

COMMITTEE AGENDA



TO **Operations, Transit & Emergency Services Committee**

DATE Monday, March 18, 2013

LOCATION Council Chambers, Guelph City Hall, 1 Carden Street

TIME 5:00 p.m.

DISCLOSURE OF PECUNIARY INTEREST AND GENERAL NATURE THEREOF

CONFIRMATION OF MINUTES – December 10, 2012 open meeting minutes

PRESENTATIONS (Items with no accompanying report)

None

CONSENT AGENDA

The following resolutions have been prepared to facilitate the Committee's consideration of the various matters and are suggested for consideration. If the Committee wishes to address a specific report in isolation of the Consent Agenda, please identify the item. The item will be extracted and dealt with separately. The balance of the Operations, Transit & Emergency Services Committee Consent Agenda will be approved in one resolution.

ITEM	CITY PRESENTATION	DELEGATIONS	TO BE EXTRACTED
OTES-2013.1 Public Nuisance By-Law			
OTES-2013.2 Revised U-Pass Agreement			
OTES-2013.3 2012 Delegation of Authority Report			
OTES-2013.4 Revised Guelph Transit 2011 Annual Report			

Resolution to adopt the balance of the Operations, Transit & Emergency Services Committee Consent Agenda.

ITEMS EXTRACTED FROM THE CONSENT AGENDA

Once extracted items are identified, they will be dealt with in the following order:

- 1) delegations (may include presentations)
- 2) staff presentations only
- 3) all others.

COMMITTEE TERMS OF REFERENCE REVIEW

CLOSED MEETING

THAT the Operations & Transit Committee now hold a meeting that is closed to the public with respect to:

1. Citizen Appointments to the Transit Advisory Committee

S. 239 (2) (b) personal matters about identifiable individuals.

NEXT MEETING – April 22, 2013

**The Corporation of the City of Guelph
Operations, Transit & Emergency Services Committee
Monday, December 10, 2012 at 5:00 p.m.**

A meeting of the Operations, Transit & Emergency Services Committee was held on Monday, December 10, 2012 in Council Chambers at 5:00 p.m.

Present: Councillors Bell, Findlay, Furfaro, Van Hellemond and Mayor Farbridge (*arrived at 5:02 p.m.*)

Also Present: Councillors Guthrie, Piper and Wettstein

Staff in Attendance: Mr. D. McCaughan, Executive Director of Operations, Transit & Emergency Services; Mr. M. Anders, General Manager, Community Connectivity and Transit; Mr. D. Godfrey, Manager, By-law Compliance & Security; Mr. S. Armstrong, General Manager, Emergency Services; Ms. T. Agnello, Deputy City Clerk; and Ms. D. Black, Council Committee Coordinator.

There was no declaration of pecuniary interest.

1. Moved by Councillor Van Hellemond
Seconded by Councillor Furfaro

THAT the minutes of the Operations, Transit & Emergency Services Committee meeting held on November 19, 2012 be confirmed as recorded and without being read.

VOTING IN FAVOUR: Councillors Bell, Findlay, Furfaro, and Van Hellemond (4)

VOTING AGAINST: (0)

Carried

The Mayor arrived at the meeting.

Consent Agenda

The following items were extracted from the Consent Agenda to be voted on separately:

OTES 2012-A.37	Noise By-law Amendments
OTES 2012-A.38	Guelph Transit- Service Performance
OTES 2012-A.39	Heart and Stroke Foundation of Ontario – Public Access Defibrillators

2. Moved by Councillor Bell
Seconded by Councillor Van Hellemond

THAT the balance of the Consent Agenda of the Operations, Transit & Emergency Services Committee of December 10, 2012 as identified below, be adopted:

December 10, 2012

Operations, Transit & Emergency Services Committee

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REPORTa) **Proposed Emergency Medical Services Base in Hillsburgh, Town of Erin**

THAT the Mayor and Clerk be authorized to execute an agreement as outlined in the Operations, Transit & Emergency Services Report OT121251, dated December 10, 2012 Emergency Medical Services Base – Town of Erin, Village of Hillsburgh, subject to the form and content of the agreement being satisfactory to the City Solicitor and the Executive Director of Operations, Transit and Emergency Services.

VOTING IN FAVOUR: Councillors Bell, Findlay, Furfaro, Van Hellemond and Mayor Farbridge (5)

VOTING AGAINST: (0)

Carried

Noise By-law Amendments

Mr. Luc Fournier, Motorcycle & Moped Industry Council, provided information regarding regulations for motorcycles and mopeds. He advised there are several ways to minimize engine noise.

Ms. Susan Ratcliffe, Guelph resident, requested clarification regarding the date of implementation and enforcement of the by-law. She suggested staff provide reports to the public regarding the number of vehicles checked and charges laid. She suggested special vehicle passes showing they passed inspection, putting notices up on the signs leading into Guelph, using noise snare technology and determining consequences for repeat offenders.

Mr. Barry Bowman, Guelph resident, expressed concern regarding motorcycle noise. He said that if the existing Highway Traffic Act regulations regarding mufflers and unnecessary noise were enforced, the noise by-law would not be necessary. He suggested hiring retired police officers to assist with enforcement.

Staff confirmed the by-law will come into effect spring 2013 and police and by-law enforcement officers will be enforcing it. Reasonable grounds are necessary to gather evidence to lay charges and a set fine of \$300 is being requested. Staff also advised that decibel issues in other municipalities were a result of inaccurate testing so training will be provided. They will explore effective ways to act upon complaints.

Distribution	Minutes
<p>December 10, 2012</p> <p>REPORT</p>	<div data-bbox="488 212 1487 247"> <div>Operations, Transit & Emergency Services Committee</div> <div>Page 3</div> </div> <div data-bbox="488 283 1536 459"> <p>3. Moved by Councillor Bell Seconded by Councillor Furfaro THAT the Operations, Transit & Emergency Services Committee Report OT121253 <u>Noise Bylaw - Amendments</u> dated December 10, 2012 be received;</p> </div> <div data-bbox="488 495 1503 604"> <p>AND THAT amendments to the Noise Bylaw as set out in Report OT121253 <u>Noise Bylaw - Amendments</u> dated December 10, 2012 be approved.</p> </div> <div data-bbox="488 640 1373 711"> <p>VOTING IN FAVOUR: Councillors Bell, Findlay, Furfaro, Van Hellemond and Mayor Farbridge (5)</p> </div> <div data-bbox="488 747 821 783"> <p>VOTING AGAINST: (0)</p> </div> <div data-bbox="1360 816 1468 852"> <p>Carried</p> </div> <div data-bbox="488 888 1114 924"> <p>Guelph Transit – Service Performance</p> </div> <div data-bbox="488 959 1503 1350"> <p>Mr. Michael Anders, General Manager, Community Connectivity and Transit, provided an overview of the Transit Growth Strategy. He outlined key elements of the system, issues encountered, actions taken, the route performance study, key study findings, issues impacting performance, assessment of current situation and recommendations. He summarized the changes made to routes and the hub setup to assist with successful transfers. He outlined their plan to deal with issues on an interim basis until the recommended changes can be implemented. He said if transit priority and traffic issues can be resolved, they may, in the future, return to the 15 minute service.</p> </div> <div data-bbox="488 1386 1536 1814"> <p>Mr. Andy Cleary, President, ATU, Local 1189 said that the current basic routes do not allow for any variables such as volume of customers, construction, customers with special needs, and traffic issues. He said staff feel stressed as they are unable to take necessary breaks and were not given proper consideration during the development of the runs. He said the geographic layout of Guelph is the biggest challenge and the current 15-30 minute runs mean people have to leave earlier to get somewhere in time due to transfer issues. He said efficiency should be the end goal and they would like to return to having the best time efficiency. He expressed commitment to the change and support of the recommendations on behalf of the union.</p> </div> <div data-bbox="488 1850 1495 1990"> <p>Mr. Kevin Chernoff, Guelph resident, believes the 20 minute service will help through the week but will not make a difference on the weekends. He said the routes need to be driven to determine their viability, coordination between traffic services and transit, and</p> </div>

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Operations, Transit & Emergency Services Committee

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REPORT

advance greens for buses making left hand turns. He stated that he is pleased to see the buses go through downtown but does not see why some go through downtown both ways. He also noted that some late buses are due to construction and he asked if the changes will result in job losses.

Mr. Randy Pepper, Guelph resident, said he has used the bus for 30 years and current service is at its worst. He stated that it takes him too long to get to work and he must leave quite early due to regularly missed transfers. He believes the 20 minute service works better and the 30 minute runs on weekends work well.

Staff advised they are currently assessing resource implications and will report back in February. They advised the consultant is willing to assist with routing issues on an ongoing basis despite that not being in the terms of reference for his original contract. They also noted they have criteria for setting up shelters and install them as resources allow.

4. Moved by Mayor Farbridge
Seconded by Councillor Bell

THAT the Operations, Transit and Emergency Services (OTES) Committee Report OT121255 Guelph Transit – Service Performance dated December 10, 2012 be received;

AND THAT Guelph Transit adopt the service model recommended in OTES Committee report OT121255 Guelph Transit – Service Performance dated December 10, 2012.

AND THAT staff report back to Committee on a bi-monthly basis on Guelph Transit service until October 2013

AND THAT Guelph Transit undertake a third party review of service performance in October of each year.

VOTING IN FAVOUR: Councillors Bell, Findlay, Furfaro, Van Hellemond and Mayor Farbridge (5)

VOTING AGAINST: (0)

Carried

Heart And Stroke Foundation Of Ontario (HSFO) – Public Access Defibrillators

Mr. Andrew Lotto, Manager, Resuscitation, Heart & Stroke Foundation, provided statistics regarding the likelihood of survival when defibrillators are available. He asked the City to commit to public education about CPR and raise community awareness, support

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HSFO in deployed AEDs (Automated External Defibrillators) through government-funded programs and support the revisions to the language for the dispatch service provided within the report. He said there are currently no regulations or legislation regarding the requirement to have AEDs on site.

5. Moved by Councillor Bell

Seconded by Councillor Van Hellemond

THAT the Operations, Transit & Emergency Services Committee Report OT121252 Heart and Stroke Foundation of Ontario – Public Access Defibrillators, dated December 10, 2012, be received.

VOTING IN FAVOUR: Councillors Bell, Findlay, Furfaro, Van Hellemond and Mayor Farbridge (5)

VOTING AGAINST: (0)

Carried

Adjournment

6. Moved by Mayor Farbridge

Seconded by Councillor Furfaro

THAT the December 10, 2012 Operations, Transit & Emergency Services Committee be adjourned.

Carried

The meeting adjourned at 6:48 p.m.

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Chairperson

**OPERATIONS, TRANSIT & EMERGENCY SERVICES COMMITTEE
CONSENT AGENDA**

March 18, 2013

Members of the Operations, Transit & Emergency Services Committee.

SUMMARY OF REPORTS:

The following resolutions have been prepared to facilitate the Committee's consideration of the various matters and are suggested for consideration. If the Committee wishes to address a specific report in isolation of the Consent Agenda, please identify the item. The item will be extracted and dealt with immediately. The balance of the Operations, Transit & Emergency Services Committee Consent Agenda will be approved in one resolution.

A Reports from Administrative Staff

REPORT	DIRECTION
OTES-2013.1 PUBLIC NUISANCE BY-LAW 1. That the Operations, Transit & Emergency Services Committee Report # OT031303 dated March 18, 2013, regarding the establishment of a Public Nuisance By-law be received. 2. That the proposed Public Nuisance By-law be presented to Council for approval.	Approve
OTES-2013. 2 REVISED U-PASS AGREEMENT 1. That the Operations, Transit and Emergency Services Committee Report #OT031302 <u>Revised U-Pass Agreement</u> dated March 18, 2013 be received. 2. That the Mayor and City Clerk be authorized to sign U-Pass Agreements with the CSA and GSA at the University of Guelph.	Approve
OTES-2013.3 2012 DELEGATION OF AUTHORITY REPORT That the report dated March 18, 2013 entitled "2012 Delegation of Authority Report" with respect to delegated authority under the purview of Operations, Transit & Emergency Services Committee be received.	Receive

OTES-2013.4

**REVISED GUELPH TRANSIT 2011 ANNUAL
REPORT**

Receive

This item has been extracted from the March 1st Items for Information upon request of a committee member.

The General Manager, Connectivity & Transit will speak to this matter.

Attachs.

STAFF REPORT



TO Operations, Transit & Emergency Services Committee

SERVICE AREA Operations, Transit & Emergency Services
Bylaw Compliance & Security Department

DATE March 18, 2013

SUBJECT **Public Nuisance Bylaw Update**

REPORT NUMBER OT031303

EXECUTIVE SUMMARY

PURPOSE OF REPORT

To advise Committee of how public engagement efforts have influenced the suggested provisions of a Public Nuisance Bylaw to regulate, through by-law control, unwanted or undesirable activity within the City of Guelph.

