TO:

CHAIR AND MEMBERS
COMMUNITY AND PROTECTIVE SERVICES COMMITTEE
MEETING ON MAY 11, 2009

FROM:

ROSS L. FAIR
GENERAL MANAGER OF COMMUNITY SERVICES

SUBJECT:

POLICY REGARDING ALCOHOLIC BEVERAGES AT PRIVATE RENTALS
OF RECREATION AND COMMUNITY CENTRES

RECOMMENDATION

That, on the recommendation of the General Manager of Community Services, the attached proposed By-law (Appendix A) BE INTRODUCED at the Municipal Council meeting on May 25, 2009, TO ADOPT the following policy:

1. No alcoholic beverages are allowed at private rentals of City-owned recreation centres and community centres, with the following exceptions:

   (a) if a Special Occasion Permit is obtained, alcoholic beverages may be allowed if the event is a celebration of; or a fundraiser for: local sport; recreation; culture; or community development;

   (b) if a Special Occasion Permit is obtained, alcoholic beverages may be allowed if the event is held at the Civic Garden Complex and Springbank Gardens; and

   (c) if a Special Occasion Permit is obtained, alcoholic beverages may be allowed if the event is a Special Event under the City of London Special Events Policies and Procedures Manual.

PREVIOUS REPORTS

November 24, 2008 – Public Meeting on Parks and Recreation Rental Functions at Recreation and Community Centres

October 27, 2008 - Parks and Recreation Rental Functions at Recreation and Community Centres

July 14, 2008 – Parks and Recreation Pricing Framework – Facility Rentals

June 16, 2008 – Standardization of Facility Rental Contracts and Invoices

May 5, 2008 – Moratorium on Certain Rental Functions at Recreation and Community Centres

February 2003 – Parks and Recreation Strategic Master Plan

BACKGROUND

In May 2008 Community Services, with the knowledge of Council, stopped accepting bookings for stag and does, weddings and wedding receptions at all recreation and community centres except Civic Garden Complex and Springbank Gardens.

On October 27, 2008 the General Manager of Community Services reported back to Council on the impact of the moratorium, the impact of the City-hired security on event management, review of other municipality’s practices and provided options for the future of these types of
events. Council directed Community Services to implement (on January 1, 2009) provisions for the collection of damage deposits, requirement of security including recovery of cost and supervision requirements for teen parties.

- On November 24, 2008 a public participation meeting was held to hear submissions on the potential of not allowing private alcohol events at recreation and community centres. There were no submissions made at the public participation meeting.
- On December 1, 2008 Council referred the matter, of whether to allow private alcohol functions at recreation and community centres, back to the General Manager of Community Services for further consideration.
- On January 1, 2009 Community Services implemented provisions for the collection of damage deposits, requirement of security including recovery of cost and supervision requirements for teen parties.

Objective

The objective of this report is to provide further information on the nature of the problems experienced at alcohol events at recreation and community centres, a review of the City’s potential liability, and adoption of a policy which would no longer permit alcoholic beverages for private rentals in these facilities. Exceptions to this policy are private events held at the Civic Garden Complex, Springbank Gardens and Special Events.

ANALYSIS

Review of Issues

Civic administration reviewed issues arising from private rentals of City-owned recreation and community centres over the past two years. It was determined that a majority of the problem private rentals were functions that went beyond 11:00 p.m. and included events like stag and does, wedding receptions, teen parties/dances and other private parties, and that the presence of alcohol increased the likelihood of problems occurring. General problems encountered were:

- excessive vandalism and damages to facilities and equipment;
- increased risk to staff assigned to events;
- increased costs of cleanup and impacts on concurrent and following events;
- repeated violations of codes and by-laws by participants (noise complaints);
- violations of gaming regulations and liquor license by participants;
- increased liability risks to the City (e.g. concerns about drinking and driving); and,
- overall management of attendees at private rentals – not vacating building or parking lot at assigned time.

