

The Corporation of the City of Guelph By-law Number (2013) - 19557

A By-law Regulating Nuisance Parties within the City of Guelph.

Whereas Section 10(2) of the Municipal Act permits a municipality to pass by-laws respecting the public assets of the municipality, the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property;

And whereas Section 128 of the Municipal Act permits a municipality to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances;

And whereas the purposes of this by-law include managing the public assets of the City, protecting the economic, social and environmental well-being of the City, supporting the health, safety and well-being of persons in the City, protecting persons and property in the City and prohibiting and regulating with respect to public nuisances in the City;

And whereas the City wishes to ensure that the use of lands within the City has a minimal adverse impact on the quiet enjoyment of surrounding lands;

And whereas, in the opinion of Council, the matters addressed in this by-law are, or could become or cause, public nuisances;

Now therefore the council of the Corporation of the City of Guelph enacts as follows:

Definitions

1. In this by-law:

"Chief of Police" means the Chief of Police of the Guelph Police Service, or his/her designate;

"City" means The Corporation of the City of Guelph;

"City Land" means land owned or operated by the City, and, without limiting the generality of the foregoing, includes every highway, park and public square owned or operated by the City, and includes any buildings, structures and equipment located thereon;

"Council" means the municipal council of the City;

"Executive Director" includes the individual holding the position of Executive Director of Operations, Transit and Emergency Services of the City, or the individual holding the position of the Executive Director of Community and Social Services of the City, or any individual holding any successor position with

responsibility for similar matters, and any other employee of the City acting under the direction of either of the foregoing for the purposes of this by-law;

"Municipal Act" means the Municipal Act, 2001, S.O. 2001, c. 25;

"Nuisance Party" means a gathering on Premises which, by reason of the conduct of the persons in attendance, results in any one or more of the following activities occurring:

- a) Public disorderly conduct;
- b) Public drunkenness or public intoxication;
- c) The unlawful sale, furnishing or distribution of alcoholic beverages or controlled or illegal substances;
- d) The deposit of refuse on public or private property;
- e) Damage to or destruction of public or private property;
- f) Pedestrian traffic, vehicular traffic or illegal parking that obstructs the free flow of traffic or could interfere with the ability to provide emergency services;
- g) Unreasonable noise, including loud music or shouting, that is of such a volume or nature that it is likely to disturb the inhabitants of the City;
- h) Unlawful open burning or fireworks;
- i) Public disturbance, including a public brawl or violence; or
- j) Outdoor public urination or defecation;

"Officer" means a Police Officer or any by-law enforcement officer of the City; and

"Premises" means any place in the City, including, but not limited to, City Land.

Interpretation

2. This by-law shall not be interpreted as exempting any person from the requirement to comply with any other City by-law. In the event of conflict between the provisions of this by-law and any other City by-law, the provisions which are more protective of the public assets of the City, the economic, social and environmental well-being of the City, the health, safety and well-being of persons in the City, and persons and property in the City, shall apply.

3. This by-law is to be construed with all changes in number and gender as may be required by the context.

4. Any reference herein to any by-law or act of any government shall be construed as a reference thereto as amended or re-enacted from time to time or as a reference to any successor thereto then in force.

5. If a court of competent jurisdiction declares any provision or part of a provision of this by-law to be invalid, illegal, unenforceable or of no force and effect, it is the intention of Council in enacting this by-law that the remainder of the by-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

Regulation of Nuisance Parties

6.

- 1) No person shall sponsor, conduct, continue, host, create, cause, permit or attend a Nuisance Party.
- 2) No person who, individually or jointly with others, is an owner, occupant, tenant or who otherwise has rightful possession of or is in possessory control of any Premises, shall cause or permit a Nuisance Party on said Premises.
- 3) Upon the order of the Chief of Police or the Executive Director, every person who is sponsoring, conducting, continuing, hosting, creating, causing, permitting or attending a Nuisance Party on specified Premises shall cease such sponsoring, conducting, continuing, hosting, creating, causing, permitting or attending of such Nuisance Party, and every person not residing on such Premises shall leave such Premises.
- 4) An order under this section shall identify:
 - i. The location of the Premises on which the contravention is occurring;
 - ii. The reasonable particulars of the contravention of this by-law; and
 - iii. The date and time by which there must be compliance with the order.
- 5) An order under this section may be given orally or may be served personally on the person to whom it is directed.
- 6) No person shall fail to leave Premises after having been directed to leave by an order pursuant to this section.
- 7) An Officer may temporarily close any highway or portion thereof to public travel where a Nuisance Party is occurring on or adjacent to the highway.
- 8) Where a highway or portion of a highway has been temporarily closed under this by-law, the common law right of passage by the public and the common law right of access by an owner of land abutting the highway or portion of the highway are restricted, as directed by an Officer.
- 9) No person shall use a highway or portion of a highway that has been temporarily closed under this by-law except with lawful authority or in accordance with the direction of an Officer.

7.

- 1) The City may impose a fee or charge upon any person sponsoring, conducting, continuing, hosting, creating, causing or permitting a Nuisance Party and/or the owner of Premises where the Nuisance Party is held who causes or permits the Nuisance Party.
- 2) The amount of the said fee or charge shall be the amount of administrative costs, costs of enforcement and all other costs incurred by the City in responding to and addressing the Nuisance Party pursuant to this by-law.
- 3) Fees or charges imposed on a person pursuant to this by-law constitute a debt of the person to the City.
- 4) Where all the owners of certain Premises are responsible for paying certain fees and charges pursuant to this by-law, the City may add such fees and charges to the tax roll for the Premises and collect them in the same manner as municipal taxes.

Enforcement

8. Council hereby authorizes all Officers to enforce this by-law.

9. Each Officer is hereby authorized to inform any person of the provisions of this by-law and to request compliance therewith.

10. No person shall wilfully obstruct, hinder or otherwise interfere with an Officer in the performance of the Officer's duties, rights, functions, powers or authority under this by-law.

11. Where an Officer has reasonable grounds to believe that an offence under this by-law has been committed by a person, the Officer may require the name, address and proof of identity of that person, and the person shall supply the required information.

12.

- 1) Every person who contravenes or who causes or permits a contravention of any provision of this by-law is guilty of an offence.
- 2) Every director or officer of a corporation who knowingly concurs in the contravention of any provision of this by-law by the corporation is guilty of an offence.

13.

- 1) A person, other than a corporation, convicted of an offence under this by-law, is liable, on a first conviction, to a fine of not more than \$10,000 and, on any subsequent conviction, to a fine of not more than \$25,000.

2) A corporation, convicted of an offence under this by-law, is liable, on a first conviction, to a fine of not more than \$50,000 and, on any subsequent conviction, to a fine of not more than \$100,000.

14. Upon conviction for an offence under this by-law, in addition to any other remedy and to any penalty imposed by this by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

General

15. The short title of this by-law is the "Nuisance Party By-law".

16. This by-law shall come into force and take effect on the date this by-law is passed.

Passed this twenty-ninth day of April, 2013.

Original signed by:

Karen Farbridge – Mayor

Blair Labelle – City Clerk