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TO:	CHAIR AND MEMBERS COMMUNITY AND PROECTIVE SERVICES COMMITTEE MEETING ON MARCH 18, 2013
FROM:	WILLIAM C. COXHEAD MANAGING DIRECTOR OF PARKS & RECREATION and LYNNE LIVINGSTONE MANAGING DIRECTOR NEIGHBOURHOOD, CHILDREN AND FIRE SERVICES
SUBJECT:	POLICY REGARDING THE USE OF INFLATABLE AMUSEMENT DEVICES DURING RENTALS OF CITY PARKS OR OTHER FACILITIES

RECOMMENDATION

That, on the recommendation of the Managing Director of Neighbourhood, Children and Fire Services and the Managing Director of Parks and Recreation, the attached proposed By-law (Appendix A) **BE INTRODUCED** at the Municipal Council meeting on March 26th, 2013 **TO ADOPT** a Policy regarding the use of inflatable amusement devices during rentals of city parks or other facilities.

BACKGROUND

The issue

In late 2012, Recreation staff became aware of research from a number of countries which highlighted a range of risks associated with inflatable amusement devices (also referred to as “bounce houses” or “bouncy castles”.) These sources indicate a high incidence of injuries to users of such devices ranging from bumps and bruises to broken bones to concussions and, in some instances, death.

City of London does not currently have policies designed to control or mitigate risks involved with use of inflatable amusement devices on City property. Concerns include the **risks to users (personal safety)** – particularly when these risks seem to be little understood by the general public – as well as **[financial] risks to the Corporation** resulting from potential suits over permitted use resulting in injuries for which the City may be found liable.

Risks

A study from the journal *Pediatrics*, released in November, 2012 and reported by CBS news, indicates that “bounce houses injure a U.S. child every 46 minutes” and “the number of kids injured in accidents related to inflatable bounce houses has sky-rocketed 15-fold in recent years.”

The study indicates that about 3% of all injuries required hospitalization, mostly for broken bones. The study did not include information specifically on the incidence of death or catastrophic injury, but “separate data from the U.S. Product Safety Commission show four bounce house deaths from 2003 to 2007.”

Studies from the UK and Australia confirm similar frequencies and range of risks in those jurisdictions.

Hazards involving inflatables include:

- wind distorting or blowing over the whole inflatable
- failure of seams or splitting of fabric under pressure
- air loss



- accidental injury to users caused by:
 - by themselves or others (e.g. overcrowding)
 - by spilling of falling from the inflatable
 - during mounting and dismounting i.e. entry and exit
 - by disregard of large users for little users
- tripping (particularly over anchorages)
- access to unguarded or inadequately protected parts (e.g. blower units)
- electrical hazards (e.g. shocks and burns)
- inadequate means of escape in case of fire

The data about incidences of injuries over recent years include cases in which:

- installation of devices is not professionally supervised (which may result in poor anchoring, improper inflation, and unsafe siting of the devices etc.)
- use of the devices lack trained supervision (which may result in dangerous situations such as overcrowding, simultaneous use by persons of different sizes, etc.)
- the devices may not be inspected, licensed or certified by any acknowledged authority

The popularity of inflatable amusement devices of all sorts, shapes, sizes, and the use of these devices under various degrees of supervision has been increasing over the past decade. Situations of use can range from homeowners renting inflatables for their backyard use (with unprofessional installation and no trained supervision) to situations where professional suppliers provide, install and supervise, safety-certified inflatable amusement devices.

Risk implications

An inflatable device is considered a form of interactive play equipment. These devices are highly participative in nature because patrons interact with the device. The types of potential injuries from use of these devices include concussions, neck injuries, broken bones, and cuts and bruises. Several deaths have occurred from head injuries sustained after falls from inflatables. Claims for losses due to spinal cord injuries and brain damage routinely settle for amounts in excess of \$10 million in Ontario.

As a result, inflatable devices provide a unique and real opportunity for injury. Event producers must be diligent and should understand that there are inherent risks associated with the use of inflatable devices. Event producers should investigate inflatable event rental companies prior to utilizing their services.

The City is able to introduce “restrictive” measures to reduce the likelihood of an injury by requiring that only suppliers who can meet specified standards be allowed to supply devices to be used on City property. These standards can be accompanied by other conditions, e.g. supervision requirements. These conditions or restrictions will reduce, but not eliminate the chance of injury.

A restrictive policy cannot entirely eliminate the potential for an expensive lawsuit that will involve the City. Only banning inflatable amusement devices on City property is likely to achieve that outcome.

A scan of other Ontario municipal jurisdictions through municipalforum@yahoogroups.com asked the question: “Has anyone been involved in a lawsuit arising from use of a ‘bouncy’ amusement device on municipal property. If yes, [we] would appreciate finding out the basics of the case and any settlement cost.”

Of the limited responses, no municipalities reported having been involved in a lawsuit of this nature. Town of Newmarket volunteered, in addition, that “for any events where these are used we hire a company to set it up and control it. We have used the same [company] for years.”