A list of the problems experienced at late night private rentals over the past two years is included in Appendix B. Most of these private events had alcoholic beverages although there were a few occasions where alcohol was not served but problems did arise (teen parties, weddings).

Appropriateness of Use

Upon review of the issues outlined in Appendix B it is apparent that recreation and community centres may not be the most appropriate buildings for private rentals at which alcoholic beverages are allowed, for several reasons:

- other users (including children and youth) come in contact with individuals attending private rentals (in parking lots, washrooms and other common areas of facilities);
- it can be difficult to control access to the facility by City staff or hired security; and,
- it may be more difficult for City staff to deal with individuals who have consumed alcohol.
Review of Other Municipalities

Eighteen (18) municipalities (local, Ontario and national) were contacted to discuss policies and procedures for managing events at recreation and community centres. Local halls were also contacted - Centennial Hall, Marconi Club and the Greek Club. A detailed review was included in the October 27, 2008 report to Community and Protective Services Committee.

To summarize, it was found that comparable municipalities have greater restrictions than the City of London. Other municipalities manage events by utilizing one, or a combination of, the following strategies:

- Enforce an outright ban on alcohol events in all public facilities;
- Prohibit stag and does in any public facilities;
- Limit events which include alcoholic beverages to specific facilities that are expressly set up to accommodate the serving of alcohol; or,
- Prohibit alcohol in facilities when there is the potential for children and youth to be present.

Potential Liability

The headline-grabbing alcohol-related deaths of 3 young men in Muskoka Township last summer, and the subsequent charges laid against the owners and employees of the Lake Joseph Club where the men had been drinking, highlighted the potential for liability of organizations on whose premises alcohol is to be consumed.

When the City rents its facilities for private events, it is responsible to ensure that the facilities are reasonably safe from hazards. Allowing alcoholic beverages at private rentals may increase the risks of injury to users of the facility. It may further increase the risk that a user of the facility might operate a motor vehicle while inebriated and injure him or herself or a third party. This may increase the City’s risk as the City may be subject to lawsuits, and be ordered to pay damages, costs and expenses.

Examples of potential liabilities on the City arising from allowing alcoholic beverages at City facilities include:

- damages resulting from an on-site accident where the City did not comply with its Occupiers’ Liability Act obligations and/or its Liquor Licence Act obligations;
- damages resulting from an off-site accident caused by a person who had consumed alcohol at a City facility.

Under the Occupiers’ Liability Act, an “occupier” includes a person who is in physical possession of premises, or a person who has responsibility for, and control, over the condition of the premises or the activities there carried on, or control over persons allowed to enter the premises. An occupier of premises owes a duty to take such care as in all the circumstances of the case is reasonable to see that persons entering on the premises, and the property brought on the premises by those persons are reasonably safe while on the premises. This duty applies whether the danger is caused by the condition of the premises or by an activity carried on the premises.

The Supreme Court of Canada in Childs v. Desmoreaux (2006) found that, on the facts of that case, the social hosts of a party where alcohol was served did not owe a duty of care to public users of highways. On the other hand, the courts have held that commercial alcohol providers do owe a duty to third-party members of the public who are injured as a result of the drunken driving of a patron. It is unclear whether the courts would find a sufficient “close relationship” between the City and members of the public using highways to justify imposing liability on the City where the City rented its facilities to a private individual or organization.

Private rentals where alcoholic beverages are allowed appear to be the highest-risk type of rentals currently permitted. The City can reduce its potential liability by reducing the types of private rentals that allow alcoholic beverages.

