

Appendix 'B'

NOTICE: This draft document was prepared by Civic Administration for the City of London and is being provided to you for purposes of consultation with stakeholders pursuant to Municipal Council resolution of April 9, 2019:

"That the Unsanctioned and Unsafe Street Parties Policy Amendments – Public Nuisance By-law and Cost Recovery Item BE REFERRED back to the Civic Administration for consultation with stakeholders and a report back to the Community and Protective Services Committee meeting to be held on May 28, 2019..."

The underline and blackline (blackline) in the document below indicate Civic Administration's proposed changes to the version of the draft amending by-law that appeared on the April 1 Community and Protective Services Committee agenda. Any revised draft would have to go to Committee and Council for consideration and passage by Council.

We would welcome any comments you may have regarding this document. Please provide your comments to Mr. Orest Katolyk at Okatolyk@london.ca by midnight on Monday April 22, 2019.

DRAFT (April 15, 2019)

Bill No.
2019

By-law No.

A By-law to amend By-law PH-18 entitled, "A by-law to prohibit and regulate public nuisances within the City of London."

WHEREAS subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, provides that a municipal power shall be exercised by by-law;

AND WHEREAS subsection 8(1) of the *Municipal Act, 2001* provides that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS subsection 8(3) of the *Municipal Act, 2001* provides that a by-law under section 10 respecting a matter may (b) require persons to do things respecting the matter;

AND WHEREAS subsection 10 of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public, and may pass by-laws respecting the following matters: 6. Health, safety and well-being of persons; 7. services and things that the municipality is authorized to provide; 8. Protection of persons and property; 10. Structures;

AND WHEREAS section 446 of the *Municipal Act, 2001* provides that, if a municipality has the authority under this or any other Act or under a by-law under this or any other Act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and that the municipality may enter upon land at any reasonable time, and that the municipality may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS the City's Inspections By-law provides for rights of entry to determine whether the following are being complied with: by-laws passed under the *Municipal Act, 2001*; a direction or order of the City made under the *Municipal Act, 2001*; a condition of a licence issued under a by-law of the City passed under the *Municipal Act, 2001*; and an order made under section 431 of the *Municipal Act, 2001*;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. By-law PH-18 is amended by adding a new definition for "Chief Municipal Law Enforcement Officer" after the definition of Chief of Police in section 1, as follows:

"Chief Municipal Law Enforcement Officer" means the City of London's Chief Municipal Law Enforcement Officer, or designate;

2. By-law PH-18 is amended by inserting a new section 4A after section 4, as follows:

"4A. TAKE NECESSARY ACTIONS TO PREVENT, END OR CLEAN UP AFTER NUISANCE PARTY

4A(1) Every owner, occupant or tenant shall take all reasonable and lawful actions to prevent a Nuisance Party, end a Nuisance Party, and clean up after a Nuisance Party on Premises under their possession or control.

~~4A(2) Every owner, occupant or tenant shall take all reasonable action to prevent a Nuisance Party, end a Nuisance Party, and clean up after a Nuisance Party, as directed by any of the Chief of Police, the Chief Municipal Law Enforcement Officer, or Fire Chief or designate.~~

4A(2)(a) For greater certainty only, the actions contemplated in 4A(1) above include but are not limited to: owners informing tenants in near-campus neighbourhoods about the Public Nuisance By-law and other applicable by-laws (e.g. lease and "guarantor" schedule that makes specific reference to the Public Nuisance By-law, to prohibited tenant conduct, and to the fines and remedial costs levied under it); hiring security personnel to prevent persons who do not live at the Premises from entering the Premises; requiring persons who do not live at the Premises to leave the Premises; preventing or extinguishing fires; preventing or extinguishing firecrackers, fireworks and pyrotechnics; preventing a fire from spreading; requiring people to leave roof and other structures and contracting for any special equipment for same; renting special equipment; preserving property; eliminating or reducing unreasonable sound; providing specialized rescue services; controlling and eliminating an emergency; preventing damage to equipment owned by or contracted to the City; making safe an incident or Premises; reducing crowd size at Premises; removing debris and garbage including plastic cups, cans and bottles.

Remedial Costs – Failure to Comply – done by City

~~4A(3) (a) Where anything required to be done in accordance with this by-law sections 4 and 4A is not done, the Chief Municipal Law Enforcement Officer may do such thing at the expense of the person required to do it, and such expense may be recovered by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes. For the purposes of this subsection, the City may enter upon land at any reasonable time.~~

~~(b) The City will not seek to recover costs under this subsection against a person who demonstrates to the City's satisfaction that the person took all reasonable and lawful actions to prevent the Nuisance Party.~~

No Costs against Owner if No Nuisance Party Within 2 Years

~~(c) In the event of a Nuisance Party, the City will not seek to recover costs under this subsection against the owner of the Premises (where the owner is not an occupant) if there has not been a Nuisance Party at the Premises in the preceding 2 years.~~

3. By-law PH-18 is amended in subsection 5(1) by deleting the phrase "City's Manager of Licensing and Municipal Law Enforcement Services" and replacing it with the phrase "Chief Municipal Law Enforcement Officer".

4. By-law PH-18 is amended in section 8(a) by deleting the amount "\$10,000" and replacing it with the amount "\$25,000".

5. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on _____, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading -
Second Reading -
Third Reading -