definitions)

“ “Weapon” means any thing used, designed to be used or intended for use (a) in causing death or injury to any person, or (b) for the purpose of threatening or intimidating any person and, without restricting the generality of the foregoing, includes a firearm.”

(8) “While on City Land, no person shall, unless pursuant to an exemption pursuant to this by-law:”..

(8. (b)) ..“Be in possession of or use any Weapon;”

## Criminal Code of Canada regarding non-prohibited weapons

(“Certain weapons deemed not to be firearms”)

“(3) For the purposes of sections 91 to 95, 99 to 101, 103 to 107 and 117.03 of this Act and the provisions of the Firearms Act, the following weapons are deemed not to be firearms:”..

(3. (b)) ..“any device that is”..

(3.(b)(ii)) ..“intended by the person in possession of it to be used exclusively for the purpose for which it is designed;”

### (“Possession Offences”)

(“Possession of weapon for dangerous purpose”)

88. (1) “Every person commits an offence who carries or possesses a weapon, an imitation of a weapon, a prohibited device or any ammunition or prohibited ammunition for a purpose dangerous to the public peace or for the purpose of committing an offence.”

(“Carrying weapon while attending public meeting”)

89. (1) “Every person commits an offence who, without lawful excuse, carries a weapon, a prohibited device or any ammunition or prohibited ammunition while the person is attending or is on the way to attend a public meeting.”

(“Carrying concealed weapon”)

90. (1) Every person commits an offence who carries a weapon, a prohibited device or any prohibited ammunition concealed, unless the person is authorized under the Firearms Act to carry it concealed.

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## Criminal code regarding restricted or prohibited weapons (Including but not limited to):

91.(2), 92.(2), 93.(1), 94.(1), 96.(1), 99.(1), 100.(1), 101.(1), 103.(1), 104.(1),

# Criminal Code of Canada regarding non-prohibited weapons

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## Responsible example

“While on City Land, no person shall, unless pursuant to an exemption pursuant to this by-law:”..

(...) Carry a weapon **If:**

- (i) they are doing so for a purpose dangerous to the public peace or for the purpose of committing an offense, as defined in the criminal code of canada OR
- (ii) that person is currently attending or is on the way to attend a public meeting.”

# Criminal Code of Canada regarding non-prohibited weapons

("Certain weapons deemed not to be firearms")

"(3) For the purposes of sections 91 to 95, 99 to 101, 103 to 107 and 117.03 of this Act and the provisions of the Firearms Act, the following weapons are deemed not to be firearms:"..

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## ("Possession Offences")

("Possession of weapon for dangerous purpose")

88. (1) "Every person commits an offence who carries or possesses a weapon, an imitation of a weapon, a prohibited device or any ammunition or prohibited ammunition for a purpose dangerous to the public peace or for the purpose of committing an offence. "

("Carrying weapon while attending public meeting")

89. (1) "Every person commits an offence who, without lawful excuse, carries a weapon, a prohibited device or any ammunition or prohibited ammunition while the person is attending or is on the way to attend a public meeting."

("Carrying concealed weapon")

90. (1) Every person commits an offence who carries a weapon, a prohibited device or any prohibited ammunition concealed, unless the person is authorized under the Firearms Act to carry it concealed.

## Responsible?!?! example

"While in a public place, no person shall, unless pursuant to an exemption pursuant to this by-law:"..

(...) Carry a weapon **If:**

(i) they are doing so for a purpose dangerous to the public peace or for the purpose of committing an offense, as defined in the Criminal Code of Canada OR

(ii) that person is attending or is on the way to attend a public meeting.

(8) “While on City Land, no person shall, unless pursuant to an exemption pursuant to this by-law:”..

(8. (c) ...“Incite, encourage or participate in a Fight;”

(definitions)

“ “Fight means any one or more of the following:

(a) An application of force to another person;

(b) A threat, by act or gesture, to apply force to another person;

(c) Spitting, punching, kicking, or slapping at another person; or

(d) A threat, by act or gesture, to spit, punch, kick, or slap at another person;”