KEY FINDINGS

The participation model used to engage the public on determining their opinions regarding the content of a Public Nuisance Bylaw is considered a success. The recommended Public Nuisance Bylaw reflects the opinions and support of the majority of those participating in this process. The significant changes to the draft bylaw previously presented to Council are:

- There was considerable objection to any language that would curtail or regulate public protests or rallies. For many, it was perceived as an affront to the federal Charter of Rights and Freedoms (CoRF). All sections pertaining to this aspect of the bylaw have been **removed**;
- Again, citing CoRF concerns, the aspects of the bylaw prohibiting/regulating the distribution of handbills has been **removed**.
- There was considerable concern as to the fine amount(s) specified in the draft bylaw. The draft indicates a minimum fine of \$10,000 and a maximum fine of \$25,000 for individuals and a minimum fine of \$50,000 and a maximum fine of \$100,000 for Corporations. These amounts are set by Provincial legislation and are the amounts that can be imposed if one were summoned to Court for a violation of the bylaw. For most circumstances, enforcement officials will issue a Provincial Offences Notice that will have a *Set Fine* associated with infractions of the bylaw. These suggested Set Fines are included in the report.

STAFF REPORT

FINANCIAL IMPLICATIONS

The cost of drafting a Public Nuisance By-law and the activity required to achieve compliance with it is provided for within the existing operating budgets of the Guelph Police Service and the City's Bylaw Compliance, Security & Licensing Department.

ACTION REQUIRED

To receive staff's report and to recommend the proposed Public Nuisance By-law be passed by Council.

RECOMMENDATION

1. That the Operations, Transit & Emergency Services Committee Report # OT031303 dated March 18, 2013, regarding the establishment of a Public Nuisance Bylaw be received; and,
2. That the proposed Public Nuisance Bylaw be presented to Council for approval.

BACKGROUND

A Public Nuisance By-law will provide by-law officers and police with an additional tool to address minor, unwanted behaviour or activities on City-owned property and, in certain limited cases, private land.

This tool will permit enforcing officials to deal with unwanted behaviour (at their discretion) through the Nuisance Bylaw rather than through the laying of criminal charges. Pursuing compliance through the Nuisance Bylaw (rather than Criminal Code) will reduce the Police Service and Court Administration resources necessary to achieve compliance allowing both agencies to concentrate on more serious matters.

On September 24, 2012, following the receipt of Operations, Transit & Emergency Services Committee Report # OT091235 dated September 17, 2012, Council approved the need for a Public Nuisance Bylaw in principle; and directed staff to solicit public input on the draft Public Nuisance Bylaw.

REPORT

As a result of this direction, staff working in collaboration with Community & Social Services (CSS), designed and employed a new public engagement model to encourage and facilitate a greater degree of public involvement. The strategy resulted in about 133 residents participating in the engagement process with comments being received on approximately 46 sections of the Bylaw. This model will be reported on separately and in more detail by CSS at a future time. Preliminary results, however, suggest it successfully achieved its objectives.

STAFF REPORT

It is significant to note that while this initiative was stewarded by Bylaw Compliance staff, the initiative to create a Nuisance Bylaw was broadly supported by a broad cross-organizational team (identified below) that actively collaborated on the consideration of public input and assisted with the drafting of the recommended bylaw before Committee. The unabridged version of the recommended bylaw is contained in Attachment A.

Following the public engagement process, staff met to carefully consider each section of the draft bylaw, the public input received, administrative interest in having the section included and its enforceability. The result of this review saw various regulations in the draft Bylaw deleted, amended or retained as originally proposed. For ease of Committee review, Appendix B sets out, section by section, the draft bylaw's original language, the public opinion received on the section, staff's response to the input and the recommended language that has been captured within the recommended bylaw in Appendix A. Please note, all unabridged public comments have been retained on file should whole documents be required.

The following highlights some of the more significant public comments received and staff's brief response(s):

- **The Bylaw would gravely affect a person's rights and freedoms;**
 - the sections regulating protests and rallies have been removed.
 - the sections regulating the distribution of handbills have been removed;
 - under the sections describing the cancellation of permits issued to authorize various activities, references to "without notice" were removed.
 - in the interest of public safety and to assure the legal use of City land by all persons, clauses pertaining to obstructing a sidewalk and camping were retained. It was determined the inclusion of these clauses would not affect peaceful assemblies.
- **The City had other bylaws that contained similar restrictions and the Nuisance Bylaw was not needed.**
 - sections found to be duplicated in other Bylaws were removed or amended to address specific City land not regulated by other Bylaws.
- **Sections pertaining to activities within City parks should be contained in a Parks Bylaw, not the Nuisance Bylaw.**
 - the City of Guelph does not currently have a Parks Bylaw. Staff of CSS recognize the need for a comprehensive bylaw but indicate it needs to be developed in the 'parks as living community centres' context. This is included in their work plan for 2014.

STAFF REPORT

- **The Noise Bylaw should be able to provide Police/Bylaw staff the authority to stop nuisance parties.**
 - the City's Noise Bylaw contains authority to compel persons creating excessive noise to cease and desist. However, it does not provide authority for Police/Bylaw staff to stop parties. The Nuisance Bylaw as recommended will provide such authority.
- **There is concern the Public Nuisance Bylaw is shifting responsibility for certain violations from the Guelph Police Service to the City's Bylaw Compliance Officers.**
 - Providing Bylaw Compliance staff with the authority to deal with minor offences instead of the Guelph Police Service is an efficiency realized through the creation of the Nuisance Bylaw. While dealing with minor infractions is not proposed as an exclusive responsibility of Bylaw Compliance staff, the time the Guelph Police Service would usually spend on such activity can be redeployed to more urgent/serious matters. Serious infractions of this Bylaw such as fighting and weapons will continue to be addressed by the Guelph Police Service.
- **Laws are already in place to deal with nuisances. Why is this bylaw required?**
 - The Public Nuisance Bylaw will create bylaw regulations that can be enforced by either the Guelph Police Service or Bylaw Compliance Staff. Without the bylaw, most nuisance behaviour would continue to be exclusively addressed by the Guelph Police Service. This bylaw will enhance the City's ability to respond to such activity.
 - In consideration of youthful exuberance and/or minor infractions, the application of Criminal Code charges may be seen as too heavy-handed. For minor nuisance infractions, the Nuisance Bylaw can bridge the gap between the issuance of Criminal Code charges and simple warnings.
- **There was concern and confusion over the penalty sections of the draft Bylaw, specifically with respect to the maximum and subsequent fine amounts.**
 - these fine amounts are set by Provincial legislation and are the maximum amounts that a Court may impose upon conviction. While Police and Bylaw staff would have the option to summons a person before the Court, most violations will be addressed through the issuance of Provincial Offence Notices (tickets) along with Set Fines.

STAFF REPORT

- Application must be made to and approved by the Chief Justice for the Set Fines to be established. Attachment C indicates the Set Fines for the various violations within the Nuisance Bylaw. Staff will make application for approval to the Chief Magistrate.
- **Concern was raised regarding the use of permits for specific activities and how the City administers them.**
 - the City currently uses Special Event permits and has a process in place to administer them. The current application and approval process would not change. The creation of a Public Nuisance Bylaw reaffirms the requirement for the public to apply and for staff to process Special Event Permits. Fees for activities listed within the Public Nuisance Bylaw would be identified within the City's Fees Bylaw, which is also approved annually by City Council.
- **There was concern staff would use discretion too stringently or alternatively use discretion too frivolously and use the Bylaw when Criminal Code charges are better suited.**
 - Guelph Police and City Bylaw Compliance Officers, as with any enforcement agency, constantly use discretion in their daily work. They receive intensive training and are skilled at assessing situations and determining the best course of action given the circumstance they may face. The judicial exercise of discretion is part of the expectations of their position. If a person believes an Officer has used discretion inappropriately, options are available to initiate an administrative review of the officer's conduct.

In conclusion, the recommended Public Nuisance Bylaw does indeed prohibit many undesirable activities. However, the bylaw incorporates language that allows for a number of the activities to occur through the issuance of administrative exemptions or permits when it is in the public interest for the activity to occur. Staff are of the opinion the Public Nuisance Bylaw as presented balances the need to control such activity with the public expectation to limit governmental control over civil liberties.

CORPORATE STRATEGIC PLAN

This report supports the following goals in the strategic plan:

- 1.2 Develop collaborative work teams and apply whole systems thinking to deliver creative solutions.
- 2.2 Deliver public services better
- 3.1 Ensure a well designed, safe, inclusive, appealing and sustainable City

STAFF REPORT



DEPARTMENTAL CONSULTATION

Business Services
Community Engagement
Corporate Building Maintenance
Culture and Tourism
Parks and Recreation
Court Services
Legal and Reality Services
Emergency Services
Guelph Transit
Public Works
Building Services
Corporate Communications
Guelph Police Services

COMMUNICATIONS

In anticipation of the Committee meeting, staff have posted the proposed Nuisance Bylaw on the City's Web Page and have inserted notice in the City Page.

Upon approval of the Public Nuisance Bylaw, staff will continue their strategy to engage and educate the public on this matter.

ATTACHMENTS

Attachment A – Proposed Public Nuisance Bylaw
Attachment B – Summary of public comments email/letter
Attachment C – Proposed Set Fines

Report Authored By

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Approved and Recommended By

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THE CORPORATION OF THE CITY OF GUELPH

By-law Number (2013) - XXXXX

A By-law Regulating Public Nuisances.

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 enable all persons to share the common resource of City Land;

AND WHEREAS the City wishes to ensure that the use of City Land as well as other lands 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, and, notwithstanding the generality of the foregoing, Council is of the opinion that a Nuisance Party (as defined herein) is a public nuisance;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF GUELPH ENACTS AS FOLLOWS:

INTERPRETATION

1. In this by-law:

“**Aircraft**” includes any fixed wing aircraft, helicopter, hot air balloon, hang glider or ultra-light aircraft, including those directly or remotely controlled;

“**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;

“Dangerous Animal” means any animal which constitutes or may constitute a danger to any person on City Land, which is likely to give rise to a justified apprehension of danger in the mind of a person on City Land or which is likely to interfere with the use or enjoyment of City Land by a person;

“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;

“Fight” means any one or more of the following:

- (a) An application of force to another person;
- (b) A threat, by act or gesture, to apply force to another person;
- (c) Spitting, punching, kicking, or slapping at another person; or
- (d) A threat, by act or gesture, to spit, punch, kick, or slap at another person;

“Motor Vehicle” means any motor vehicle as defined under the *Highway Traffic Act*, R.S.O. 1990, c. H.8, but excludes a wheelchair or similar device, powered or otherwise, used by an individual due to disability and a baby carriage, stroller, child sleigh or similar device used by a child;

“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) 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 Fight; or
- (j) Outdoor public urination or defecation;

“Officer” means a Police Officer or any by-law enforcement officer of the City;

“Permit” means a written authorization of the Executive Director, pursuant to this by-law, a written authorization of the City pursuant to a resolution or another by-law of the City, including a special event permit, or an implied authorization, such as the authorization for an activity that is implied where a facility is designed for that specific activity;

“Premises” means any place in the City, including, but not limited to City Land, private lands, parking lots, vacant lands, and yards appurtenant to buildings or dwellings, but does not mean a building or dwelling;

“Sign” means a sign or notice posted by the City at, within or adjacent to City Land or a specified part thereof; and

“Weapon” means any thing used, designed to be used or intended for use (a) in causing death or injury to any person, or (b) for the purpose of threatening or intimidating any person and, without restricting the generality of the foregoing, includes a firearm.

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 best interests of the City, in the sole determination of the Executive Director, 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.

EXEMPTIONS

6. In respect of City Land, or applicable parts thereof, this by-law shall not apply to:
 - (a) The City and its employees, agents and contractors carrying out their duties on behalf of the City;
 - (b) Any person who is acting in full compliance with a Permit;
 - (c) Any person who is acting in full compliance with a Sign; and
 - (d) Any Police Officer carrying out police activities.

RESTRICTED AREAS

7. If entry to City Land or any applicable part thereof is identified by a Sign, barrier or barricade or in any other way as prohibited or restricted, no person shall, unless pursuant to an exemption pursuant to this by-law, enter into such City Land or applicable part thereof contrary to such prohibition or restriction.

