

TO:	CHAIR AND MEMBERS COMMUNITY AND PROTECTIVE SERVICES COMMITTEE PUBLIC PARTICIPTION MEETING ON AUGUST 13, 2019
FROM:	G. KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL
SUBJECT:	PUBLIC NUISANCE BY-LAW AMENDMENTS – NUISANCE PARTY COST RECOVERY AND FEES

RECOMMENDATION

That, on the recommendation of the Managing Director, Development & Compliance & Chief Building Official, the attached proposed by-law (Appendix “A”) **BE INTRODUCED** at the Municipal Council meeting to be held on August 27th, 2019, to amend the Public Nuisance By-law regarding Nuisance Party cost recovery and fees.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

April 1, 2019 – Community and Protective Services Committee – Managing Director, Development & Compliance Services & Chief Building Official – [“Unsanctioned and Unsafe Street Parties Policy Amendments; Public Nuisance By-law: Cost Recovery Public Participation Meeting”](#)

May 28, 2019 – Community and Protective Services Committee – Report from the Managing Director, Development & Compliance Services & Chief Building Official – [“Unsanctioned and Unsafe Street Parties Policy Amendments; Public Nuisance By-law: Cost Recovery”](#)

SUMMARY

Remedial costs and fees could be imposed on persons who “sponsor, conduct, continue, host, create, allow, or cause” a Nuisance Party. Civic Administration is not proposing to invoice landlords for the behavior of their tenants, but rather focus the cost recovery on those persons who are creating or contributing to a Nuisance Party.

For unsanctioned street parties, it is not realistically expected that the proposed by-law amendment would recover a substantial percentage of the City of London (City’s) costs. Generally, such large costs could not be fully recovered. The proposed by-law amendment would be effective for recovering some costs of Nuisance Parties occurring on private property.

A potential benefit of this amendment is that the costs and fees may act as a deterrent for those considering hosting or creating a potential Nuisance Party.

BACKGROUND

Municipal Council resolved at its June 11, 2019 meeting:

That the Civic Administration **BE DIRECTED** to prepare a further revised draft amending by-law to the Public Nuisance By-law regarding Nuisance Party cost recovery and fees and report back to the Community and Protective Services Committee meeting to be held on August 13, 2019.

What cost recovery measures are proposed for Nuisance Parties?

Civic Administration reviewed all public submissions relating to the previous draft by-law amendments, and is recommending a revised by-law amendment to provide for cost recovery.

- **Remedial Costs:** Remedial costs (under s. 446 of the Municipal Act, 2001) would require persons who “sponsor, conduct, continue, host, create or cause” a Nuisance Party to pay for some of the City’s costs of ending the Nuisance Party. Examples of costs to end a Nuisance Party could include the costs of crowd dispersement, including special equipment (e.g. for removing persons off roofs).
- **Fees:** Fees (under section 391 of the Municipal Act, 2001) could also be imposed on persons who “sponsor, conduct, continue, host, create or cause” a Nuisance Party. The draft by-law proposes fees for the attendance costs of officers from London Police (\$60 per hour or partial hour), Fire Prevention (\$70 per hour or partial hour), and/or Municipal Law Enforcement (\$50 per hour or partial hour).

How will Remedial Costs and Fees be collected?

The City’s ability to place remedial costs on the tax roll would be limited to instances where the Nuisance Party occurred at a private property and the owner of the property “sponsored, conducted, continued, hosted, created or caused” the Nuisance Party. Thus, the ability to place these costs on the tax roll is likely inapplicable for most Nuisance Parties.

The City’s ability to place fees on the tax roll would be limited to instances where the Nuisance Party occurred at a private property. While such amounts could be placed on the tax roll where the owner was not involved in the Nuisance Party, from a public policy perspective, Civic Administration is not proposing to take this approach. Civic Administration recommends that fees for the costs of attendance by officers not be added to the tax roll unless the owner was directly involved in the Nuisance Party. Tenants/occupants directly involved in the Nuisance Party could be invoiced and attempts made to collect the amount may involve civil court action on a case by case basis.

Will the proposed cost recovery measures be effective?

The proposed by-law amendment would be effective for recovering some costs of addressing Nuisance Parties occurring on private property.

However, for unsanctioned street parties, it is not realistically expected that the proposed by-law amendment would recover a substantial percentage of City costs. Firstly, it may not be easy to determine which persons are responsible for “sponsoring, conducting, continuing, hosting, creating or causing” an unsanctioned street event, given that the events largely occur on public streets rather than private property. The events are predominantly advertised on social media, which may or may not provide some indication of who organized the event. Another issue is that the volume of attendees is in the tens of thousands, who trespass onto private property; thus even though a private property may be used during the party, it is not necessarily with the involvement of the owner or occupants. Further, there are some persons who host small social events by invitation only, which become a Nuisance Party due to spill-over of persons either from adjoining properties or public streets. In many cases, property occupants request police assistance to clear the property of uninvited guests. There are also some persons who host parties on their premises, (with little or no control on attendees), which turn into Nuisance Parties.

A potential benefit of this amendment is that the costs and fees may act as a deterrent for those considering hosting or creating a Nuisance Party.

Other Efforts to Handle Unsanctioned Street Parties

Civic Administration recognizes that there is no “silver bullet” for the problems arising from Nuisance Parties and in particular unsanctioned street parties. In addition to the proposed by-law amendments, Civic Administration recommends focusing on communicating to tenants/occupants the financial and regulatory consequences of hosting or creating a Nuisance Party. Civic Administration recognizes that such preventative educational messaging targeted towards tenants is a multi-party effort, and should include the involvement of landlords.

All applicable fines associated with the Public Nuisance By-law remain as an enforcement

option irrespective of the specific location of a Nuisance Party (public or private property).

This report was prepared in consultation with the City Solicitors Office.

PREPARED BY:	RECOMMENDED BY:
OREST KATOLYK, MLEO (C) CHIEF MUNICIPAL LAW ENFORCEMENT OFFICER	GEORGE KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL

Appendix “A”

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 sections 391 through 398 of the *Municipal Act, 2001* authorize a municipality to impose fees and charges on a person (a) for services or activities provided or done by or on behalf of it; (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and (c) for the use of its property including property under its control; and such amount may be added by the treasurer to the tax roll to the property to which the service or thing was supplied for the supply of a service or thing to a property;

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” 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 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”.

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

“4A. NUISANCE PARTY – REMEDIAL COSTS – FEES

4A Take Actions to End Nuisance Party

4A.1(a) Every person who sponsors, conducts, continues, hosts, creates, or causes a Nuisance Party shall take all reasonable and lawful actions to end a Nuisance Party.

Remedial Costs - Failure to Comply – done by City – at expense of person required to do it

4A.1(b) Where any thing required to be done in accordance with subsection 4A.1(a) is not done, the municipality 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 municipality may enter upon land at any reasonable time.

Fees and Charges

4A.2 In addition to any remedial costs or other fees or charges, the following fees or charges relating to Nuisance Parties may be imposed on a person who sponsors, conducts, continues, hosts, creates, or causes a Nuisance Party:

- (a) fee for the attendance of a London Fire Prevention Officer at the scene of a Nuisance Party: \$70.00 per officer, per hour (or part thereof);
- (b) fee for the attendance of a London Police Services Officer at the scene of a Nuisance Party: \$60.00 per officer, per hour (or part thereof);
- (c) fee for the attendance of a Municipal Law Enforcement Officer at the scene of a Nuisance Party: \$50.00 per officer, per hour (or part thereof).

4. By-law PH-18 is amended in section 8 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 –