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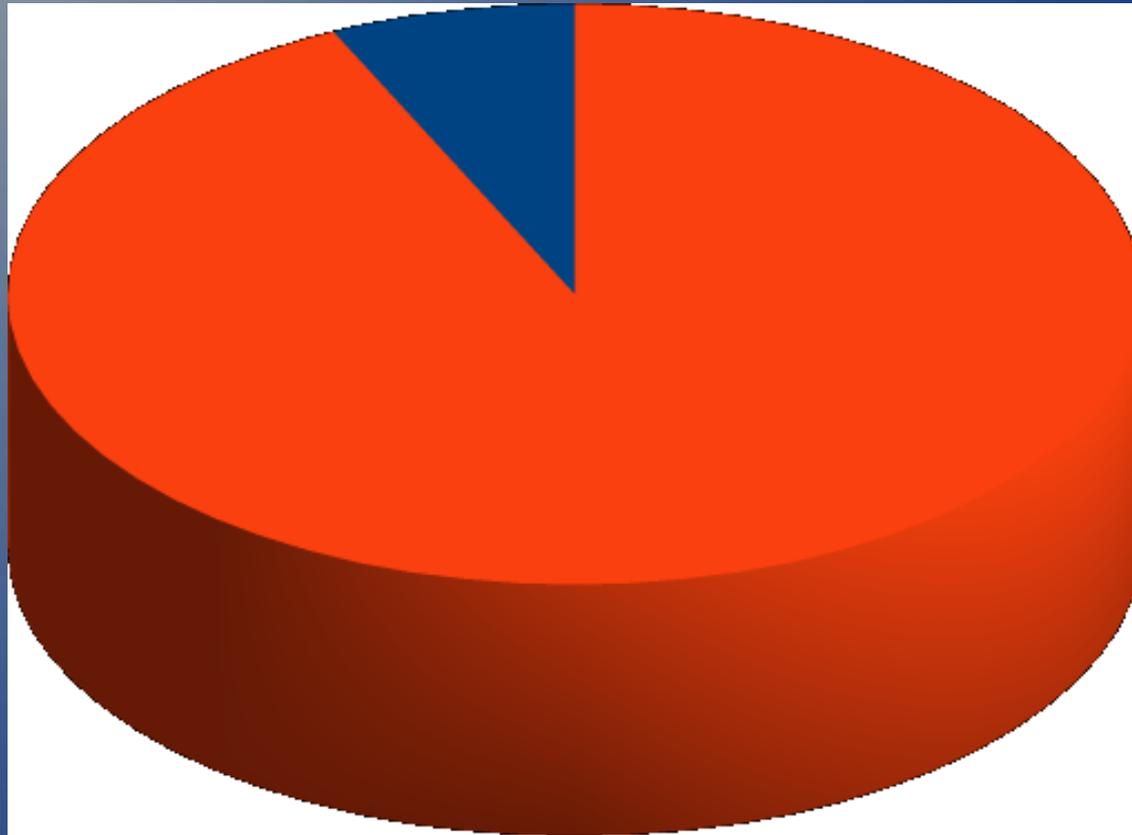
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# Merriam-webster student dictionary

## FASCISM

Pronunciation: fash-iz-m

Function: *noun*

Usage: *often capitalized*

: a political system headed by a dictator in which the government controls business and labor and opposition is not permitted

12." In respect of City Land, or applicable parts thereof, the **Executive Director, in his/her sole discretion, considering** the purposes of this by-law and the best interests of the City, is authorized to:"

12. (b)" Issue and post or refuse to issue and post Signs prohibiting or *restricting activities* that would *otherwise be permitted* pursuant to this by-law;"

8. While on City Land, no person shall, unless pursuant to an exemption pursuant to this by-law:

8. (e) "Sell, rent or barter, offer for sale, rental or bartering or display for sale, rental or bartering, any goods or services;"

8. (f) "**Carry on any** trade, occupation, **business** or profession;"

~~First draft protest restriction~~

**Still active: use of signs** and Enforcement of "nuisance parties"

example Sign conditions:

(c) On Signs, make permissions, prohibitions and restrictions of activities subject to such conditions, including, without limitation, conditions as to **time, location, area, equipment, number of participants, types of activities,** securing of other necessary approvals, **indemnification** and insurance coverage, **as the Executive Director may find to be appropriate;** and

Mayor / Members of Council

I wish to speak in favour of the Nuisance By-law. I would like to verify, in my opinion, that there has been ample opportunity to become involved in discussions. Changes have been made to reflect these discussions. I for one would like to have seen no changes from the original document; however this is not the case.

I spoke at the committee meeting and I believe you have that information in your package. I will not repeat what I said last week; however I would like to address concerns expressed by others at that meeting.

I want to draw some parallels to the concerns.

I was at one time a Lacrosse Referee. I refereed at the Junior, Senior and Major levels up to and including Canadian Championships. As a referee we had a rulebook and case study book to explain the rule. We were also provided with updates and interpretations as required. There were also supervisors that reviewed our performance. We had all of this information and direction; however we were still required to use judgement when calling a penalty. The thought process was: is it a penalty based on the interaction that has taken place; if so is the infraction a two minute minor, a five major or possibly a match penalty. Should penalties be assessed to one player or more than one player or team? In each case the decision had to be fair.

I see the enforcement of the by-law much the same. Officers who respond to or come upon a concern will also have the by-law and background information to base their decision. These officers are also supervised.

Those individuals who want to visit a city park and have an afternoon nap in the shade on a park bench or on a blanket, in my opinion would not be kept from doing so. The same is true for those parents who erect a sun shelter in a park to protect themselves and their children from the sun.

Enforcement decisions will be based on the same thought process I used as a referee.

As for the concerns related to requiring permits and not being able to demonstrate, I would like to draw some other comparisons.