CONDUCT AFFECTING OTHER PERSONS

8. While on City Land, no person shall, unless pursuant to an exemption pursuant to this by-law:
 - (a) Engage in any violent, threatening, illegal or riotous conduct;
 - (b) Engage in any activity in such a manner as may or does endanger or cause injury to any person or damage to any property;
 - (c) Incite, encourage or participate in a Fight;
 - (d) Obstruct any sidewalk, designated trail or pathway;
 - (e) Sell, rent or barter, offer for sale, rental or bartering or display for sale, rental or bartering, any goods or services;
 - (f) Carry on any trade, occupation, business or profession;
 - (g) Place or permit the placement of any vending machine or game operated by coins or other forms of money;
 - (h) Be in possession of or use any Weapon;
 - (i) Interfere with any permitted activity carried out by any other person;
 - (j) Subject to the *Human Rights Code*, R.S.O. 1990, c. H.19, enter any washroom or change-room set apart for the opposite gender, provided that this shall not apply

- to children who are 6 years of age or younger and are, at that time, under the care of their parent, guardian or caregiver;
- (k) Loiter in any washroom or change-room or conduct oneself in such a manner as to be objectionable to another person using, or in the vicinity of, said washroom or change-room;
 - (l) Operate any photographic or other recording device in any washroom or change-room;
 - (m) As the owner of a horse, livestock or a Dangerous Animal, or as a person having the care or control of a horse, livestock or Dangerous Animal, permit the horse, livestock or Dangerous Animal, as the case may be, to enter or be on City Land, unless legally authorized;
 - (n) Engage in any conduct that is prohibited or restricted by a Sign; or
 - (o) Knock over or attempt to knock over a Canada Post mailbox or relay box, a utility box, a newspaper box or a waste collection container.

CONDUCT AFFECTING CITY PROPERTY

9. While on City Land, no person shall, unless pursuant to an exemption pursuant to this by-law:
- (a) Engage in any activity in such a manner as may or does cause damage to any property of the City;
 - (b) Break, injure, deface, prune, plant, move or remove the whole or any part of any flower, shrub, grass, plant material, tree or other vegetation;
 - (c) Damage, deface, break, move or remove the whole or any part of any building, structure or equipment of the City, including any Sign or barricade;
 - (d) Attach, stencil, paint or otherwise apply, fasten or erect any marking, graffiti, sign or notice to any property on City Land;
 - (e) Dump or deposit snow in a park or public square;
 - (f) Dispose of, cause the release of, dump, drain or discharge any material or substance, whether solid or liquid and whether toxic, hazardous (as defined by the *Environmental Protection Act*, R.S.O. 1990, c. E.19) or otherwise, on or into any surface or soil or the waters of any fountain, regardless of the place of origin and the means of transmission or transportation of said material or substance;
 - (g) Build, light or stoke any fire;
 - (h) Camp, dwell or lodge;
 - (i) Place, install or erect any temporary or permanent structure, including any tent or booth;
 - (j) Enter the water in any fountain or water feature not intended for such use;
 - (k) Climb any building, structure or equipment not intended for such use;
 - (l) Tether, launch or land any Aircraft; or
 - (m) Bring, operate, park or leave any Motor Vehicle on any surface not intended for such use.

ADMINISTRATION

10. In respect of City Land, or applicable parts thereof, the Executive Director, in his/her sole discretion, considering the purposes of this by-law and the best interests of the City, is authorized to:
- (a) Issue or refuse to issue Permits permitting activities that would otherwise be prohibited or restricted by this by-law;
 - (b) Charge fees, as established by Council, for the issuance of Permits;

- (c) Make Permits subject to such conditions, including, without limitation, conditions as to time, location, area, equipment, number of participants, types of activities, securing of other necessary approvals, indemnification and insurance coverage, as the Executive Director may find to be appropriate; and
 - (d) Revoke, void or alter Permits.
11. A Permit shall be non-transferrable and shall remain the property of the City.
12. In respect of City Land, or applicable parts thereof, the Executive Director, in his/her sole discretion, considering the purposes of this by-law and the best interests of the City, is authorized to:
- (a) Issue and post or refuse to issue and post Signs permitting activities that would otherwise be prohibited or restricted by this by-law;
 - (b) Issue and post or refuse to issue and post Signs prohibiting or restricting activities that would otherwise be permitted pursuant to this by-law;
 - (c) On Signs, make permissions, prohibitions and restrictions of activities subject to such conditions, including, without limitation, conditions as to time, location, area, equipment, number of participants, types of activities, securing of other necessary approvals, indemnification and insurance coverage, as the Executive Director may find to be appropriate; and
 - (d) Remove or alter Signs.

NUISANCE PARTIES

13. (1) No person shall sponsor, conduct, continue, host, create, attend, permit or cause 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 permit or cause 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, attending, permitting or causing a Nuisance Party on specified Premises shall cease such sponsoring, conducting, continuing, hosting, creating, attending, permitting or causing of such Nuisance Party, and every person not residing on such Premises shall leave such Premises.
- (4) An order under this section shall identify:
- (a) The location of the Premises on which the contravention is occurring;
 - (b) The reasonable particulars of the contravention of this by-law; and
 - (c) 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, by placing a Sign on the highway, 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.

14. (1) The City may impose a fee or charge upon any person hosting a Nuisance Party and/or the owner of Premises where the Nuisance Party is held.
(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

15. Council hereby authorizes all Officers to enforce this by-law.
16. Each Officer is hereby authorized to inform any person of the provisions of this by-law and to request compliance therewith, or else production of proof of an applicable exemption.
17. Any person who claims an exemption from a provision of this by-law on the basis of a Permit, shall, when requested by an Officer, produce the original copy of the Permit for inspection.
18. Each Officer is hereby authorized to order any person the Officer believes to be in contravention of this by-law or to have contravened this by-law to:
 - (a) Desist from the activity constituting or contributing to such contravention;
 - (b) Where the activity occurs on City Land, remove from the City Land anything under the care or control of such person which the Officer believes is or was involved in such contravention; and
 - (c) Where the activity occurs on City Land, leave the City Land.
19. If a person fails to comply with an order of an Officer to remove from City Land something under the care or control of such person which the Officer believes is or was involved in a contravention of this by-law, the Officer may remove the thing or have the thing removed at such person's risk and expense.
20. No person shall fail to comply with an order made by an Officer pursuant to this by-law.
21. 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.
22. 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.
23. When any person contravenes any of the provisions of this by-law, or fails to comply with any order, pursuant to this by-law, in respect of City Land, the permission of such person to remain on the City Land is revoked.
24. (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.
25. (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.
26. 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

27. The short title of this by-law is the “Public Nuisance By-law”.
28. This by-law is hereby adopted as Municipal Code Amendment #XXX which amends Chapter #XXX to the City of Guelph Municipal Code.
29. This by-law shall come into force and take effect on the date this by-law is passed.

PASSED this day of , 2013.

KAREN FARBRIDGE – MAYOR

BLAIR LABELLE – CITY CLERK

DRAFT

ATTACHMENT B TO PUBLIC NUISANCE BYLAW REPORT #OT031303

DEFINITIONS

Section 1.

Original wording:

"Aircraft" includes any fixed wing aircraft, helicopter, hot air balloon, hang glider or ultra-light aircraft;

PUBLIC COMMENTS

Secondly, I must admit that I do not understand why there is a regulation regarding landing or launching an aircraft, I've been in Guelph for almost 50 years and have never seen nor heard of a plane taking off or landing in Guelph, so I do not see why this is being introduced.

STAFF COMMENTS

Issues have arisen in the past with hot air balloons.

Section was kept and modified to address smaller radio controlled aircraft that may cause public safety issues.

Proposed wording

"Aircraft" includes any fixed wing aircraft, helicopter, hot air balloon, hang glider or ultra-light aircraft including those directly or remotely controlled;

DEFINITIONS

Section 1.

Original wording

"Dangerous Animal" means any animal which constitutes or may constitute a danger to any person on City Land, which is likely to give rise to a justified apprehension of danger in the mind of a person on City Land or which is likely to interfere with the use or enjoyment of City Land by a person;

PUBLIC COMMENTS

Under Interpretation "Dangerous Animal" does there need to be mention of the exception of animals in the employ of the City (canine unit and mounted officers if the city at any point should employ such animals)?

STAFF COMMENTS

Dogs within the Guelph Police canine unit are not considered dangerous animals, further there are exemptions for police, City staff and agents carrying out their duties.

Proposed wording (No change):

"Dangerous Animal" means any animal which constitutes or may constitute a danger to any person on City Land, which is likely to give rise to a justified apprehension of danger in the mind of a person on City Land or which is likely to interfere with the use or enjoyment of City Land by a person

DEFINITIONS

Section 1.

Original wording

“Executive Director” includes the Executive Director of Operations, Transit and Emergency Services of the City, the Executive Director of Community and Social Services of the City and any other employee of the City acting under the direction of either of the foregoing for the purposes of this by-law;

PUBLIC COMMENTS

In addition to the concerns with content, we also foresee issues with the administration of the proposed bylaw. For example S. 10(a) of the bylaw reads that: "In respect of City Land, or applicable parts thereof, the Executive Director, in his/her sole discretion, considering the purposes of this bylaw and the best interests of the City, is authorized to: (a) Issue or refuse to issue permits permitting activities that would otherwise be prohibited or restricted by this bylaw".

STAFF COMMENTS

Recommend change to the definition of Executive Director to better define the position
Permits would be issued and revoked as per the City's existing Special Event Policy

Proposed wording:

“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;

DEFINITIONS

Section 1.

Original wording

“Fight” means a confrontation involving violent physical conduct between two or more people;

PUBLIC COMMENTS

On full consideration I do not even find this 'participate in a fight' part reasonable. If the process of a fight results in an assault charge or charges and through in a fair judicial process ends with a penalty for the assailant(s), than I support that outcome. If someone inadvertently finds him or herself in a fight will that person be automatically fined and be forced to navigate a lengthy rebate on that fine?

On City owned property will the expectation be that bylaw be the primary / priority responder?

STAFF COMMENTS

Update definition, as per the Criminal code of Canada – better defined – more effective way to deal with this (sections 8-c)

Enforcement of this section will be completed by GPS

Also provides options for the issuance of non-Criminal code charges

Proposed wording:

“Fight” means any one or more of the following:

- (a) An application of force to another person;
- (b) A threat, by act or gesture, to apply force to another person;
- (c) Spitting, punching, kicking, or slapping at another person; or
- (d) A threat, by act or gesture, to spit, punch, kick, or slap at another person.

DEFINITIONS

Section 1.

Original wording

"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:

PUBLIC COMMENTS

The fact that this gives municipalities the power to prohibit and regulate "public nuisances" without providing a useful definition of a "public nuisance" is troubling in itself. I have attended two public discussions about the draft bylaw. I have severe reservations about the draft as it currently exists.

STAFF COMMENTS

The definition of "Nuisance Party" in the by-law is limited to cases where there is unreasonable interference with the innocent public or property.

Proposed wording (No Change):

"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:

DEFINITIONS

Section 1.

Original wording

Unreasonable noise, including loud music or shouting;

PUBLIC COMMENTS

None received

STAFF COMMENTS

Concern that definition conflicts with Noise Bylaw. Wording amended to reflect Noise Bylaw.

Proposed wording:

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

DEFINITIONS

Section 1.

Original wording

"Weapon" includes any firearm as defined in the City's Firearm Discharge By-law # (1994)-14738 as amended.

PUBLIC COMMENT

Under Interpretation "Weapon" should this be expanded to include bladed weapons, bats, chains, etc.?

STAFF COMMENT

Definition has been expanded so that such items would be included.

Proposed wording:

"Weapon" means anything used, designed to be used or intended for use *(a)* in causing death or injury to any person, or *(b)* for the purpose of threatening or intimidating any person and, without restricting the generality of the foregoing, includes a firearm

CONDUCT AFFECTING OTHER PERSONS

Original wording

1. While on City Land, no person shall, unless pursuant to an exemption pursuant to this by-law:

(a) Engage in any riotous, violent, threatening or illegal conduct;

PUBLIC COMMENTS

May include things such as singing loudly, adults running through the streets, flash mob demonstrations, critical mass bicycle rides that temporarily impede traffic etc. All of the items I've just mentioned are peaceful and reasonable activities in a democratic society and I see no reason why law enforcement officers should have the right to dish out fines for activities that they have defined as 'riotous'. This is the opening line of what appears to me to be a redundant bylaw.

Why include if already illegal?

Are by-law officers given the same training as police officers?

STAFF COMMENTS

Common definition of riot includes violent disturbance, activities described would not be riotous section was reworded to clarify

Bylaw will not prevent peaceful and respectful protest; however violence destructive, non respectful protest is just as much a public nuisance as nuisance parties. Staff felt it would make sense to combine both type of protections for the innocent public and property into the same Bylaw.

Proposed wording:

(a) Engage in any violent, threatening, illegal or riotous conduct;

CONDUCT AFFECTING OTHER PERSONS

Original wording

(b) Engage in any activity in such a manner as may or does endanger or cause injury to any person or damage to any property;

PUBLIC COMMENTS

This is vague and allows law enforcement or bylaw enforcement to fine individuals for conduct that authorities perceive to be potentially injurious. Does this include doing skateboard/bicycle/rollerblade tricks? Climbing trees? Climbing over a fence on one's own property? What does 'any property' means, does that include your own property? Does this include a kid (12-14 year old) running through Quebec street mall with a ball and hockey stick, as I saw yesterday?

Why include if already illegal?

Are by-law officers given the same training as police officers?

Are we downloading federal/ provincial responsibility to by-law officers?

STAFF COMMENTS

This section is in place for public safety, staff are recommending no change but discretion would be used. This entire section applies only to City land.