In response to a phone inquiry, All-sport Insurance (a broker/direct writer which is the facility user group insurer for the City of Windsor) also reports experiencing no law suits or catastrophic injury claims related to inflatable amusement devices.

The City of London has been involved with one litigation (1999) involving a patron at a Special Event being injured on an inflatable amusement device on City owned property.

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Current situation

Since learning of the risks to users (mainly children) and to the Corporation, inflatable amusement devices have been temporarily disallowed for events and activities (outside of those governed by the Special Events policy) pending development of a Council adopted policy.

Patrons continue to express interest in using inflatable devices when renting City facilities.

The insurance broker for the City of London is unable to provide insurance for inflatable amusement devices for events. The events insurance program available for renters of City facilities through the City would specifically exclude these devices.

The City of London currently has no policy that addresses inflatable amusement device use on city property (for example events and rentals) aside from language in the City Special Event's Policy about "amusement rides", where inclusion of such higher risk activities requires event holders to carry a higher amount of liability insurance (\$5 million).

Options

The Civic Administration reviewed options ranging from a **total ban** of inflatable amusement devices on City property to various '**conditions**' on the use of inflatables.

The attached proposed Policy (Schedule A) takes the "conditions on use" approach and it is designed to:

- allow the use of inflatable amusement devices at rental events on City property (e.g. community celebrations, private rentals) under specific conditions;
- reduce the risk to users of these devices;
- manage the liability risk to the Corporation;
- treat this high risk activity in a manner consistent with other specialized risks related to facility rentals (e.g. amusement rides; horseback riding etc.)

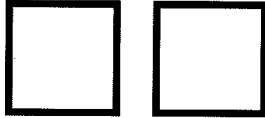
This approach is recommended as a way to treat this matter in similar ways to the treatment of other higher risk activities, recognizing there are potential risks inherent in many recreation activities (for example swimming, diving, amusement rides, horseback riding, playing on play equipment, skate board parks etc.) Typically, in recreation services the goal is to *manage these risks* by applying controls and restrictions (e.g. provide supervision; impose conditions and restrictions; comply with safety regulations etc.). These controls and restrictions are applied to the best of our ability, knowing that nothing short of banning such activities would ever completely *eliminate the risks*.

It should be noted however, that only a ban of inflatable amusement devices on City property is likely to achieve the elimination of risks to both users and the Corporation.

Establishing conditions to reduce risk

Based on current practices of the City with respect to other 'higher risk' activities; the model of the Special Events Policy; and research on better practices identified from other jurisdictions, the following criteria/conditions are recommended as reducing safety risks to users and liability risks to the Corporation with respect to allowing use of inflatable amusement devices at rental events on City property:

- Suppliers/Providers of inflatable amusement devices to renters of City property must carry, and provide evidence of, \$5 million dollars in general liability insurance, including bodily injury and property damage. The coverage must contain no exclusionary clauses with respect to the use of the device(s) at the rental event.
 - \$5 million is consistent with the amount of insurance specified for other higher risk activities; and is also the amount required for Special Event holders where the event includes higher risk activities.
 - The City's contracted insurance broker is unable to provide insurance to short-term facility renters for inflatable amusement devices. The event insurance available to short-term rental of City property will specifically exempt coverage of such devices.



- All renters wishing to include use of inflatable amusement devices in their activities will be required to provide the City with a copy of a Technical Standards and Safety Authority (TSSA)-issued License and the TSSA- issued "Amusement Device Operating Permit" covering the devices. All devices used at the event must be TSSA inspected and certified.
 - TSSA is the authority in Canada responsible for inspecting and certifying these sorts of devices.
- Inflatable amusement devices must be installed by the Provider by competent personnel, trained in the hazards associated with inflatables and in safe installation.
 - The installation and siting of such devices are key issues in reducing the chance of injury. As a result, there is a requirement for a competent person to be in charge of this to reduce the risk to users and the potential for financial risk to the City. The actual location of the device will be selected in consultation with City of London staff that may have operational requirements in addition to the safety requirements.
- Supervision of inflatable amusement devices will be provided on site from set-up until tear-down by trained attendants provided by the Provider of the device.
 - Hazards related to use can be minimized by trained staff who are trained to supervise and manage use of the equipment. This responsibility should be the responsibility of the Provider who is most aware of risks and safety practices.
- All employees of the Provider must be insured under Workplace Safety and Insurance Board (WSIB) coverage.
 - Given that Providers will be required to provide trained personnel to install and supervise use of the devices, WSIB insurance is a standard condition to protect workers and the Corporation.

Ability to meet the Conditions

Staff has conducted a limited survey of Providers of inflatables and is confident that there are suppliers of these devices who:

- Currently comply with all the above criteria
- Currently provide services in London.

A number of other Providers appear to conform with most of the above criteria and may choose to evaluate whether or not they wish to achieve compliance.

Scope of this Policy

The proposed policy applies to events or rentals at City of London recreation facilities and/or parks where the use of inflatable amusement devices is intended; and outlines the conditions under which such usage is permitted.

