

DATE: DECEMBER 29, 2017

TO: MAYOR AND COUNCIL

NAME AND TITLE: WALTER BABICZ, GENERAL MANAGER OF ADMINISTRATIVE SERVICES

SUBJECT: City of Prince George Nuisance Abatement and Cost Recovery Bylaw

ATTACHMENTS: Notice of Motion from Councillor Skakun

RECOMMENDATION:

1. THAT Council grant first three readings to City of Prince George Nuisance Abatement and Cost Recovery Bylaw No. 8940, 2018.

PURPOSE:

In response to the attached Notice of Motion submitted by Councillor Skakun, Council passed a resolution directing Administration to report back for the purpose of Council adopting a bylaw to address the recovery of RCMP and staff costs from the owners of properties where there have been repeated calls for service related to bylaw infractions or other nuisances.

The purpose of this report is to recommend that Council grant first three readings to City of Prince George Nuisance Abatement and Cost Recovery Bylaw No. 8940, 2018 ("Bylaw No. 8940").

POLICY / REGULATORY ANALYSIS:

Bylaw No. 8940 fully addresses the issue raised in Councillor Skakun's attached Notice of Motion. Bylaw No. 8940 is designed to allow the City to recover the costs of RCMP, bylaw enforcement staff, fire department staff and other staff attendance at properties that have been determined to be "nuisance" properties. Vehicle and equipment costs involved in the staff attendances are also recoverable.

Bylaw No. 8940 would provide the City with yet another tool to address problematic properties, in addition to the remedial action orders and business licence suspension processes that Council is already familiar with. With respect to the difference between Bylaw No. 8940 and the matters that can be addressed by remedial action orders under the *Community Charter*, remedial action orders are limited to things such as buildings and structures that are hazardous or so dilapidated or unclean as to be offensive to the community. In contrast, Bylaw No. 8940 would be directed more at conduct or behaviour of owners and occupiers of property which give rise to or cause a nuisance. If the source of the nuisance is the physical condition of a building or structure as opposed to the conduct of the owners or occupants of the building, then the appropriate remedy would still be to proceed with a remedial action order under the *Community Charter*.

In summary, the proposed Bylaw No. 8940 does the following:

- (a) prohibits the use of land by an owner or occupier in a manner that creates a nuisance;
- (b) requires the owner or occupier of land to abate any nuisance that they create or allow to occur on the property that they own or occupy;

- (c) provides City Council with the authority to order the owner or occupier of premises to abate a nuisance on or emanating from the premises;
- (d) authorizes the City through its employees, the RCMP or contractors to enter onto property and to abate a nuisance at the cost of the owner/occupier, where an owner/occupier fails to abate the nuisance (once having been ordered to do so by City Council);
- (e) sets out, in Schedule "A", a schedule of the hourly fees/rates that would be used to determine the cost of abatement that the owner/occupier is responsible for; and
- (f) provides that the City may, amongst other things, recover the cost of abating a nuisance in the same manner as property taxes.

As noted above, Bylaw No. 8940 provides City Council with the authority to order the owner or occupier of premises to abate a nuisance on or emanating from the premises. Before that order is made, the owner must be given an opportunity to be heard by Council. The process would be similar to a remedial action order reconsideration (appeal) hearing with Council. This is to satisfy the common law requirements of natural justice and procedural fairness. What this means is that before the City can start charging for RCMP, fire department, bylaw enforcement, or other staff attendance at the property, the situation will need to have escalated to the point where City staff consider the matter serious enough to warrant Council's involvement.

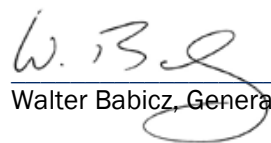
In other words, Bylaw No. 8940 does not allow the City to send a bill to any property owner on a "one off" basis simply because the RCMP responded to an isolated complaint. When Council is asked to consider making an order, City staff will need to ensure that there is an adequate factual basis (including statements from complainants, RCMP reports, bylaw enforcement reports, etc.) for Council to find that the activities complained of do in fact amount to a legal "nuisance". Once an order is made by Council, on a going-forward basis the City may start sending the owner of the nuisance property a bill for staff attendance if and when additional complaints are received, provided that staff take action to "abate" the nuisance (i.e. by attending in response to a complaint and breaking up a loud altercation, noisy party, etc.). The City would not be able to bill retroactively for such attendances prior to City Council making the order.

If Council proceeds with adoption of Bylaw No. 8940, Administration will consider implementing a procedure that will provide guidance in future cases when staff are considering whether to bring a particular property to Council's attention for a nuisance abatement order. For example, as a matter of policy, the City might decide that a property will be brought forward to City Council if more than "x" complaints have been received about a specific property within a particular period of time, and where the complaints have been investigated and found to be substantiated, and where the RCMP and/or City staff consider there to be a serious enough concern about public order and safety to warrant action being taken by Council under this bylaw.

SUMMARY AND CONCLUSION:


Bylaw No. 8940 would provide the City with an additional tool to address problematic nuisance properties. It is recommended that Council grant first three readings to City of Prince George Nuisance Abatement and Cost Recovery Bylaw No. 8940, 2018.

RESPECTFULLY SUBMITTED:



Walter Babicz, General Manager of Administrative Services

APPROVED:



Kathleen Soltis, City Manager
January 8, 2018