

City of Mississauga
Corporate Report



<p>Date: November 27, 2023</p> <p>To: Chair and Members of General Committee</p>	<p>Originator's files:</p>
<p>From: Raj Sheth, P.Eng, Commissioner of Corporate Services</p>	<p>Meeting date: December 6, 2023</p>

Subject

Nuisance Gathering Enforcement

Recommendation

1. That the corporate report from the Commissioner of Corporate Services, dated November 23, 2023 entitled "Nuisance Gathering Enforcement" be approved.
2. That a new Nuisance Gathering By-law be enacted to regulate nuisance gatherings within the City of Mississauga, substantially in the form set out in Appendix 2 to this corporate report.
3. That the new consolidated User Fees and Charges By-law, effective January 1, 2024, includes two new fees to recover costs related to enforcement of nuisance gatherings, as outlined in this corporate report.
4. That By-law 0025-2015, as amended, being a by-law to appoint City Employees as Municipal Law Enforcement Officers for the purpose of enforcing municipal by-laws, be further amended by adding the new Nuisance Gathering By-law to the list of by-laws that Municipal Law Enforcement Officers in Security Services are appointed to enforce.
5. That the following City of Mississauga By-laws be amended to introduce a minimum fine of \$500 and to increase the maximum fine to \$100,000 upon conviction for by-law offences where charges are laid under Part III of the Provincial Offences Act, in accordance with the Municipal Act, 2001:
 - a) Business Licensing By-law 0001-2006, as amended;
 - b) Debris and Anti- Littering By-law 0219-1985, as amended; and
 - c) Noise Control By-law 0360-1979, as amended.
6. That the Fireworks Licensing and Use By-law 0182-2023 be amended to update the fireworks classification terminology in accordance with the Explosives Regulations, 2013 SOR/2013-211 and make certain amendments to definitions, prohibitions and penalties, substantially in the form set out in Appendix 3 to this corporate report.
7. That all necessary by-laws be enacted.

Executive Summary

- Staff recommend implementing a Nuisance Gathering By-law that would prohibit large gatherings on public and private property that are blatantly violating existing by-laws and impacting the safety and well being of residents.
- The By-law would allow staff to charge attendees, the organizer(s) and the property owner(s) for violations. It would also give staff new tools such as the ability to close roads.
- Staff also recommend several changes to existing by-laws and processes in order to facilitate greater enforcement of nuisance gatherings and to support the implementation of the By-law. This includes the introduction of New Fees through the User Fees and Charges By-law to be effective January 1, 2024.
- Staff recommend that new fees be added to the Fees and Charges By-law to enable the City to recover fees for the attendance of municipal by-law officers and other enforcement, including police officers, at a nuisance gathering, at a specified rate per officer, per hour.
- The intention of these changes is not to prevent gatherings, but to make gathering organizers as well as property and businesses owners responsible for ensuring gatherings follow applicable by-laws and regulations in order to minimize the negative impact on the broader community.

Background

Enforcement staff are responsible for administering and enforcing City by-laws to maintain order, safety and community standards in the community. Over the past couple years, staff have responded to increased complaints about amplified noise, loitering, littering, use of fireworks and vehicle noise occurring on public and private property throughout the City. These complaints are often the result of nuisance gatherings, which are gatherings that create public disturbances. As requested by Council, staff have identified recommendations for greater enforcement.

Present Status

Nuisance gatherings create numerous enforcement challenges. Staff are limited to responding with existing by-laws such as:

- Business Licensing By-law 0001-2006 (Business Licensing By-law): Licences and regulates businesses to help ensure consumer protection, health and safety. Grants staff the authority to impose conditions and suspend and revoke licences.
- Debris and Anti-Littering By-law 0219-1985 (Debris and Anti-Littering By-law): Prohibits the throwing or depositing of any garbage or debris on any property without the expressed permission of the owner. Grants staff authority to require property owner to clean property or stop the disposing of debris.