Proposed wording (No Change):

(b) Engage in any activity in such a manner as may or does endanger or cause injury to any person or damage to any property

CONDUCT AFFECTING OTHER PERSONS

Original wording

(c) Participate in a Fight;

PUBLIC COMMENTS

On full consideration I do not even find this 'participate in a fight' part reasonable. If the process of a fight results in an assault charge or charges and through in a fair judicial process ends with a penalty for the assailant(s), than I support that outcome. If someone inadvertently finds him or herself in a fight will that person be automatically fined and be forced to navigate a lengthy rebate on that fine?

On City owned property will the expectation be that bylaw be the primary / priority responder?

STAFF COMMENTS

Definition was updated to provide clarification. Section allows police to address minor fights through the issuance of a ticket rather than through the Criminal code.

Proposed wording:

(c) Incite, encourage or participate in a Fight

CONDUCT AFFECTING OTHER PERSONS

Original wording

(d) Obstruct any sidewalk or pathway;

PUBLIC COMMENTS

Obstructing a sidewalk is not an action that is harmful to the community. It is not a public health concern. Large groups of people should be allowed to congregate in the sidewalk or pathway without fear of penalty. Strikes should be allowed to form picket lines. Temporary loading and unloading of vehicles has not occurred to me as an issue in this city that needs to be approached with a bylaw.

8(d) of the proposed bylaw prohibits obstructing a sidewalk and S. 8(r) prohibits protests that last more than 24 hours. Both of those appear to me to violate S. 2(c) of the Charter which guarantees the right to peaceful assembly.

I am not sure why these items are included though.

We are sceptical that the actual purpose of this bylaw is to "protect the public", as stated in the staff overview. We are sceptical that the public is truly demanding protection from people obstructing the sidewalk.

Several provisions contained within the bylaw are extremely vague and broad. We are particularly concerned with the following sections: S. 8(d) indicates that no person shall "obstruct a sidewalk or pathway".

Other sections, including curbs on the ability to; obstruct a sidewalk, cause trouble or annoyance to any other person, interfere with any permitted activity carried out by any other person. These are all far too vague to be enforceable and again allow the tyranny of city employee's biases to enter the fray when meeting out justice. This is not justice, this is a ham-fisted response to too many been exploded into a general assault on personal freedom.

Our concerns raise questions such as: what does it mean to obstruct a sidewalk? Would someone sitting on a sidewalk asking for money be in violation of this section of the bylaw? What sort of behaviours would be considered "annoying" under this bylaw? What type of behaviour in a washroom or change room would be defined as "objectionable"?

More clarity in by-law about responsibility of by-law officers
Panhandling? Sitting on a sidewalk?

First, the bylaw prohibits, among other things, a number of activities on city lands including: obstructing any sidewalk or pathway;

STAFF COMMENTS

Obstruct sidewalk has amended to include designated trails and pathways. This regulation is intended to ensure safety and accessibility for all citizens. This is intended to address those that intentionally obstruct pedestrian and vehicular traffic, discretion would be used for those protesting/striking that are intermittently interfering with the passage of pedestrians or vehicles to voice their opinion.

Proposed wording:

(d) Obstruct any sidewalk, designated trail or pathway;

CONDUCT AFFECTING OTHER PERSONS

Original wording

(e) Distribute, display or discard any handbill, notice, circular, advertisement, promotional item or sample;

PUBLIC COMMENTS

Under Conduct affecting other persons (e) I feel that this is in contravention of the Charter and is unconstitutional. I believe this should be removed.

How does this portion of the bylaw work with garage sale signage? Which is either posted or placed on city land.

I would suggest that this be removed from the bylaw (at least in their present wording) "8(e) distribute, display or discard any handbill, notice, circular, advertisement, promotional item or sample."

I have concerns with the section of the bylaw that prohibits the "distributing, displaying or discarding of any handbill, notice, circular, advertisement, promotional item or sample". 8 (e) is needlessly stifling the freedom of expression. What is the issue with people sharing their concerns in writing with others? if the issue is the garbage, perhaps it could be amended to read discard, not in a receptacles identified for that purpose.

I am not sure why these items are included though.

Regarding item (e), handing out notices, for free, to parties who voluntarily accept them is one means of communication I think needs to be preserved. I disagree with it being included as a "nuisance" and, quite contrarily, believe this type of activity is most often used for good - for charity events, culture days, etc.

To distribute against the will of the recipient; yes I agree. Otherwise, this is no more unreasonable a form of marketing for a cause, business, religion etc. than any other form of media. Handout distribution is most common for local causes, businesses, organizations etc. those that lack the buying power to market in other ways. By limiting this form of marketing the bylaw is unfairly disadvantaging smaller and more local organizations.

Citizens' must be able to congregate, leaflet, chant, inform and educate without risk of being fined. I hope Guelph can be a part of the movement for progressive

change that is sweeping the world instead of taking an authoritative and mean spirited stand against it.

Would this include leafleting at a protest?

Your nuisance bylaw is very disturbing. The intention to protect citizens from runaway parties and nuisances is served with it, but not without grave transgressions against our charters of rights and freedoms. Sections which prevent persons from the ability to: distribute handbills or notices.

S. 8(e) of the proposed bylaw prohibits handing out notices of an upcoming event, whether for political, religious, or other reasons. This seems to me to be a Clear violation of S. 2(b) of the Charter, which guarantees freedom of expression. In principle, the bylaw could be used to prevent Jehovah's Witnesses from talking to people on the street and asking if they want to learn about the JW religion. That would violate not only S. 2(b) but also 2(a), which guarantees "freedom of conscience and religion".

We are sceptical that the actual purpose of this bylaw is to "protect the public", as stated in the staff overview. We are sceptical that the public is truly demanding protection from people distributing handbills.

This is far too restrictive. The citizen's rights to distribute or display materials as part of their democratic process should not be abridged, as intended by this clause.

I am VERY disturbed by the following sections, which simply have to be struck from the proposed by-law: (e) THIS VIOLATES SECTION 2B OF THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS.

This could be used to prohibit someone handing out tracts, pamphlets, product information, etc, in Market Square, in front of City hall or on the Market grounds. If so, this is an unreasonable attack on our civil liberties and should be deleted.

As the XXXXXX of XXXX... we would like to state very clearly that such measures as are being contemplated by the Guelph City Council are draconian and appear to be more representative of a dictatorship than a democratically run Council. Many of the issues that would be covered under this bylaw would infringe on, among other things, the freedom of expression and association guarantees in the Charter.

Serious concerns about City government being given the power to decide, example; which sustained protests shall be deemed legitimate, to prohibit people from spreading information and political perspective through pamphletting, and potentially to bankrupt civil society organizations and individuals affiliated with unlicensed protest through the imposition of heavy fines by bylaw officers. The draft bylaw gives powers to the city government and its bylaw officers to infringe on the basic democratic rights of its citizens, which is bad enough in my mind, might the city not also have to worry about the potential of costly court challenges to this bylaw if enacted?

I helped with the organization of an event in my neighbourhood this summer. I can't imagine adding a request to the Executive Director of the City to this list and potentially being told that we can't put up posters or hand out flyers.

S 8(e) indicates that no person shall "distribute, display, or discard any handbill, notice, circular, advertisement, promotional item or sample". We suggest that is the purpose of this section is to decrease the amount of litter, the activity of littering should be prohibited, not the distribution of handbills.

This section seems to be an attempt to curtail people's right to protest or raise awareness on issues. This does not seem to have a place in a public nuisance omnibus.

It sounds logical that a person can't fight or do anything illegal on the streets, I'm confused by the following items, under number 8: While on City land, no person shall, unless pursuant to an exemption pursuant to this bylaw: (e), (i) and (r)

We are XXXXXXXXXXXX. We follow the age-old traditions of XXXXXXXXXX, which basically is a peaceful, joyful, singing aloud of the names of God for the benefit of all the living entities. We have no commercial interests, though, it is a traditions of XXXX to ask for voluntary donations. We do not consume any kind of intoxication. We are gentlemen and ladies first and foremost in society. We do not do any harm to anyone or their property, we don't block any passages, and we are peaceful and joyous in our approach. We were prosecuted in various parts of the world significantly in the 1960s and 1970s, but since the governments saw that we were peaceful and we did no harm to anyone, and since then we have been free worldwide to do our work peacefully in public and private. Would we be penalized under this bylaw?

What is the constitutionality of these sections?

Do not like these sections in the by-law at all

Handbills 1953-SCC you cannot prohibit the distribution of handbills

Handbills – should regulate 'garbage' or littering vs. distribution of information

The bylaw prohibits, among other things, a number of activities on city lands including: obstructing any sidewalk or pathway; disturbing, displaying or discarding any handbill, notice, circular, advertisement, promotion or sample;

The Supreme Court of Canada has affirmed that leafleting and putting up posters on public property is protected and may sometimes be the only means by which members of the public can effectively exercise their freedom of expression. The Court held that bylaws banning this kind of expressive activity violate freedom of expression in a manner that is unreasonable and cannot be sustained.

STAFF COMMENTS

No need for section.

Proposed wording

Section removed

CONDUCT AFFECTING OTHER PERSONS

Original wording

(f) Sell, rent or barter, offer for sale, rental or bartering or display for sale, rental or bartering, any goods or services;

PUBLIC COMMENTS

Once again this disadvantages the smallest and most local of entrepreneurs. If conducting business involves discussing contracts, including the renting of equipment, or performing informal sales such as through classifieds etc. I see no way in which this negatively affects the public. But I see no reason, why this less formal type of entrepreneurial activity should be banned or marginalized. In fact, I'm a strong proponent of more forms of unconventional vending such as food trucks, knife sharpening, clothes repair, flowers, magazines etc. Also, this form of selling is among the most inclusive and fair because it doesn't require large sums of capital to get going, as with an expensive building lease, or business education.

We are sceptical that the actual purpose of this bylaw is to "protect the public", as stated in the staff overview. We are sceptical that the public is truly demanding protection from people selling things.

STAFF COMMENTS

Business Licence Bylaw would regulate activities; however these sections are intended to address unauthorized advertising, sales on public land.

Proposed wording

(e) Sell, rent or barter, offer for sale, rental or bartering or display for sale, rental or bartering, any goods or services

CONDUCT AFFECTING OTHER PERSONS

Original wording

(g) Carry on any trade, occupation, business or profession;

PUBLIC COMMENTS

Concerned with the proposed by-law amendments, which does not create a two-way conversational relationship but instead imposes strict guidelines for the citizens of Guelph. There must be alternatives that allow people to express themselves in the City (selling things). We must ask WHY people are committing these activities; not just setting up guild lines to prevent these behaviours. Providing no alternative can stifle Guelph from being a creative, innovative, thriving community.

8 (f) - (g) Does this mean people can no longer meet in the Square downtown, or any other public place, to complete a Kijiji or eBay transaction? Say someone sells a cell phone and the two parties meet on public. Does this law now prohibit such transactions?

City lands should be a perfect place for people to try and develop business. I want to be able to work in a park or in the Market Commons any time I want. I want to hold informal business meetings (within reason in terms of numbers of people) in public spaces in our city.

STAFF COMMENTS

Business Licence Bylaw would regulate activities; however these sections are intended to address unauthorized advertising, sales on public land.

Proposed wording

(f) Carry on any trade, occupation, business or profession

CONDUCT AFFECTING OTHER PERSONS

Original wording

(h) Place or permit the placement of any vending machine or game operated by coins or other forms of money;

PUBLIC COMMENTS

I agree with this one. The city should be in charge of automatic machines that create wealth for individuals. However the city should require fully and proper licensing and permitting.

STAFF COMMENTS

Business Licence Bylaw and Encroachment Bylaw would regulate this activity, however this sections is intended to address unauthorized advertising, sales on public land.

Proposed wording

(g) Place or permit the placement of any vending machine or game operated by coins or other forms of money;

CONDUCT AFFECTING OTHER PERSONS

Original wording

(i) Cause trouble or annoyance to, or accost, any other person;

PUBLIC COMMENTS

Would assembling in the hundreds be considered causing trouble and interfering with regular activity? Couldn't you say that about the Santa Claus Parade?

Regarding item (I) is so subjective I can't see how it would be enforced. I feel this item would be abused.

I am not sure why these items are included though.

This statement is far too vague to be meaningful. Does French kissing ones partner annoy other people? Does riding with a group of bicycles in demonstration of a dead cyclist, or for cyclist solidarity worldwide cause trouble? The man who yells at passersby in Italian downtown Guelph; is he accosting people and therefore should be fined? The public should have the right to define its own sense being 'accosted' or 'annoyed' and large numbers of specific complaints should be dealt with accordingly. Granting police and bylaw officers to define 'annoyance' does not seem justified for the sake of health and safety.

The wording here conveys an intent that is far too restrictive and dependent upon a subjective assessment of what constitutes "annoyance" or an incidence of "accost".

