



Office 513, 180 John Street  
Toronto, ON M5T 1X5

---

April 22, 2026

Ottawa City Council  
110 Laurier Ave W  
Ottawa, ON K1P 1J1

Hatim Kheir

## VIA EMAIL

Dear Mayor Sutcliffe and Councillors:

**RE: Safe Access to Social Infrastructure Bylaw**

We are a registered charity and civil society organization with the purpose of upholding Canada's constitutional freedoms, civil rights and human rights. We litigate across Canada to defend the constitutional rights of Canadians.

We are writing to warn you that the Safe Access to Social Infra Structure Bylaw (the "**Bylaw**") being considered by the Council tonight is unconstitutional. It violates the rights of Ottawa citizens to freedom of expression in a manner that is neither minimal nor proportionate.

### The Bylaw

The Bylaw establishes a protocol for establishing "safe access zones" with radii of 50m around every access point of social infrastructure, which is defined as places of worship, schools, child care centres, health care facilities, and residential care facility.<sup>1</sup>

To obtain a safe access zone, the owner or operator of an eligible institution need only submit an application along with an attestation that the person has a "reasonable apprehension that prohibited conduct may interfere with safe access."<sup>2</sup> Upon receipt of an application and attestation, the General Manager "shall establish" a safe access zone.<sup>3</sup> The safe access zone will then last for 1 year and may be renewed indefinitely by further applications by the owner or operator.<sup>4</sup>

Within the safe access zone, a number of obstructive behaviours are prohibited. However, in addition to genuinely obstructive or intimidating behaviour, the Bylaw prohibits

---

<sup>1</sup> [Safe Access to Social Infrastructure](#), s. 1.

<sup>2</sup> *Ibid* at s. 6.

<sup>3</sup> *Ibid* at s. 8.

<sup>4</sup> *Ibid* at s. 14.

conducting or participating in a demonstration and causing or permitting any “bass noise, unusual noise or noise likely to disturb the peace and comfort of persons within a designated facility.”<sup>5</sup>

## Constitutional Infringements

The Bylaw infringes ss. 2(b) and (c) of the *Canadian Charter of Rights and Freedoms* which guarantee the rights to freedom of expression and peaceful assembly, respectively.

The Bylaw prohibits demonstrations within safe access zones. Demonstrations are defined as assemblies “of one or more persons occupying public lands for the primary purpose of expressing an opinion.”<sup>6</sup> This incredibly broad framing would prohibit a single person from quietly standing with a sign or shirt expressing a message. It would prevent a person from peacefully and respectfully sharing an opinion with passersby.

Section 2(b) of the *Charter* protects all expression so long as it conveys a meaning, is not violent, and the location is not inconsistent with the values of freedom of expression. Given the breadth of the prohibition contained in the Bylaw and the fact that the 50m radius will necessarily capture public streets and sidewalks, s. 2(b) is engaged. The Bylaw infringes s. 2(b) in effect because the expression captured would include expression that engages in the search for truth, political expression, or human fulfilment.<sup>7</sup>

The Bylaw also infringes s. 2(c) of the *Charter* because it prohibits political protests which are protected by the right to freedom of peaceful assembly. It prevents would-be protestors from attracting “attention, in a visible act of solidarity ...by disrupting ordinary life in the hope that the protest would lead to a change in public policy.”<sup>8</sup>

## The Bylaws Infringements are Neither Proportional nor Justified

Limitations of *Charter* rights must be minimally impairing and must have salutary effects proportionate to their deleterious impacts. The Bylaw fails in both respects for four reasons:

- 1) there is no limitation or vetting process for requests;
- 2) demonstrations are prohibited in safe access zones even when unconnected to the basis for the request;
- 3) the harms targetted by the Bylaw are already prohibited by criminal law; and
- 4) the prohibition on demonstrations and “unusual noise” are excessively broad.

**First**, the Bylaw does not impose any vetting process to screen out unjustified or unnecessary requests for safe access zones. So long as the owner or operator of an eligible institution provides the required attestation, the General Manager must establish the safe zone with no assessment of whether the applicant’s belief has a legitimate basis.

---

<sup>5</sup> *Ibid* at s. 17.

<sup>6</sup> *Ibid* at s. 1.

<sup>7</sup> See *Montréal (City) v. 2952-1366 Québec Inc.*, [2005 SCC 62](#) at para. [56](#).

<sup>8</sup> *Hillier v. Ontario*, [2025 ONCA 259](#) at para. [42](#).

**Second**, the Bylaw requires that applicants reasonably believe that “prohibited conduct” could impede access. However, “prohibited conduct” includes both legitimately criminal behaviour, like obstructing the use of property, and benign behaviour like quiet, respectful demonstrations. A person could reasonably think obstruction would interfere with access to a location without a reasonable basis for thinking that peaceful demonstrations or noises would interfere. Nevertheless, under the Bylaw as currently drafted, the safe zone will be established, and a protest-free zone will be created.

**Third**, the Bylaw is unnecessary because obstruction of the use of property is already prohibited by the criminal offence of mischief. The Bylaw is redundant with respect to the genuinely harmful behaviour it captures and unjustified with respect to the broad class of benign behaviour it prohibits.

**Fourth**, the Bylaw prohibits a wide category of behaviour which could be harmless to the function of social infrastructure. Demonstrations are defined to include a single person expressing an opinion. The bylaw also prohibits causing “unusual noise.” Section 17(3) makes it an offence to cause or permit “any bass noise, unusual noise or noise likely to disturb the peace and comfort of persons within a designated facility.”

Since “noise” includes “bass noise” and “unusual noise”, those terms would be rendered superfluous if “likely to disturb the peace and comfort” modifies all three categories. Therefore, as currently worded, s. 17(3) prohibits all “unusual noise.” This term makes the expressive rights of Ottawa residents subject to the subjective judgements of bylaw officers, rendering the prohibition vague and overbroad.

The Bylaw is currently framed excessively broadly and captures broad categories of benign and *Charter*-protected activity. It imposes no checks to limit or tailor its application. It is unconstitutional, unjustified, and could be the subject of legal action if passed. We urge the Council to vote against the Bylaw.

Yours sincerely,

CHARTER ADVOCATES CANADA

Per:

A handwritten signature in black ink that reads "Hatim Kheir". The signature is written in a cursive, flowing style.

Hatim Kheir  
Staff Lawyer