The following are examples of some of the ways the City currently manages risks associated with private rentals where alcoholic beverages are allowed:
1. Alcoholic beverages are not allowed at a private rental except under authority of a Special Occasion Permit issued by the Alcohol and Gaming Commission of Ontario;
2. The renter is required to provide a copy of the Special Occasion Permit to the City at least one week before the event;
3. The renter is required to abide by and obey the City's Alcohol Risk Management Policy, approved by City Council. The policy includes, but is not limited to, rules regarding number of attendees to monitors, properly trained servers, availability of non-alcoholic beverages and enforcement provisions for violations of the policy;
4. The renter is required to abide by all applicable laws, by-laws, rules and regulations, including the Alcohol and Gaming Commission's rules;
5. A sign must be prominently posted at the bar and at the ticket counter stating "It is against the Liquor License Act of Ontario for licensed establishments to serve customers to intoxication. For this reason, servers in our facilities are required to obey the law and not serve anyone to intoxication. We are also pleased to offer non-alcoholic beverages."
6. Telephone access to taxis is provided where possible;
7. Renters are subject to a hold harmless and indemnification provision and must provide evidence of insurance, and;
8. As of January 1, 2009, off-duty police officers may be required at alcohol-related events at recreation and community centres at the discretion of facility managers.

Impact of Moratorium and Added Security

For those functions booked prior to the moratorium in May 2008, Community Services acquired the services of off-duty police officers to provide additional security and support to staff at twelve (12) private alcohol events. These short-term expenses were managed within existing operational budgets and were not passed on to the event organizers. The officers attended the events from 9:00 p.m. to close and in some cases needed to be present until 2:00 a.m. to clear out final attendees from the facility or parking areas.

It is clear that the presence of security, specifically off-duty police officers, at late night social events has had a very positive impact, especially in closing down events at the appropriate time and clearing attendees from the immediate vicinity. Vandalism, rowdy behaviour and code and by-law infringements were lessened and therefore the liability risk to the Corporation was also significantly reduced by the presence, and intervention when necessary, of the officers.

There were, however, events where even off-duty police officers were unable to control the behaviour and actions of all attendees.

CONCLUSIONS

In assessing whether to prohibit alcoholic beverages at all private rentals of City recreation and community centres, Council must consider whether this is an appropriate use of these facilities as well as the City's potential liabilities arising from such rentals against the benefit to private renters.

The City's Civic Garden Complex and Springbank Gardens have the requisite facilities to accommodate private rentals that allow alcoholic beverages; they are set up to serve alcohol, control entry and exit, and seldom are there other users in the building.

Civic Administration recommends that the City should not allow alcoholic beverages at private rentals of City recreation centres and community centres, with the exception of:

- events that are celebrations of, or fundraisers for, local sport, recreation, culture or community development;
- events held at the Civic Garden Complex and Springbank Gardens; or
- events that are Special Events under the Special Events Policies and Procedures Manual.
Impact

The potential liability on the City for renting facilities that allow alcoholic beverages likely outweighs the revenue generated. In 2007 these private events accounted for approximately $15,000 in revenue.

The recommendation limits the ability for organizations and individuals to rent public facilities for private events that allow alcoholic beverages, including those events that are potentially well-managed and well-run.

Civic Garden Complex and Springbank Gardens would continue to accept private bookings that allow alcoholic beverages. There are several private businesses in London that accept rentals for private events where alcoholic beverages are allowed.

Acknowledgements

We appreciate the input of the following staff in the preparation of this report: Carol Carnegie, Cathy Hazael, Paul D'Hollander, Joy Jackson, Krista Kearns, Rob Pereira, Scott Stafford, Mike Vandertuin and the City Solicitor's Office.
APPENDIX A

Bill No.
2008

By-law No.

A By-law to adopt a Policy regarding alcoholic beverages at private rentals of City-owned recreation and community centres.

WHEREAS subsection 5(3) of the Municipal Act, 2001 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 following policy regarding alcoholic beverages at City-owned recreation and community centres is adopted:

   1. No alcoholic beverages are allowed at private rentals of City-owned recreation centres and community centres, with the following exceptions:

      (a) if a Special Occasion Permit is obtained, alcoholic beverages may be allowed if the event is a celebration of, or a fundraiser for: local sport; recreation; culture; or community development;

      (b) if a Special Occasion Permit is obtained, alcoholic beverages may be allowed if the event is held at the Civic Garden Complex and Springbank Gardens; and

      (c) if a Special Occasion Permit is obtained, alcoholic beverages may be allowed if the event is a Special Event under the City of London Special Events Policies and Procedures Manual.