I am VERY disturbed by the following sections, which simply have to be struck from the proposed by-law: (I) by definition public demonstrations in order to express one's political views can (and sometimes have to be) annoying to others in the community! This is part of the reality of a democratic system. It is shameful that such a formulation is even being considered to become law in this city!

As the XXXXX of XXXX... are draconian and appear to be more representative of a dictatorship than a democratically run Council. Many of the issues that would be covered under this bylaw would infringe on, among other things, the freedom of expression and association guarantees in the Charter. Other issues covered under this bylaw, are highly subjective (e.g., "annoying others"); We urge Council to seriously rethink their position on this bylaw and take the moral stand to defeat it and when it comes to a vote.

Several provisions contained within the bylaw are extremely vague and broad. We are particularly concerned with the following S. 8(l) indicates that no person shall "cause trouble or annoyance to, or accost any other person".

Look at section 8. (l) no person shall cause trouble or annoyance to any other person;???? How can this be justified or enforced without prejudice?

It sounds logical that a person can't fight or do anything illegal on the streets, I'm confused by the following items, under number 8: While on City land, no person shall, unless pursuant to an exemption pursuant to this bylaw: (e), (l) and (r)

Too ambiguous i.e. "annoying"

Further, some of these provisions, and in particular the prohibition on "causing trouble or annoyance to any other person" is vague and provides no advance notice to individuals as to what type of behaviour is actually prohibited.

STAFF COMMENTS

Staff agreed the section is too vague and recommend that it be removed.

Proposed wording
SECTION REMOVED

CONDUCT AFFECTING OTHER PERSONS

Original wording

(j) Be in possession of or use any Weapon;

PUBLIC COMMENTS

Every day in Guelph I am in possession of what could be defined as a weapon and I use it for numerous things. If a weapon is being used in a harmful way it is illegal and therefore punishable by existing laws. Those who would wish to do harm with a weapon would conceal it and therefore I do not see how this section is useful.

There is a case law showing a lighter being a weapon and a pen. Your sock could be a weapon.

STAFF COMMENTS

Definition of weapon was updated to provide clarification. No requirement to update this section.

Proposed wording

(h) Be in possession of or use any Weapon

CONDUCT AFFECTING OTHER PERSONS

Original wording

(k) Interfere with any permitted activity carried out by any other person;

PUBLIC COMMENTS

This section seems to be an attempt to curtail people's right to protest or raise awareness on issues. This does not seem to have a place in a public nuisance omnibus.

Peaceful political demonstrations could fall within this category. What is the justification for the aspects of this bylaw that would prevent peaceful demonstrations? Have there been issues with this that infringe on public safety?

Would assembling in the hundreds be considered causing trouble and interfering with regular activity? Couldn't you say that about the Santa Claus Parade?

This is far too restrictive based on its current wording. To "interfere" carries with it a wide and unacceptably permissive array of interpretations.

What is the constitutionality of these sections?

Do not like these sections in the by-law at all

STAFF COMMENTS

Freedom of assembly should never be outlawed. Freedom of assembly should not be constrained due to discomfort for observers or conflicting to current attitudes. This by-law is not proposing to do that. Rather, the by-law only proposes reasonable limits on the freedom of assembly (which the Charter explicitly allows) in order to protect against harm to innocent people and property.

Proposed wording

(i) Interfere with any permitted activity carried out by any other person;

CONDUCT AFFECTING OTHER PERSONS

Original wording

(l) Enter any washroom or change-room set apart for the opposite gender, or for a transgendered person, that person's former gender, provided that this shall not apply to children who are 6 years of age or younger and are, at that time, under the care of their parent, guardian or caregiver;

PUBLIC COMMENTS

I propose you alter the wording of section 8(l) to also include individuals with disabilities requiring the assistance of a caregiver of the opposite gender.

I feel that forcing someone to enter a washroom based on their former gender is not in touch with the needs of that individual. Is this in line with the wants and needs of the transgendered community? Lastly, children of ages older than 6 (such as differently abled children) may require extra assistance from their parent/guardian.

Other issue covered under this bylaw, are highly subjective, and while "using the wrong washroom" is a major issue for transgendered persons. We urge Council to seriously rethink their position on this bylaw and take the moral stand to defeat it and when it comes to a vote.

Can't assume gender; remove because Section M covers loitering

STAFF COMMENTS

Wording has been updated. For children older than 6, discretion would have to be used to ensure the privacy of all.

Proposed wording

(j) Subject to the *Human Rights Code*, R.S.O. 1990, c. H.19, enter any washroom or change-room set apart for the opposite gender, provided that this shall not apply to children who are 6 years of age or younger and are, at that time, under the care of their parent, guardian or caregiver;

CONDUCT AFFECTING OTHER PERSONS

Original wording

(m) Loiter in any washroom or change-room or conduct himself or herself in such a manner as to be objectionable to another person using, or in the vicinity of, said washroom or change-room;

PUBLIC COMMENTS

Several provisions contained within the bylaw are extremely vague and broad. We are particularly concerned with the following: S. 8(m) reads that no person shall "loiter in any washroom or change room or conduct himself or herself in such a manner as to be objectionable to another person using, or on the vicinity of, said washroom or change room".

Washroom section unfairly targets transgendered people

Washrooms for single occupancy use is proposed – remove this from the by-law

Washroom: change to does not apply to single use washrooms

If there is real threat to washroom; by-law should not be called, should be the police

STAFF COMMENTS

Section to be kept for public safety

Proposed wording

(k) Loiter in any washroom or change-room or conduct oneself in such a manner as to be objectionable to another person using, or in the vicinity of, said washroom or change-room

CONDUCT AFFECTING OTHER PERSONS

Original wording

(o) As the owner of a horse, livestock or a Dangerous Animal, or as a person having the care or control of a horse, livestock or Dangerous Animal, permit the horse, livestock or Dangerous Animal, as the case may be, to enter or be on City Land;

PUBLIC COMMENTS

The prohibition against horses livestock on public land would prohibit Mennonites from entering city limits in their vehicles, and would prohibit legitimate agricultural protests that involve livestock (even chickens)

"Dangerous animals"...subjective language

STAFF COMMENTS

Use of horses as transportation is legal, section has been clarified. Use of livestock would be subject to a permit.

Proposed wording

(m) As the owner of a horse, livestock or a Dangerous Animal, or as a person having the care or control of a horse, livestock or Dangerous Animal, permit the horse, livestock or Dangerous Animal, as the case may be, to enter or be on City Land, unless legally authorized;

CONDUCT AFFECTING OTHER PERSONS

Original wording

(r) Host or participate in a public rally or protest that exceeds 24 consecutive hours.

PUBLIC COMMENTS

Under Conduct affecting other persons (r) I feel that this is also contravention of the Charter and is unconstitutional, and also should be removed.

I would suggest that this be removed from the bylaw (at least in their present wording) "8(r) host or participate in a public rally or protest that exceeds 24 consecutive hours."

In addition, we have concerns regarding S. 8(r) of the proposed bylaw which reads that no person shall "host or participate in a public rally or protest that exceeds 24 consecutive hours.

This section seems to be an attempt to curtail people's right to protest or raise awareness on issues. This does not seem to have a place in a public nuisance omnibus.

The right to gather speak opinion and inform others of situations that they may be unaware of should be the lawful right of any citizen. I suggest the majority of the public go on their daily lives with knowing very little laws, bylaws or other events that may be changing that will have an effect on their lives. it in only after an individual or group rallies interest and provides information that the majority of people become aware. Other aspects of this bylaw should be able to deal with any public speaking, rally or protest should they impair the enjoyment or safety of others.

I strongly disagree with sections of this proposed bylaw. Freedom to assemble publicly is a right of Canadian citizens and to ban gatherings lasting more than 24-hours seems ridiculous, especially since it is not as if it is a very common or disturbing occurrence in Guelph. I lose trust in government when they push forward unnecessary laws that inhibit citizens from gathering in protest.

Striking workers will also be concerned with the details of this bylaw, particularly the possible application of the '24-hour-occupation' limitation against picket lines.

I am not sure why these items are included though.

Item (r) sounds like a direct response to the Occupy movement. As with free speech, I don't believe you should be able to censor someone because you don't like their message. Everyone should have the right to protest.

As for requiring permits to gather for more than 24 hours, I also fully support the bylaw. As a taxpayer, I do not need the money I pay, to police or control long term protests and gatherings. If these people wish to have the opportunity to gather for more than the permitted time, I believe they should use their money to support their cause. It should not happen on the taxpayer's dime!!!

I wholeheartedly disagree with this line. A peaceful political demonstration is part of the right of a democratic society. If there are issues that require long term protesting and the citizens of Guelph are willing to spend their precious time to rally against this issue, there is absolutely no justification for closing down their hard work with this bylaw. I implore you to remove this line from the bylaw altogether.

Citizens' must be able to congregate, leaflet, chant, inform and educate without risk of being fined. I hope Guelph can be a part of the movement for progressive change that is sweeping the world instead of taking an authoritative and mean spirited stand against it.

As written in 8(r) is actually a constitutional violation. I don't participate in protests, but if I were detained or arrested for violating this law I would be forced to sue the place I love to change the law and would win, no contest there.

Considering Remembrance Day just passed, and our citizens have given their lives in the same of freedom, does it not seem disgraceful that we are trying to silence those who speak out against the heavy hand of misguided authority?

Your nuisance bylaw is very disturbing. Sections which prevent persons from the ability to: host or participate in a public rally or protest that exceeds 24 consecutive hours. These are similar to what one might find in North Korea, the USSR, Iran or any other repressive regime. Your expansive 'city hall knows best' reasoning on including these draconian measures not only places officials in a position to exercise personal biases in the application of law, but furthermore destroys our ability to live in a free society. You must remove these sections before this law is passed. If you do not you will likely find yourselves with a charter challenge - something I do not want my taxes to pay for - the outcome of which, as any lawyer will tell you, will be that you will lose.

My primary concern with this bylaw draft is the requirement for a permit for assemblies of more than 24 hours. This creates a situation where City Hall will

have the ability to pick and choose who is given a permit. Who gets to decide if a permit will be given? Will it be given without questions to anyone who wants one? Or will it be a case of the City deciding who (and who does not) get to legitimately assemble and/or protest for more than 24 hours? The possibility of City Hall determining who can and who cannot gather for more than 24 hours is worrisome. In addition, the grouping of peaceful assemblies with the list of 'public nuisance' acts that including everything from violence, littering, graffiti, and starting fires is utterly inappropriate.

I find it a big concern that City Council might try to curtail people's rights to protest or gather for just causes, especially on the heels of Remembrance Day where we honoured those who fought for our rights and freedoms.

In short, our biggest concerns about the draft law are: - The overly broad scope of many prohibitions (ex: "causing annoyance to any person") and excessive discretionary powers given to bylaw officers and the Executive director. - The prohibition against public protests over 24 hours.

This is unduly restrictive. There can be many good and understandable reasons why some public rallies or protests should exceed a 24 hour time limit. The rationale will be based upon the urgency of the issue at hand, the scope of public engagement, the design and agenda of the event itself.

To express my opposition to the parts of the new nuisance bylaw that deal with peaceful protests. These parts are unnecessary, heavy-handed, and quite possibly unconstitutional. Even if they did turn out to be constitutional, does the city really want to spend the money fighting for this in court? I see the protests and encampments, but I don't find them disruptive or a nuisance at all. I still think that they are just exercising their Charter rights to freedom of expression. Those parts of the nuisance bylaw are a bad idea, and I hope you will oppose them in Council. We believe it would make sense to divide the proposed bylaw into two separate bylaws, one for parties and one for protests. With respect to protests, the early draft of the bylaw is very expansive in its coverage and certainly attempts to prohibit behaviour that is protected by the Charter of Rights. We would be very disappointed if the City attempted to adopt rules that repress basic rights.

There is a huge conflict when the organization that distributes permits is the same organization that can issue bylaw infraction. A public protest is every ones right along with the right together in order to peacefully demonstrate. Your ability to deny the right to protest circumvents this ability. There e are already laws in place for any unwanted activity. IF you already know that there could be issues with it, then you already know it's wrong. The law as written now may seem clear to you

and most other people today and in the near future. What about ten years from now, how will it be interpreted by others?

I am strongly opposed to the bylaw. I cannot recall a situation that could not be contained by city police authorities. I have lived in (another) country where citizen rights were not respected and public demonstrations were met with swift and often severe actions (detentions, harassment, beatings, fines) from the security service. Thankfully, Canada respects the right for citizens to congregate and demonstrate. Under the current laws, police and authorities have enough powers under the criminal code and other bylaws to address all situations that the City of Guelph wants to consider public nuisances.

I am concerned that the City would put through a bylaw that prevents people from demonstrating their displeasure at the city, if they wish to do so. Protests and rallies are part of the democratic protest and to silence people or ban them from the appropriate venues interferes with our right to free of speech and demonstration. If the city takes measures that people wish to protest against, they should be able to do so in city-owned property. As the nuisance bylaw: This in itself is not a problem, to me when it concerns non-political behaviour such as parties and general loitering.