I support the need for permits to allow the city an opportunity to cover the costs and keep taxes in check. I will use the Santa Claus Parade as an example. Currently the parade is required to obtain a permit and cover various costs. If the organizers changed the name to The Santa Claus March, they would not require the current permits or cover any costs. It is only a one day event.

As for erecting tents or camping on city property and in city parks, I would like to compare this to Ribfest. Once again this event requires permits and cover related costs.

The Midway and Ribbers both have facilities to spend the weekend. Could we call this event a Rib Demonstration? The permit and cost recovery would not be required and more money would be available to support their fundraising.

Another one day event that currently requires a permit and to pay expenses is the July 1<sup>st</sup> fireworks. I assume we could suggest that this involves explosives or a weapon. As it is less than twenty-four hours, can it also be considered a gathering requiring no permit?

Last summer the Lions Club were required to obtain permits and cover associated cost to close downtown streets for a car show. This event also was less than twenty-four hours.

The Multi-Culture and the Italian Festivals are required to obtain permits and cover costs. I believe you can draw your own comparisons.

The city operates splash pads around the city. May I suggest to those who want to jump in the fountain at St. George's Square, that they find the locations of the splash pads if they want to play in the water.

I could go on, however I won't. You can draw your own comparisons.

I believe if these community events require permits and to pay some or all related costs, other community spirited groups should be required the same. As a tax payer I support the idea of permits and cost recovery. Possibly we can reduce some operating expenses at budget time.

For those that believe their rights are being violated, I suggest that you step up to the plate as these other groups have and put your money down to support your cause.

Do not fall victim to those that want you to believe that children will no longer be able to operate a neighbourhood lemonade stand on their sidewalk or operate toy battery operated helicopters etc. in the parks.

As stated before, I believe staff will use common sense. You need to have the same confidence.

Barry Milner

**From:** M Haley  
**Sent:** March 20, 2013 1:40 PM  
**To:** Doug Godfrey  
**Subject:** Re: City of Guelph draft public nuisance by-law update

Hello Doug,

We spoke previously about the proposed nuisance by-law, specifically about nuisance parties.

1) The revised by-law still calls for the Landlord property to May be responsible for costs regarding nuisance party held by jthe Tenant(s). You noted very seldom would a landlord be held responsible for costs incurred by the City to deal with such an instance. No sane Landlord would ever agree for a Tenant to hold a nuisance party. Forbidding nuisance parties & similar bad behavioural events is a standard clause in most residential house leases that Landlords incurr.

I see no intrepertation to the by-law or comments within the Staff Report to indicate how that clause would be applied. Maybe the current City Administration would take the application view you described but there is no guarantee a future City Administration would take the same approach.

Bottom line, it's easier for the City to chase a Landlord for costs incurred then Tenants, just add costs incurred lto the tax bill. Has there been any discussion on what actual costs might be?

2) I understand the fine to be \$330 for nuisance parties & other nuisance infractions. I think the that fine is too low & should be much higher. \$750 or even \$1,000.

Thanks, Morris.

**Morris Haley**  
**Guelph, Ontario**

Hello Todd Dennis,

The final draft of the new 'nuisance' bylaw should not be passed as is but rather sent back to staff for more revision and more community consultation.

While I have sympathy for a nuisance party bylaw, this should not be coupled with a set of restrictions on freedom of expression and assembly which require government permission. The heavy hand of the state is provided too much discretion in this final draft to stymie legitimate voluntary expression of beliefs contrary to those of a voting majority on council. Nuisance protest needs to be tolerated so that individuals may express strongly felt views whether unpopular or otherwise and so that such individuals will not resort to more extreme actions having been stymied at the outset. The potential for abuse by the authorities is too great.

Would a predominantly pro-choice council grant permission to a pro-life protest symbolically held over a series of gestation weeks involving props and shelter?

Would a police service constable refrain from '(ab)using' such a bylaw in the face of an anti-police-brutality protest sustained over a series of days?

The final draft of the new 'nuisance' bylaw allows the state too much latitude to violate the libertarian spirit of the following two quotes:

"If we don't believe in freedom of expression for people we despise, we don't believe in it at all."

"I do not agree with what you have to say, but I'll defend to the death your right to say it."

Exercising the basic freedoms of a viable democracy should not be trivialized by coupling them with nuisance party restrictions for the convenience of a bylaw enforcer.

Thank you for your consideration.

Dan Maitland

Guelph

**From:** Das Soligo  
**Sent:** March 23, 2013 8:13 PM  
**To:** Clerks  
**Subject:** proposed nuisance by-law

To the Guelph City Councillors,

I would like to voice my concern with the proposed Nuisance By-Law. Along with many fellow residents, I believe that the proposed by-law is far too broad in scope, and could be interpreted in ways contrary to the rights and privileges of being a citizen of our wonderful country.

It is important to re-consider this policy and limit it's mandate to more sensible goals.

Sincerely,  
Ram Das Soligo