- Fireworks Licensing and Use By-law 0182-2023 (Fireworks Licensing and Use By-law): Regulates the sale and use of fireworks, including penalties for misuse.
- Noise Control By-law 0360-1979 (Noise Control By-law): Regulates noise and persistent noise, including penalties for emitting or permitting the noise.
- Property Standards By-law 0654-1998 (Property Standards By-law): Outlines the minimum standards for maintenance and occupancy of property. Grants staff the authority to compel property owners to maintain existing assets, through proactive inspections and remediation.
- Zoning By-law No. 0225-2007 (Zoning By-law): Ensures compliance with zoning regulations.

These by-laws on their own are unable to curb the egregious by-law violations experienced during nuisance gatherings. Additionally, the large crowds often associated with nuisance gatherings present safety issues for the public, as well as staff. Nuisance gatherings also present concerns such as moving vehicle violations that can't be addressed by Municipal Law Enforcement Officers (MLEOs). Responses to nuisance gatherings requires collaboration and coordination with Peel Regional Police (PRP) as well as other enforcement agencies including Mississauga Fire and Emergency Services, and Peel Public Health. This results in significant staffing costs for all the agencies involved.

Comments

Jurisdictional Scan

When considering how to address nuisance issues, staff explored the approaches taken by municipalities across Ontario. In recent years a number of municipalities, particularly those with a large postsecondary population, have enacted Nuisance Party By-laws, aimed at providing additional enforcement options beyond those available under existing by-laws and provincial and federal regulations. These by-laws are in response to large unsanctioned parties that create risks to public health and safety and lead to significant enforcement and administrative costs.

Staff conducted a scan of seven jurisdictions that have Nuisance Party By-law or Nuisance By-laws that contain provisions against nuisance parties or gatherings (Appendix 1).

Recommended Approach

Staff recommend implementing a Nuisance Gathering By-law (the "new" "By-law") similar to Nuisance Party By-laws in other jurisdictions that would prohibit large gatherings on public and private property that are blatantly violating existing by-laws and impacting the safety and well being of residents. The objective of the new By-law would be to hold individuals, businesses and property owners accountable while minimizing negative impact and effects on the community such as community safety and damage to property. The new By-law would allow staff to charge attendees, the organizer(s) and the property owner(s) for violations. It would also give staff new tools such as the ability to close roads.

Scope

Although the new By-law would apply to public and private property, it is not intended to prevent or curtail lawful gatherings.

Proposed Nuisance Gathering By-law

Staff recommend that a new By-law be drafted substantially in the form outlined in Appendix 2. This will include the following:

Prohibition For Nuisance Gatherings:

The new By-law will make it a contravention to attend, sponsor, conduct, continue, host, create, allow, cause or permit a Nuisance Gathering. It will also specify that every person who sponsors, conducts, continues, hosts, creates, allows, causes or permits a Nuisance Gathering shall take all reasonable and lawful actions to end a Nuisance Gathering. A Nuisance Gathering will be defined as an event that results in one or more of the following activities:

- Disorderly conduct;
- Public drunkenness or public intoxication;
- The unlawful sale, furnishing, or distribution of alcoholic beverages or controlled substances;
- The deposit of refuse on public or private property;
- Damage to or destruction of public or private property;
- Pedestrian traffic, vehicular traffic, or illegal parking that obstructs the free flow of traffic or could interfere with the ability to provide emergency services;
- Unreasonable noise, including loud music or shouting;
- Unlawful open burning or fireworks;
- Public disturbances, including public brawls or public fights; and,
- Outdoor public urination or defecation.

Declaration of a Nuisance Gathering:

Gatherings will be declared to be nuisance gatherings if there are one or more activities included in the definition of nuisance gathering and/or there is a history of nuisance gatherings on the property. The nuisance gathering will be declared either by the Chief of PRP or their designate or the Commissioner or their designate. If PRP are present, the Chief or their designate will issue the order to the person(s) sponsoring, hosting, creating, causing, permitting or attending the nuisance gathering. If just MLEOs are present, then the Commissioner or their designate will issue an order to the property owners or tenants to cease any activities that contravene the new By-law. If the order is not complied with, the nuisance gathering will be dispersed by PRP. MLEOs will issue charges and/or summons for the new By-law contraventions.