I also have great concerns about the idea of fines or arrests for demonstrations/marches that are not become unruly. The one example I can think of is the Olympic torch incident in Guelph. It was NOT the fault of the protesters. This was a huge failure by the Olympic/Local security machine.

It is unnecessary and appears to be an attempt to take away rights and freedoms thousands of veterans, my late father included died for. Another reason not to proceed is the ensuing court battles against it will further drain city coffers and cause more municipal tax increases.

We are increasingly concerned with the trend towards tougher limitations on public protest and non-violent expressions of dissent. We have dismayed with recent policy changes at the federal level on this subject, but are even more surprised and dismayed that additional crackdown measures are being considered at the municipal level by our current council.

I have to say I am very concerned about this bylaw. Although I don't always agree with many protests I see (religious groups etc) I feel that they have every right to express their opinion. Who am I to say they shouldn't express themselves peacefully on public land. Requiring permits that's could be arbitrarily refused is wrong and goes against what I felt we stood for here in Guelph and in Canada. As

a homeowner I know that if there is a loud party etc the Police and Bylaw Officers are able to issue fines etc already. Why is council wasting their time on this effort?

We have no real problem with protests unless they get out of hand like the 99% protestors did or the G7 protest in Toronto.

It sounds logical that a person can't fight or do anything illegal on the streets, I'm confused by the following items, under number 8: While on City land, no person shall, unless pursuant to an exemption pursuant to this bylaw: (e), (l) and (r)

Of the proposed bylaw which reads that no person shall "host or participate in a public rally or protest that exceeds 24 consecutive hours.

What is the constitutionality of these sections?

Do not like these sections in the by-law at all

This section is generally subjective / vague

This section is too broad; not well defined

Revise protest – 24 hours allowed with no permit protest...remove this section from the by-law

Unconstitutional?

Balancing reasonable conduct with right to protest, safety, etc.

Democracy should be protected by all ex. Police facilitate traffic and pedestrians during a protest

Prohibitions of 'rally' should be re-worded

The Charter of Rights and Freedoms enshrines a certain number of fundamental rights that are deemed necessary in a healthy democracy. One of them is the public's right to assembly. The well-being of a community depends on many things, but one of the most basic is the right to assemble in public. This bylaw would be an assault on democracy and community well-being as it is currently proposed. As well, the inclusion of these two additional activities places us on a slippery slope that could lead to major abuses of the public right to assemble here in Guelph. It is also the first steps that governing bodies take when their fear of public responses is high; but it is also certain that those same bodies, by enacting laws that contravene basic rights and freedoms, could lead to an eventual police state, where repression of the public is key for social control. I am sure that this is not the City's intent, but it is a danger with the proposed bylaw.

Freedom for the public to assemble must never be constrained or outlawed, no matter how uncomfortable it is for the observers, or how conflicting it may be to currently held attitudes of any level government. The abuses and arrests of peaceful demonstrators in the Occupy Movements and G20 would never have been able to occur had not the states, provinces, and municipalities enacted temporary and illegal laws to curtail the protests. The erection of temporary

structures includes those structures that may be part of a public protest or demonstration, but could also include the temporary structures of the homeless. Neither are public nuisances. They may be uncomfortable to behold and may offend our sense of tidiness, but both are outcomes of injustices and attempts to survive.

I don't understand the reasons for the expansive nature of the bylaw as it stands which includes many other things beyond what might be predictable for student parties. The proposed bylaw as it reads includes things that might make one suspicious as to what the real intention of the bylaw is (much like the omnibus bills and various tactics used by the Harper government). What is the overall purpose of this bylaw? Is it intended to stifle dissent? Silence citizen protest? Limit the democratic freedom of citizens to speak out against their governments? Shut down and bankrupt NGOs that protest the interests of corporations over people, unfettered development, and the degradation of the environment (given the amounts of the fines involved), for example? I find the proposed bylaw very worrying. My trust of a council and mayor that I have always supported and felt has been progressive and forward thinking, would be seriously shaken if this bylaw were to pass. We MUST maintain the basic rights and freedoms for the citizens to challenge government policy that (even if unintended) leads to poor outcomes for our fellow citizens. The right to speak out is far more important than the nuisance it causes.

In a last-ditch effort I plead with you to very, very carefully consider the path down which the Nuisance Bylaw is likely to take us, especially, as it regards fundamental freedoms under the Canadian Charter. The main one I see is that this is an omnibus bylaw that includes restrictions upon fundamental freedoms guaranteed by the Canadian Charter, and this is not what I expected of this Mayor and this Council. Here you have paved the way for an omnibus bylaw that was proposed to ostensibly deal with rowdy behaviour and vandalism and, surprisingly and ominously, includes restrictions on the fundamental freedom of the public assemble, to hand out leaflets, and to erect temporary structures on City property, among many, many other activities, some of which are also disturbing but are too numerous to mention here. This bylaw targets activists in the community who want to draw public attention to issues at the federal, provincial or municipal level. It will also be a severe restriction on the progressive culture that Guelph is known for, and out of which much well known leadership has come. I see a Council and Mayor who are being swayed by a small minority of staff, police officers, property owners and perhaps other Council members, to ensure that we will never have another Hanlon Creek Business Park protest or another Occupy Movement protest here in our City; where a permit to assemble will or will not be granted by an un-elected official whose personal politics could

have an undesirable effect on a fundamental right; and where the homeless will be denied the ability to erect temporary structures for survival. Protests, like taxes, are the price we pay to live in a democracy. But like taxes that bring us material infrastructure, peaceful protests are democratic infrastructure that bring attention to issues that we should all be concerned about. If you have been swayed by increasingly troubling police action around the country and the globe, by a regressive, right wing move towards restrictions on and repression of fundamental freedoms in order to protect property, then you will pass the bylaw. What a sorry day for this City that will be.

All individuals present within Canada have the right to free expression and to peaceful assembly and association in public spaces. Protests, rallies, and the distribution of literature are all important and meaningful manifestations of these rights. Any limitations on these rights must be tied to a compelling and pressing objective and must be carefully tailored in a way that restricts rights as little as possible. Municipal bylaws must comport with these requirements, and those that impose unreasonable limitations on individuals' fundamental rights and freedoms are unconstitutional. The proposed public nuisance bylaw appears to place considerable restrictions on basic rights in the name of protecting the well-being of the municipality, the safety and well-being of persons and the protection of persons and property. While these are laudable goals, the manner in which the bylaw limits basic rights and freedoms is neither necessary to achieve these objectives nor proportional to these goals.

STAFF COMMENTS

The rights and freedoms in the Charter are not absolute -- they are subject to reasonable limits. Many Ontario municipalities have for decades, without dire consequences, limited assembly of the public in the ways that this by-law proposes. The by-law would only let Guelph catch up to other municipal practices. The by-law would only impact public assembly which harms people or property.

There are indeed two abroad components of the by-law: nuisance parties on private property and public nuisances on City property. There is definitely no intent to stifle dissent or silence citizen protest. All basic rights and freedoms would be maintained.

Staff felt for the ease of the community to have all nuisances listed under one Bylaw.

This section although in our opinion not a contravention of the Charter of Rights has been removed.

Proposed wording
SECTION REMOVED

CONDUCT AFFECTING CITY PROPERTY

Original wording

(a) Engage in any activity in such a manner as may or does cause damage to any property of the City;

PUBLIC COMMENTS

Regarding the ability to 'manage' occupancy and behaviour in city parks specifically 'dusk-to-dawn'. This subject has been predicated on a considerable amount of vandalism both private (vehicles; theft) and public (community garden; park equipment), noise and inappropriate behaviour having occurred (and continuing) in XXXXXXX Park.

Most municipalities have a bylaw for no 'dusk-to-dawn' park occupancy and each park has postings informing patrons of this. This no dusk-to-dawn bylaw is not meant to be draconian and negate someone's access to walk their dog or just walk through after dusk but to help bylaw and police officers manage inappropriate behaviour in the parks without a neighbour complaint/call-in being the impetus. It was suggested that a specific line be added to the draft bylaw that describes 'no dusk-to-dawn occupancy of City Parks' without prior authorization. The final wording of this line in the bylaw is very important recognizing that officers have to be legally empowered to manage inappropriate behaviour but also not to be fining park/neighbourhood-respectful folks that are using the park after dusk.

STAFF COMMENTS

While operating hours for public parks are not indicated in the Bylaw, time limits within public parks can be signed if necessary as determined by City Park staff.

Proposed wording (no change)

(a) Engage in any activity in such a manner as may or does cause damage to any property of the City;

CONDUCT AFFECTING OTHER PERSONS

Original wording

(b) Break, injure, deface, prune, plant, move or remove the whole or any part of any flower, shrub, grass, plant material, tree or other vegetation;

PUBLIC COMMENTS

I am not sure why these items are included though.

Regarding planting, pruning, removing the whole or any part of a flower on city property; again the times are changing and in the interests of food security countries around the world are opting to create edible landscape in public places. Would this wonderful potential for positive community development be lost with that one little phrase in the bylaw?

Are we really going to pass a bylaw to make it an offence to break or damage a blade of grass or dandelion?

Remove Section 9(b) & (i)

Does this mean we cannot plant, collect?

Break is fine but not prune, plant, remove or move

Co-operative gardens? – Should be allowed

May deny planting i.e.: boulevard

Exclude boulevards

STAFF COMMENTS

With respect to damaging or vandalizing City property, in the best interest of the City, this section has been kept.

Proposed wording

(b) Break, injure, deface, prune, plant, move or remove the whole or any part of any flower, shrub, grass, plant material, tree or other vegetation;

CONDUCT AFFECTING OTHER PERSONS

Original wording

(d) Attach, stencil, paint or otherwise apply, fasten or erect any marking, graffiti, sign or notice to any property on City Land;

PUBLIC COMMENTS

I am not sure why these items are included though.

We are sceptical that the actual purpose of this bylaw is to "protect the public", as stated in the staff overview. We are sceptical that the public is truly demanding protection from people putting up posters. While many of the nuisances listed in the bylaw are legitimate safety concerns (fighting, using a weapon, engaging in threatening behaviour), we believe that such violent activity is best addressed through the criminal code and the Police. Generating duplicate laws for such serious violent issues, with different enforcement methods and legal standards, raises serious concerns. There is no place for Bylaw Enforcement Officers to be handing out tickets for "use of a weapon"; such enforcement is the exclusive realm of police

Concerned with the proposed by-law amendments, which does not create a two-way conversational relationship but instead imposes strict guidelines for the citizens of Guelph. There must be alternatives that allow people to express themselves in the City (applying graffiti). We must ask WHY people are committing these activities; not just setting up guild lines to prevent these behaviours. Providing no alternative can stifle Guelph from being a creative, innovative, thriving community.

The only issue that I caught that might be a problem is Column 9 (d) the issue is Postering. I know this has been an issue in the past. But, my understanding is that quite a few years ago, there was a Charter Challenge about postering by a band in Peterborough and they won. A judge ruled on their favour and said that putting up posters is an integral part of free speech and the life of cities and even if that is the ruling I think that it's an important issue that the City needs to take into account. I understand that you have problems with giant posters and people who use glue on stuff and things like that. But I do think there should be some leeway, so small groups can advertise, although you probably could argue that you could do it all by social networking now. So it's not necessary. I'm willing to be open to that argument as well. But, if nothing else, I think the lawyers should look into see if there is a Charter Right protecting the people to do some sort of postering.

What about the city supporting democracy and freedom of speech?

Prohibits anyone from putting up a sign or notice of an event on signposts-- In principle, it forbids putting up notices of all lost pet or for a neighbourhood barbeque.

Graffiti

Do not like "attach" – is this not already a bylaw?

Does this include election signs, sidewalk chalk (or any other non-permanent substance)

Co-operative gardens? – Should be allowed

May deny planting i.e.: boulevard

STAFF COMMENTS

Posters and signs are regulated under the Sign Bylaw and current enforcement practices will not be changed.

With respect to damaging or vandalizing City property, in the best interest of the City, this section has been kept.

Proposed wording (No change)

(d) Attach, stencil, paint or otherwise apply, fasten or erect any marking, graffiti, sign or notice to any property on City Land

CONDUCT AFFECTING OTHER PERSONS

Original wording

(e) Dispose of or dump any organics, recyclables, waste, refuse, litter or any other matter or thing, except that which is generated through normal use of the City Land, and which is deposited only in receptacles provided for such purpose;

PUBLIC COMMENTS

If we already have existing bylaws such as disposal of garbage on City land, why would we need the same action rolled into a much larger bylaw. The city and its Bylaw Officers presently have an effective means of dealing with such actions as well as the ability to amend any existing bylaw that may have missed its mark.

Addresses household garbage that is miss-sorted and dumped in City Parks

Broken bottles (beer) on City streets

Can this exclude items that are recyclable or can be re-used?

Should there be a time limit?

STAFF COMMENTS

Waste Management Bylaw regulates this activity.