In the case of Special Events on City of London property under the Special Events Policy, Event Operators are required to provide evidence of \$5 million dollars in liability insurance to the City and include the City as an additional insured for higher risk events. Risk is further mitigated via the event Operator's contract to accept all risks for all of the activities of the event. Administration will in 2013 work with Event Organizers to make them aware of the inherent risks and seek their compliance with the conditions in the proposed Policy (Schedule A) to further mitigate their risks and risks to the City of London. The 2014 Special Events Policy will be amended to include these provisions as part of the annual review and consultation process.

FINANCIAL IMPACT

There is a risk that insurance rates for the City could increase, if:

- There is a catastrophic injury on an inflatable amusement device on City property; and,
- The settlement exceeds the combined liability insurance required of the device Provider and Event Holder or renter; and,
- The City is held liable or partly liable.

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Should the administration of this policy increase costs to the City, the Corporation could consider the attachment of an administrative fee to offset these costs.

There are no other expected financial impacts from the adoption of this Policy.

CONCLUSION



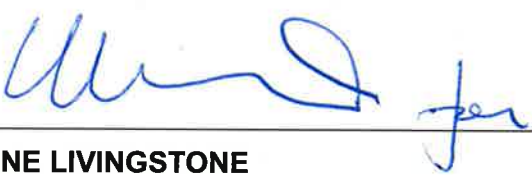
Only an outright ban would have the potential to eliminate the risks to the Corporation of inflatable amusement device use on City property.

Civic Administration recommends the option of imposing conditions upon the use inflatable amusement devices as a balance between allowing use of the devices and reducing risks to users and liability risk to the Corporation. The conditions imposed by the proposed Policy reduce the risks of the most frequent causes of personal injury and set a level of required liability insurance coverage consistent with those set for other high risk activity including amusement rides, horseback rides, and some sports activities.

Acknowledgments

The staff of Parks and Recreation and Neighbourhood, Children and Fire Services would like to thank the following for assistance in the research, development and review of this proposed Policy:

Joy Jackson, Risk Management
 Linzi Lavery, Risk Management

PREPARED BY:	
	
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RECOMMENDED BY:	RECOMMENDED BY:
	
WILLIAM C. COXHEAD, MANAGING DIRECTOR, PARKS & RECREATION	LYNNE LIVINGSTONE MANAGING DIRECTOR, NEIGHBOURHOOD, CHILDREN AND FIRE SERVICES

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Bill No.
2013

By-law No.

A By-law to adopt a policy regarding use of inflatable amusement devices during rentals at City of London parks or other facilities.

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;

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

1. The City of London's Policy regarding use of inflatable amusement devices during rentals of City parks or other facilities, attached as Schedule A to this By-law, is adopted.
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council March 26th, 2013

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First reading -
Second reading -
Third reading -



SCHEDULE A

POLICY REGARDING THE USE OF INFLATABLE AMUSEMENT DEVICES DURING RENTALS OF CITY PARKS OR OTHER FACILITIES

Scope:

This Policy applies to private rentals of City of London facilities or parks where the event host wishes to utilize inflatable amusement devices as an activity of the event. These events may represent community/neighbourhood festivals and/or private rental events such as birthday parties etc.

This Policy does not apply to the use of such devices at Special Events under the Special Events Policy.

Purpose of the Policy:

This policy outlines the conditions under which inflatable amusement devices may be used during private rentals of recreation facilities or parks in order to:

- reduce the safety risks of users of these devices;
- manage the liability and financial risks to the Corporation.

Inflatable Amusement Devices- When they may be used:

Inflatable amusement devices may be used during rentals on City property (other than Special Events falling under the City's Special Events Policy) subject to the following conditions:

- The rental contract requires standard terms and conditions, including insurance requirements meeting City specifications, including the City being named as an additional insured;
- The rental contract holder provides evidence of at least \$5 million general liability insurance from the inflatable amusement device Provider, which includes bodily injury and property damage and which does not include any exclusionary clauses regarding use of the device(s) at the rental event.
- Prior to the rental, the renter provides the City with evidence of the TSSA-issued license to operate an amusement device;
- Prior to the rental, the renter provides the City with evidence of the TSSA-issued Amusement Device Operating Permit for the amusement device;
- The provisions of the Technical Standards and Safety Act, 2000, and its Regulations are complied with;
- All inflatable amusement devices provided for the event are:
 - Regularly inspected and carry Technical Standards and Safety Authority (TSSA) certification
 - Installed by the Provider
 - Supervised while in use by trained attendants provided by the Provider.
- All employees of the Provider are insured under Workplace Safety and Insurance Board (WSIB) coverage
- At the City's sole discretion, the specific park or recreation facility, and/or location within the park or recreation facility, is deemed operationally suitable to accommodate an inflatable amusement device, or the sort of device under consideration

Definitions

For purposes of this policy:

"Event host" means the party who is responsible for the rental event and who signs the rental contract.

"Inflatable amusement device" means an amusement device having an air supported structure. The amusement device typically is designed to allow users to bounce slide or climb on them and are referred to as 'bouncy castles' or 'bounce houses'.

"Provider" means the person holding the TSSA-issued License and Permit to operate the inflatable amusement device(s).