Joint Enforcement with PRP:

While the new By-Law would provide the ability for MLEOs to fine those who host or attend a nuisance gathering, PRP will continue to lead enforcement efforts, including the dispersal of

crowds, where public safety is an issue. Where feasible, staff will partner with PRP, Fire and Emergency Services, Paramedics, Peel Public Health and internal divisions including Works Operation Maintenance and Security Services to address Nuisance Gatherings in a collaborative way. This will include taking actions beyond the City's jurisdiction such as: Highway Traffic Act and Criminal Code offences, crowd control, and public health regulations.

Enforcement Authority:

Through the new By-law, MLEOs and PRP officers will have the right to enter a property to conduct an inspection to determine whether the provision of the By-law and any orders issued are being complied with.

Closure of Roads:

Staff recommend that the new By-law grant the authority for MLEOs and PRP officers to close roads in order to prevent or disperse a nuisance gathering. Staff will work collaboratively with PRP and City partners such as Works Operation and Maintenance to close streets. This authority is included in many other Nuisance Party By-laws and will allow Enforcement and partner agencies to take strong action to end a nuisance gathering.

Penalties:

Under the section 429 of the *Municipal Act, 2001*, municipalities have the authority to provide for fines in municipal by-laws of up to \$100,000 where a person is charged by the laying of an information under Part III of the *Provincial Offences Act (POA)* and convicted. Part III charges are normally laid for more serious offences and the court will determine the fine upon conviction.

Staff recommend that penalties under the new By-law include both Part I set fines (tickets for less serious offences) and Part III fines. Staff will make an application to the Ministry of the Attorney General to seek approval for the Part I fines from the Regional Senior Justice.

Recommended fines include:

- A proposed Part I set fine of \$500.
- A minimum Part III fine, upon conviction of \$500.
- A maximum Part III fine, upon conviction, of \$100,000.
- The provision of a special fine, which may exceed \$100,000 and is designed to eliminate or reduce any economic advantage or gain from contravening the new By-law.
- In the case of a continuing offence for each day or part of a day that the offence continues, a minimum fine of \$500 will be charged and a maximum fine of \$10,000 (the total of all daily fines for the offence is not limited to \$100,000).

Updates and Changes to Existing By-laws

In order to facilitate greater enforcement of nuisance gatherings and to support the implementation of the new By-law, staff recommend the following changes:

1. Updates to Existing Processes: Staff currently have the authority to address complaints that stem from nuisance gatherings through existing by-laws. In order to enhance the

enforcement of these by-laws, staff will update existing processes and standard operating procedures (SOPs) to expedite timelines for enforcement actions under the Business Licensing, Debris and Anti-Littering and Property Standards By-laws. This will also include eliminating the educational approach for Noise Control By-law and Fireworks Licensing and Use By-law contraventions.

2. Changes to Existing By-laws: Staff recommend changes to the Business Licensing, Debris and Anti-Littering and Noise Control By-laws to increase fines in alignment with other by-laws and the proposed new By-law, to increase the maximum penalty, upon conviction, to \$100,000 in accordance with the *Municipal Act, 2001*.

The maximum penalty under the Fireworks Licensing and Use By-law was increased to \$100,000 effective on December 1, 2023. Staff also recommend certain amendments to the Fireworks Licensing and Use By-law in order to bolster the City's enforcement efforts. These amendments include updating fireworks classification terminology, housekeeping amendments to definitions, adding a provision that prohibits setting off fireworks in a manner that may create a nuisance or unsafe conditions, adding a provision that allows the City to impose special fines and clarifying provisions that prohibit property owners from permitting the illegal use of fireworks on private property. Appendix 3 sets out the draft amending by-law.

Additionally, Staff recommend that Bylaw 0025-2015, as amended (a by-law to appoint City Employees as Municipal Law Enforcement Officers for the purpose of enforcing municipal by-laws), be further amended to add the new By-law to the list of by-laws that Municipal Law Enforcement Officers in Security Services are appointed to enforce. This will allow Security Services to enforce the new By-law on City property. Enforcement MLEOs are already appointed to enforce all City by-laws in By-law 0025-2015, as amended.