Proposed wording

SECTION REMOVED

CONDUCT AFFECTING OTHER PERSONS

Original wording

(f) Dump or deposit snow;

PUBLIC COMMENTS

Under conduct affecting city property- item (f)-dump or deposit snow ... is it suggested here that no one would be allowed to dump or deposit snow onto any city property? Ex: if someone ploughs their driveway and pushes the snow across the street onto the blvd, is this considered a chargeable act?

Snow clearing: What is the city thinking? The cost is so small and the need so great I'm amazed this keeps being debated. Last I saw the City of Guelph Police Service costs a shocking amount. Why not trim some of their budget?

STAFF COMMENTS

Currently the Traffic Bylaw regulates this activity on road allowances. Residents are permitted to deposit snow on boulevards in front of their residence. The intent of adding this section is to regulate this activity on other municipal land specifically parks and public squares.

Section to be reworded.

Proposed wording

(e) Dump or deposit snow in a park or public square

CONDUCT AFFECTING OTHER PERSONS

Original wording

(i) Camp, dwell or lodge;

PUBLIC COMMENTS

I would suggest that this be removed from the bylaw (at least in their present wording) "9(i) camp, dwell or lodge."

Conduct Affecting City Property; 9(l) - the provisions here require careful defining.

Remove Section 9(b) & (i)

Enforcement can vary widely depending on how by-law officer interprets this:

Section (l) – camp / dwell / lodge

Do we need a section on squatting?

Seems to be targeting homeless

Remove – Where do homeless go?

The homeless are another casualty of either mental health issues or inequality from vulture capitalism, and they could be another casualty in the efforts to comply with the bylaw.

STAFF COMMENTS

This section is not intended to address homeless issues. Homelessness is better addressed through community outreach by the Guelph Police Service or other organizations. This section is to address the erection of structures that may pose a hazard to public safety or City assets.

Camp, dwell or lodge was kept to protect health and safety matters on City land.

Proposed wording (no change)

(h) Camp, dwell or lodge

CONDUCT AFFECTING OTHER PERSONS

Original wording

(j) Place, install or erect any temporary or permanent structure, including any tent or booth;

PUBLIC COMMENTS

Your nuisance bylaw is very disturbing. The intention to protect citizens from runaway parties and nuisances is served with it, but not without grave transgressions against our charters of rights and freedoms. Sections which prevent persons from the ability to: install or erect any temporary structure including any tent. These are similar to what one might find in North Korea, the USSR, Iran or any other repressive regime. Your expansive 'city hall knows best' reasoning on including these draconian measures not only places officials in a position to exercise personal biases in the application of law, but furthermore destroys our ability to live in a free society. You must remove these sections before this law is passed. If you do not you will likely find yourselves with a charter challenge - something I do not want my taxes to pay for - the outcome of which, as any lawyer will tell you, will be that you will lose.

Would this include a powerful street theatre visual used to generate interest about an important issue?

The erection of temporary structures includes those structures that may be part of a public protest or demonstration, but could also include the temporary structures of the homeless. The homeless are another casualty of either mental health issues or inequality from vulture capitalism, and they could be another casualty in the efforts to comply with the bylaw.

A better way to deal with tent, dwelling in a public space is to promote public dialogue

A recent B.C. Court of Appeal decision found that a municipal bylaw prohibiting the erection of structures "subject to Council's unfettered discretion to mete out individual exemptions" was an unjustifiable violation of freedom of expression when applied to individuals engaged in political protest.

STAFF COMMENTS

Staff believe the erection of tents and other structures have safety implications to other citizens especially in park areas where tents have been known to be taken

by wind and may cause injury to other park users. Enforcement would be discretionary.

Proposed wording (no change)

(i) Place, install or erect any temporary or permanent structure, including any tent or booth

CONDUCT AFFECTING OTHER PERSONS

Original wording

(k) Enter the water in any fountain;

PUBLIC COMMENTS

Prohibits entering the water in a fountain. Lots of children play in the water in the Square, and many more play in the splash pool outside of the City Hall.

The splash pad in front of City Hall would be considered a fountain to some. Is that suddenly off limits?

What is the intent of this? – remove altogether

STAFF COMMENTS

Section to be clarified.

Proposed wording

(j) Enter the water in any fountain or water feature not intended for such use

CONDUCT AFFECTING OTHER PERSONS

Original wording

(m) Tether, launch or land any Aircraft; or

PUBLIC COMMENTS

Secondly, I must admit that I do not understand why there is a regulation regarding landing or launching an aircraft, I've been in Guelph for almost 50 years and have never seen nor heard of a plane taking off or landing in Guelph, so I do not see why this is being introduced.

We are sceptical that the actual purpose of this bylaw is to "protect the public", as stated in the staff overview. We are sceptical that the public is truly demanding protection from people landing aircraft (?). While many of the nuisances listed in the bylaw are legitimate safety concerns (fighting, using a weapon, engaging in threatening behaviour), we believe that such violent activity is best addressed through the criminal code and the Police. Generating duplicate laws for such serious violent issues, with different enforcement methods and legal standards, raises serious concerns. There is no place for Bylaw Enforcement Officers to be handing out tickets for "use of a weapon"; such enforcement is the exclusive realm of police

STAFF COMMENTS

Issues have arisen in the past with hot air balloons, section was kept and definition was modified to address smaller aircraft that may cause public safety issues.

Proposed wording (No change)

(l) Tether, launch or land any Aircraft; or

CONDUCT AFFECTING OTHER PERSONS

Original wording

(n) Bring, operate, park or leave any Motor Vehicle on any surface not designed for Motor Vehicles.

PUBLIC COMMENTS

Why are we including Section N – regulation of motor vehicles? Isn't this covered in parking by-laws?

STAFF COMMENTS

Parking Bylaws do not regulate parking outside designated areas or grass surfaces within public squares or parks.

Proposed wording

(m) Bring, operate, park or leave any Motor Vehicle on any surface not intended for such use

ADMINISTRATION

Original wording

Section 10

(a) Issue or refuse to issue Permits permitting activities that would otherwise be prohibited or restricted by this by-law;

PUBLIC COMMENTS

In addition to the concerns with content, we also foresee issues with the administration of the proposed bylaw. For example S. 10(a) of the bylaw reads that: "In respect of City Land, or applicable parts thereof, the Executive Director, in his/her sole discretion, considering the purposes of this bylaw and the best interests of the City, is authorized to: (a) Issue or refuse to issue permits permitting activities that would otherwise be prohibited or restricted by this bylaw". What would be the guidelines that would be considered when deciding whether or not to issue a permit? If the issuance of a permit was refused, would there be some sort of appeal process?

This smacks of entrapment or undue license. The refusal to issue directive or restrictive information is hardly constructive. Information pertaining to prohibition or circumscription of democratic public activities is extremely important, and a very sensitive dimension of due process and social justice.

City has the power and assumes the right based on discretion, to determine who gets a permit

City insists it can control by issuing permits, if so we demand:

Guidelines for their issuance

No fees for permits, Remove administration section completely

Permits restrict our rights, Remove permit requirements

What would be the guidelines that would be considered when deciding whether or not to issue a permit? If the issuance of a permit was refused, would there be some sort of appeal process?

concerns about provisions that provide the 'Executive Director' with significant discretion in issuing or refusing to issue permits, charging fees and interpreting conflicts between the bylaw and other City bylaws. The discretion granted to the individual that may be fulfilling this role is extremely broad and the bylaw provides no guidelines for determining when a permit should be issues or refused, how fees should be assessed, or how determinations about the "best interests of the City" will be determined in the event of a conflict between bylaws

STAFF COMMENTS

Staff feel that things like requiring permits and protecting the innocent public and property constitute legitimate reasonable limits. The guidelines for using permits (Special Event Permits) are already in place and being applied. Revocation of permission to remain on the City land would only apply for the short term purpose of giving an order or laying a charge at that time.

Proposed wording (No change)

(a) Issue or refuse to issue Permits allowing activities that would otherwise be prohibited or restricted by this by-law

ADMINISTRATION

Original wording

Section 10

(d) Revoke, void or alter Permits without notice.

PUBLIC COMMENTS

The provision "without notice" is unacceptable. This is an undesirable delegation of authority, and authority that has no counterbalance of providing and publicly presenting just cause and rationale.

Remove Section 10 altogether

Should not be able to revoke, alter, or void permits without notice – strike this section

Must be appeal process, notice, etc.

Do not like "sole discretion" – especially with "without notice"

What is the duty of fairness on revoking permits?

We want clear guidelines on revoking permits

At minimum notice must be given when revoking

Permit should be issued or refused, how fees should be assessed, or how determinations about the "best interests of the City" will be determined in the event of a conflict between bylaws.

STAFF COMMENTS

The guidelines for using permits (Special Event Permits) are already in place and being applied.

Revocation of permission to remain on the City land would only apply for the short term purpose of giving an order or laying a charge at that time. Without notice wording to be removed as notice would be given prior to the issuance of charges.

Proposed wording

(d) Revoke, void or alter Permits

ADMINISTRATION

Original wording

Section 12

In respect of City Land, or applicable parts thereof, the Executive Director, in his/her sole discretion considering the best interests of the City, is authorized to:

- (a) Issue and post or refuse to issue and post Signs permitting activities that would otherwise be prohibited or restricted by this by-law;
- (b) Issue and post or refuse to issue and post Signs prohibiting or restricting activities that would otherwise be permitted pursuant to this by-law;

PUBLIC COMMENTS

This smacks of entrapment or undue license. The refusal to issue directive or restrictive information is hardly constructive. Information pertaining to prohibition or circumscription of democratic public activities is extremely important, and a very sensitive dimension of due process and social justice. You can take away rights otherwise available simply by posting a sign??

Executive Director must be an actual Guelph Resident and should be an elected official because they are accountable to the public and city staff are not.

STAFF COMMENTS

Ability to post signs restricting activity supports current authority under the Trespass to Property Act.

Proposed wording (No change)

In respect of City Land, or applicable parts thereof, the Executive Director, in his/her sole discretion, considering the purposes of this by-law and the best interests of the City, is authorized to:

- (a) Issue and post or refuse to issue and post Signs permitting activities that would otherwise be prohibited or restricted by this by-law;**
- (b) Issue and post or refuse to issue and post Signs prohibiting or restricting activities that would otherwise be permitted pursuant to this by-law;**

ADMINISTRATION

Original wording

Section 12

(d) Remove or alter Signs without notice.

PUBLIC COMMENTS

Not unlike the above, this is far too permissive and opaque and contrary to contemporary practice in public service.

Do not like “sole discretion” – especially with “without notice”

Way too broad

STAFF COMMENTS

Without notice wording to be removed

Proposed wording

(d) Remove or alter Signs

NUISANCE PARTIES

Original wording

Section 13

(1) No person shall sponsor, conduct, continue, host, create, attend, allow, cause or permit a Nuisance Party.

PUBLIC COMMENTS

How would continue, create, and allow be in S. 13(1)? We are concerned that without clear definitions, the application of the sections would be left to the discretion of the Bylaw Officers and could lead to harassment and the prohibition of a variety of innocuous behaviours.

Concerning the proposed bylaw dealing with nuisance parties and protests I would ask that the proposed bylaws only deal with nuisance parties and not include protests. The two things being dealt with are quite distinct. The case for the need of a bylaw dealing with protests has yet to be made. The problem the nuisance parties should not be used as a p-text to draft the bylaw dealing with protests. There should be called a second bylaw dealing with protests is needed. It should recognize that everyone that is quote "everyone has the right to freedom of Peaceful Assembly and Association " Article 20, 1 of the Universal Declaration of Human Rights.

I fully support the complete bylaw as recommended by staff. We have many issues in Ward X with Student Housing and the problems that come with them. The parties, garbage and general disregard for our neighbourhoods is disgusting. The lack of action by the absent landlords needs to be addressed.

There is a real need to address the issue of nuisance parties, but is a mistake to conflate this issue with that of non-violent public protests. The purpose here seems to be more about protecting the corporate interests of the City of Guelph. The issue of economic interest vs. environmental protection is important, but is disingenuous to pretend this is about public safety. It is paternalistic and patronizing to suggest that such a law is for the protection and safety of the protesters themselves.

My support for the nuisance bylaw was with regards to the local University students and their lack of respect for their neighbours and their property. The city does not enforce the current existing laws because they do not want to create criminal record for these University students. Also, the littering and trespassing on my property, not to mention the numerous loud parties. Let's work together to do something about this to make the city of Guelph a better place, especially in the south end!

strike "attend"

I support the City of Guelph creating nuisance bylaws for our community. I am relatively tolerant with our student neighbours and their antics but the students around us have begun to test our patience more and more frequently. I am getting pretty fed up with listening to intoxicated people screeching drunken garble or obscenities at all hours of the day or night. I know how much these "house parties" can bring in. If students can host "house parties" but choose to disrespect Guelph Residents, their neighbourhood and all the rules, I assure you that they are more financially capable of paying the fines.