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

PASSED in Open Council May 25, 2009

Anne Marie DeCicco-Best
Mayor

Kevin Bain
City Clerk

First reading -
Second reading -
Third reading -
## APPENDIX B

Review of Incidents at Recreation and Community Centres

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Supervision</th>
<th>Incidents and/or Issues</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 2008</td>
<td>Stag and Doe</td>
<td>2 COL casual staff</td>
<td>- Children’s basketball program in gym until 8:45 p.m.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Adult basketball until 9:30 p.m.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Staff verbally abused for trying to keep alcohol in the assigned room</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Underage drinking</td>
</tr>
<tr>
<td>April 2008</td>
<td>Stag and Doe</td>
<td>2 COL casual staff</td>
<td>- Adult basketball rental in gym until 9:30</td>
</tr>
<tr>
<td></td>
<td></td>
<td>No additional security</td>
<td>- Underage drinking</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Leaving assigned room with alcohol, drinking in washrooms</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Inappropriate sexual behaviour in and around building</td>
</tr>
<tr>
<td>May 2008</td>
<td>Stag and Doe</td>
<td>2 COL casual staff</td>
<td>- Teen aquatics in building until 8:00 p.m.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 off-duty police officer hired</td>
<td>- Underage drinking</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Not leaving at appropriate time</td>
</tr>
<tr>
<td>May 2008</td>
<td>Stag and Doe</td>
<td>2 COL casual staff</td>
<td>- Verbal abuse to staff</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 off-duty police officer hired</td>
<td>- Removal of alcohol from assigned room</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Refusing to leave when asked</td>
</tr>
<tr>
<td>June 2008</td>
<td>Teen Birthday Party</td>
<td>2 COL casual staff</td>
<td>- Underage drinking - backpacks and large purses brought in containing alcohol, consumed</td>
</tr>
<tr>
<td></td>
<td></td>
<td>No additional security as booking was</td>
<td>- Teenagers constantly leaving rental room and roaming around building and outside</td>
</tr>
<tr>
<td></td>
<td></td>
<td>&quot;non-alcohol&quot;</td>
<td>- Noise complaints</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Inappropriate activity (mooning &amp; sexual activity in and around building)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Chaperones too close to the age of partygoers could not control behaviour</td>
</tr>
<tr>
<td>June 2008</td>
<td>Stag and Doe</td>
<td>3 COL casual staff</td>
<td>- Argument with staff about length of time for contract</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 off-duty police officer hired</td>
<td>- Person who signed contract and supposed to be in control of group intoxicated</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Altercation between guests (pushing and shoveling, yelling)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Noise complaints</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Bus rented to bring and take people home but guests were leaving intoxicated on foot and</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Vomit in washrooms</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- People not leaving on time</td>
</tr>
<tr>
<td>July 2008</td>
<td>Stag and Doe</td>
<td>2 COL casual staff</td>
<td>- Vomit in washrooms</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 off-duty police officer hired</td>
<td></td>
</tr>
<tr>
<td>Oct 2008</td>
<td>Halloween Fundraiser</td>
<td>3 COL casual staff</td>
<td>- Family basketball rental in the gym until 10:30 p.m.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 off-duty police officer hired</td>
<td>- Field hockey until 9:00 p.m. (many children present)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Claimed the event was a fundraiser for Children’s hospital</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Party goers were in scantily clad costumes and costumes in poor taste (large penis, tampon, show girls, French maids)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Woman exposed her breasts to male staff</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Vomit in washrooms</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Noise complaints from houses behind CHOCC</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Underage drinking</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Smoking marijuana Confetti, beer, balloons, jello shooters made mess everywhere, staff had to stay late to clean up</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- People refusing to leave at end of rental</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Single officer unable to control party goers</td>