3. Introduction of New Fees through the User Fees and Charges By-law (Fees and Charges By-law): User fees and charges are used to provide cost recovery for services that are provided by the municipality. This includes costs related to administration and enforcement, whether or not it is mandatory for the municipality to provide that service. Staff are recommending that new fees be added to the new consolidated User Fees and Charges By-law, to be effective January 1, 2024 to increase cost recovery and accountability for nuisance gatherings. In particular, staff recommend including a fee to enable the City to recover fees for the attendance of municipal by-law officers and other enforcement, including paid duty PRP officers, at a nuisance gathering, at a specified rate per officer, per hour. This response will be both reactive and proactive, if staff know that a nuisance gathering may be taking place and adequate preparations haven't been made.

These fees may be imposed on any person who sponsors, conducts, continues, hosts, creates, causes, permits or facilitates a nuisance gathering, as well as the owner of the premises where the nuisance gathering is held. Staff recommend an hourly rate of \$90 per

MLEO per hour, with a minimum of two officers attending for a minimum of two hours. Additionally, if paid duty PRP officers are required, staff recommend any hourly rate of \$170 per officer per hour, for minimum of three hours. In both instances, officers will stay onsite until the gathering has ended to ensure continued compliance with all City by-laws.

These charges were calculated using an average hourly rate for staff costs inclusive of benefits and mileage as well as administrative costs. Although this is higher than hourly fee charged in some comparable jurisdictions, they are intended to offset enforcement and act as a deterrent for property owners, to encourage them to proactively make their own arrangements.

The City would invoice for payment after the event. If there are additional expenses for remediation to end a nuisance gathering, such as bringing in equipment or supplies, staff will do what is required to be done and add it to the property owner's tax roll.

Implementation

While the proposed new By-law addresses nuisance gatherings, staff will also continue to work with partner agencies, property and business owners and members of the community to ensure that nuisance gatherings don't occur. Where feasible, when staff can identify a potential nuisance gathering, they will proactively engage with the property and business owner(s) to inform them of City by-laws and the requirements for hosting events. If actions are not taken by the property and business owner(s), staff will be prepared to respond and regulate the event.

Joint Collaboration

Collaboration with partner agencies will be crucial to the success of implementing the by-law. To increase collaboration, staff will develop a process for establishing a Response Table with community partners including PRP, Fire and Emergency Services and Peel Public Health. The Response Table will determine when proactive monitoring, education and enforcement is needed and coordinate responses across partner agencies.

Force and Effect Date

Staff recommend that the new Nuisance Gathering By-law come into effect on January 1, 2024.

Financial Impact

There is no current impact to the budget resulting from the recommendation of this report. Enforcement will be undertaken by existing staff. In addition, estimated gross fees will be approximately \$18,000 per year (assuming four gatherings per year with five officers for ten hours per gathering at \$90/ hour fee) collected from organizers and property owners for enforcement which will offset against all other enforcement revenue.

It is estimated that the implementation of the new By-law will require the support of a new Business Analyst (F grade) position in order to develop SOPs and processes and conduct

operational planning such as proactively identify nuisance gatherings through analysis of complaint data and media monitoring. On-going support will also be required to conduct continuous monitoring and improvement. Staff will request this FTE through the 2025 business planning process.

In year 2024, enforcement will be undertaken by existing staff. However, taking MLEOs away from their regular duties may significantly impact the city's ability to respond to other resident complaints. The long term impact of this type of enforcement will be analyzed, and if additional resources are required to maintain current City service levels, they will be requested through the 2025 business planning process.

Conclusion

As directed by Council, staff have identified recommendations for greater enforcement of nuisance gatherings. The recommended new Nuisance Gathering By-law is intended to provide additional enforcement options beyond those available and strengthen collaboration with partner agencies. The proposed amendments to existing by-laws will allow for additional enforcement penalties, including higher fines and the ability to recover costs related to enforcement which will result in greater accountability. The overall intention of these changes is not to prevent gatherings, but to make gathering organizers as well as property and businesses owners responsible for ensuring gatherings follow applicable by-laws and regulations in order to minimize the negative impact on the broader community.

Attachments

Appendix 1: Nuisance Gathering Jurisdictional Scan

Appendix 2: Draft Nuisance Gathering By-law

Appendix 3: Draft Fireworks Licensing and Use By-Law Amending By-law (939400.2)



Raj Sheth, P.Eng, Commissioner of Corporate Services

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