</tr>
<tr>
<td>Date</td>
<td>Event Description</td>
<td>Responsible Party</td>
<td>Staff Description</td>
</tr>
<tr>
<td>------------</td>
<td>--------------------------------------------------------</td>
<td>-------------------</td>
<td>--------------------------------------------------------</td>
</tr>
</tbody>
</table>
| Dec 2008   | Birthday Party                                        | 2 COL casual staff| Adult volleyball until 10:00 p.m. (many children attend with parents) | - When group booked they said there would not be any alcohol and they brought alcohol and had a liquor license  
- Group was well behaved/No issues |
| May 2005   | Festival on both arena pads, 3 days                    | Event hired commissioners | - Noise complaints by neighbours (loud music)  
- Did not vacate until at least 2:30 a.m. each day  
- Drinking in non-designated areas  
- Smoking within entire facility  
- VERY MESSY - staff required to work around the clock to clean the building  
- Outside cleaner had to be hired to clean arena pads after event |
| June 2006  | Stag and Doe                                           | 3 COL casual staff | Alcohol taken outside designated areas  
- Noise complaints from the neighbours in apartment next door  
- Not vacating building on time |
| April 2006 | Stag and Doe                                           | 3 COL casual staff | Alcohol taken outside designated areas  
- Noise complaints from the neighbours in apartment next door  
- Not vacating building on time |
| July 2006  | Stag and Doe                                           | 3 COL casual staff | Alcohol taken outside designated areas  
- Noise complaints from the neighbours in apartment next door  
- Not vacating building on time |
| October 2006 | Stag and Doe                                    | 3 COL casual staff | Alcohol taken outside designated areas  
- Noise complaints from the neighbours in apartment next door  
- Not vacating building on time |
| November 2006 | Stag and Doe                                     | 3 COL casual staff | Alcohol taken outside designated areas  
- Noise complaints from the neighbours in apartment next door  
- Not vacating building on time |
| May 2007   | Stag and Doe                                           | 3 COL casual staff | Alcohol taken outside designated areas  
- Noise complaints from the neighbours in apartment next door  
- Not vacating building on time |
| June 2007  | Wedding (no alcohol and no alcohol permit)           | 3 COL Staff Building Supervisor | - Noise complaints from the neighbours in apartment next door  
- Not vacating building on time  
- Unsupervised children running out of control until 2:00a.m.  
- Extra staff clean-up. Staff on site till 3:00a.m.  
- Damage to tables and chairs  
- Alcohol consumed despite not having permit  
- Did not remove all equipment at end of night despite being told they couldn't (large event next day needed the space - Canada Day) |
| July 2007  | Stag and Doe                                           | 3 COL casual staff | Alcohol taken outside designated areas  
- Noise complaints from the neighbours in apartment next door  
- Attendees broke an office chair from the lobby  
- Not vacating building on time |
| November 2007 | Stag and Doe                                  | 3 COL casual staff | Alcohol taken outside designated areas  
- Noise complaints from the neighbours in apartment next door  
- Not vacating building on time |
| March 2008 | Wedding (no alcohol and no alcohol permit) | 3 COL casual Staff | • Noise complaints from the neighbours in apartment next door.  
• Unsupervised children running out of control all night till 2:00 a.m.  
• Damage to tables and chairs  
• Attendees brought alcohol despite the fact they had no permit  
• Extra staff clean-up until 4:00 a.m.  
• Not vacating building on time  

| March 2008 | Wedding (no alcohol and no alcohol permit) | 3 COL casual Staff Building Supervisor | • Noise complaints from the neighbours in apartment next door  
• Unsupervised children running out of control all night till 2:00 a.m.  
• Extra staff clean-up. Staff on site till 4:00a.m.  
• Damage to tables and chairs  
• Attendees brought in alcohol despite the fact they had no permit  
• Not vacating building on time  

* Pictures were taken of the mess