Peaceful protest is everyone's right in a democratic society. But I'm not sure why they are lumping out-of-control parties into the same proposed law. I live in a residential neighbourhood and now surrounded by student houses that import uncontrolled throngs of loud, aggressive, inebriated, disrespectful revellers will into the wee hours. This taxes the Police resources. I was actually told it takes 4 calls/reports of such an incident before riot regalia/armour. It was frightening to say the least. I am all for a separate bylaw for this sort of public nuisance. Peaceful, respectful public protest is a separate entity. It is a basic right in a free society.

There is a real need to address the issue of nuisance parties, but it is a mistake to conflate this issue with that of non-violent public protests. The purpose here seems to be more about protecting the corporate interests of the City of Guelph. The issue of economic interest vs. environmental protection is important, but is disingenuous to pretend this is about public safety. It is paternalistic and patronizing to suggest that such a law is for the protection and safety of the protesters themselves.

We (myself and my wife) as residents of XXXXX, have over the last 6 years been very much negatively affected by the anti-social behaviour and actions of some of our neighbours. By their own account

Guelph By-Law or Police officers have in the last 6 years been in attendance at or around our house XX (!!!) times in order to deal with; loud music and unruly behaviour, obvious/apparent drug abuse and dealing, repeated vandalism to our property, and threats and abuse directed at me personally and/or at my wife. Fortunately, the overall situation has over the last summer remarkably improved, i.e., in the last 6 months GPS only had to attend to our property once, which in our observation is solely due to the efforts of and tenant selection by XXXXX and XXXXX, the new owners, landlords and managers of XXXXX. In contrast, the by-law and police response over the years had- despite the appreciated efforts of individual officers such as XXXXX - been completely ineffective. This is however in my mind NOT due to the lack of applicable laws, but rather due to the lack of their interpretation, actual enforcement and meaningful follow-up. On one occasion, one of the worst offenders had - finally - been issued a noise by-law ticket, which within 1/2 hours of being written ended up half burned and stuffed into a beer bottle on my front porch. I presented this to GPS and got no response, let alone legal follow-up or actual enforcement. It is already stated that; "Many of these

activities are already regulated under other City by-laws or legislation." Indeed, ALL of them are - all you need to do is actually enforce them and give by-law and GPS the man-power and resources to do so! What is most disturbing about the now proposed new by-law is that some aspects of it seem more targeted against potential political demonstrations and activities that are clearly protected by the Canadian Charter of Rights and Freedoms rather than the establishment of Law and Order. I am VERY disturbed by the following sections, which simply have to be struck from the proposed by-law: (e) THIS VIOLATES SECTION 2B OF THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS. (l) By definition public demonstrations in order to express one's political views can (and sometimes have to be) annoying to others in the community! This is part of the reality of a democratic system. It is shameful that such a formulation is even being considered to become law in this city! (r) THIS VIOLATES SECTION 2C OF THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS. In summary I oppose the proposed by-law in its current form.

With respect to nuisance parties, it would be prudent to insure that the bylaw is not so broadly worded that it prevents social gatherings such as wedding parties, neighbourhood block parties and other widely accepted gatherings

However, I do agree with shifting the duty of controlling house parties to bylaw.

I am fine with this section of the proposed bylaw: -nuisance parties involving disorderly conduct, public drunkenness, damage to property, unreasonable noise, fighting and public urination. And the second point of -on City land, violent or illegal conduct, fighting, possession of a weapon, knocking over mailboxes, breaking trees, graffiti, dumping garbage or snow and building fires.

This new bylaw makes perfect sense to me, we have big problems with nuisance parties in big parts of the city and you need the tool to deal with them.

Concerning the proposed bylaw dealing with nuisance parties and protests I would ask that the proposed bylaws only deal with nuisance parties and not include protests. The two things being dealt with are quite distinct. The case for the need of a bylaw dealing with protests has yet to be made. The problem the nuisance parties should not be used as a p-text to draft the bylaw dealing with protests. There should be called a second bylaw dealing with protests is needed. It should recognize that everyone that is quote "everyone has the right to freedom of Peaceful Assembly and Association " Article 20, 1 of the Universal Declaration of Human Rights.

The fact that this gives municipalities the power to prohibit and regulate "public nuisances" without providing a useful definition of a "public nuisance" is troubling in itself. I have attended two public discussions about the draft bylaw. I have severe reservations about the draft as it currently exists.

This sounds like an extremely harsh bylaw for most of the acts it discusses in the draft. For example: Nuisance parties, most 'party houses' don't have parties that

often that they warrant such a harsh penalties. I understand that most of these parties involve students at the University, and that other people live in Guelph too and the excessive noise of a party is unfair to them. However, bylaws have just gotten ridiculous, you can barely make a sound now without worrying about having a neighbour phone a noise complaint on you. Granted, there are incidences, such as parties regularly at the same residence or in the same neighbourhood that should be monitored, but if someone hosts party every once and a while, I do NOT see how that mean they should get a 10,000 dollar fine. Most of the offenses on this draft are incredibly minor and the penalties are ridiculous.

STAFF COMMENTS

Staff believe that the Courts will be able to interpret the language of the Bylaw.

Section 13 provides for the laying of Provincial Offence Notices against individuals who breach its provisions.

Staff felt for the ease of the community to have all nuisances listed under one Bylaw. Section regarding protests has been removed.

Weddings and other similar social events are already covered under the City's Special Event process and will continue.

The section referring to protests, although in our opinion is not a contravention of the Charter of Rights has been removed. This was reviewed, staff felt for the ease of the community to have all nuisance like issues within one Bylaw.

With respect to a public nuisance, the Bylaw itself identifies the activities which would be considered public nuisances.

These events are already covered under the City's Special Event process and will continue. The definition of "Nuisance Party" in the by-law is limited to cases where there is unreasonable interference with the innocent public or property.

Upon conviction, fines are set by the Court in accordance with law. Set fines of a lesser value comparable to other Bylaw fines will be implemented.

Proposed wording

(1) No person shall sponsor, conduct, continue, host, create, attend, permit or cause a Nuisance Party

NUISANCE PARTIES

Original wording

Section 13

(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 allow, cause or permit a Nuisance Party on said Premises.

PUBLIC COMMENTS

Guelph city council has perfected the attack on many forms of protest by drafting a bylaw allowing forcible removal of 'nuisance parties' (parties being people with both signs and beer), even from private property. This is a dangerous precedent. I can see Toronto and Ottawa city councils under serious pressure to be the next adopt measures (if they do not have similar already). If this bylaw is passed it will be an attractive hammer to be used on a myriad of problems that suddenly all look like nails, be they sit-in or occupy-style protests, the homeless, or merely weekend-long parties at student rentals.

The issue we are concerned most with is the nuisance party. There is a saying that if it doesn't affect me what do I care and we felt that way until the house next door became student housing. When we try and talk to them about our problems, the kids feign naivety and are nonchalant about the whole thing. The landlord lives out of town. We would like you to know that we are in support of the bylaw but with a few changes in regard to the protests but we would like to have a nuisance bylaw in the City of Guelph.

STAFF COMMENTS

Property owners are responsible for their property and must take reasonable steps to ensure Bylaws are complied with. When a property owner fails to take reasonable steps a fee may be charged to recover some of the costs associated with addressing the nuisance party). An owner who did not condone the nuisance party would not be billed for the costs. When an owner is responsible, the City believes that particular owner, and not the taxpayers at large, should have to pay.

Proposed wording (No change)

(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 permit or cause a Nuisance Party on said Premises

NUISANCE PARTIES

Original wording

Section 13

(3) Upon the order of the Chief of Police or the Executive Director, every person who is sponsoring, conducting, continuing, hosting, creating, attending, allowing, causing or permitting a Nuisance Party on specified Premises shall cease such sponsoring, conducting, continuing, hosting, creating, attending, allowing, causing or permitting of such Nuisance Party, and every person not residing on such Premises shall leave such Premises.

PUBLIC COMMENTS

I support any tools to help the police minimize the disturbances that happen in our neighbourhood on a weekly basis. Our street is rapidly changing and I feel there is nothing we can do to prevent it. We have too many students' rentals on this street and it shows. The excessive noise and loud music at night, the garbage left out for weeks, the dangerous driving of students oblivious to our children playing outside, the girl sitting on the roof, the broken glass on the sidewalks, the large groups of people smoking on the front porch, the swearing, the eggs on our house, the toilet paper in the trees and the guys urinating in the front yard bushes on a bright and sunny Saturday afternoon when my kids are playing outside right across the street. If we could afford to move, I would move far away from the University of Guelph! Please allow this bylaw to pass! Please give the students some sort of deterrent!

My support for the nuisance bylaw was with regards to the local University students and their lack of respect for their neighbours and their property. The city does not enforce the current existing laws because they do not want to create criminal record for these University students. Also, the littering and trespassing on my property, not to mention the numerous loud parties. Let's work together to do something about this to make the city of Guelph a better place, especially in the south end!

STAFF COMMENTS

No comment

Proposed wording (No change)

(3) Upon the order of the Chief of Police or the Executive Director, every person who is sponsoring, conducting, continuing, hosting, creating, attending, permitting or causing a Nuisance Party on specified Premises shall cease such sponsoring, conducting, continuing, hosting, creating, attending, permitting or causing of such Nuisance Party, and every person not residing on such Premises shall leave such Premises.

NUISANCE PARTIES

Original wording

Section 13

(5) An order under this section may be given orally or may be served personally on the person to whom it is directed.

PUBLIC COMMENTS

Any order given orally must be accompanied by a written record. Otherwise in case of ex post facto contest the alleged order carries little more weight than hearsay.

STAFF COMMENTS

Oral orders can be proven by oral evidence. Sometimes there is not time to issue a written order.

Proposed wording (No change)

(5) An order under this section may be given orally or may be served personally on the person to whom it is directed

NUISANCE PARTIES

Original wording Original wording

Section 13

(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.

PUBLIC COMMENTS

Is it necessary for bylaw officers to close roads down, etc?

Is this for public safety?

Do we not need police for this?

Why can by-law close highway to control nuisance party, but needs 24 hour notice for (democratic) protests?

Definition – strike any mentions of blocking streets

STAFF COMMENT

Road closures would be conducted to address public safety issues.

Proposed wording (No change)

(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

NUISANCE PARTIES

Original wording

Section 14

(1) The City may impose a fee or charge upon any person hosting a Nuisance Party and/or the owner of Premises where the Nuisance Party is held.

PUBLIC COMMENTS

I take exception to the following proposals, and for these reasons; billing property owners for nuisance party costs to take control: We already pay taxes to fund law enforcement agencies. Why should we be paying for them to be doing their job? This should never even be considered. Also, who is to say why the owner is even responsible? What would happen if for an example if the public was unhappy with this proposal and started protesting on a counsellor's front lawn and the counsellor was unable to break up the gathering. Officers would have to come break it up and the counsellor would get billed for it. Does this make any sense at all?

My comments are restricted to **NUISANCE PARTIES** 1) Subsection 14(1) states "The City may impose a fee or charge.... Upon [...] the owner of the Premises where the Nuisance Party is held." An owner would be charged even if he/she did not host the Party or was unaware of the Party being held. Furthermore, the owner could be the resident of that property, perhaps away on vacation at the time, or a landlord of that property. Legally, the City is making the Property Owner legally responsible for the actions of other adult individuals.

Presently, some of the City's existing bylaws already make property owners (i.e. A Landlord) responsible for the behaviour of the property's occupants (i.e. A Tenant). Seldom, does the Bylaw Officer make an effort to contact the occupant to rectify the infraction. That action takes time. Plus it's easier to pursue the owner "because that is where the money is." As a City Landlord, I have previously received these letters citing infractions caused by my Tenants. As written the proposed Nuisance Bylaw is expecting me as a Landlord to ensure my adult Tenants do not cause Nuisance Parties at a property that I would not even live at. This is unfair. Why should a property owner be held accountable for the actions of others?

Generally, nuisance parties are hosted by Tenants who will not own property located within the City of Guelph. This makes collection of any fines or cost recoveries more difficult since the City cannot add such fines or recovery costs to the Host's property. Therefore, it is much easier to assess the property owner those fines and cost recovery charges. I was advised the City has only previously charged 2 Property Owners under the noise bylaw for related infractions caused by their Tenants and was only after the Property Owners did not provide their cooperation.

It is assumed that the event alluded to here has been independently proven to have been a "Nuisance Party". This should be explicit.

As a homeowner I know that if there is a loud party etc the Police and Bylaw Officers are able to issue fines etc already. Why is council wasting their time on this effort?

In retrospect the Manager's comments do not address my concerns because: a) The City's current policy not to charge Property Owner's, except in unusual circumstances, can be changed any-time. b) If the City truly intends not to charge recovery costs to Property Owners then that clause should not even be included in the Draft Bylaw? c) What is the City's definition of a "cooperative landlord" as noted by the Manager? That is an open-ended statement. 5) Should the Tenant Host(s) not be assessed recoverable costs (i.e. the landlord be assessed instead) then that individual(s) is not being held accountable for their actions. After a nuisance party, the landlord will evict that individual who can simply relocate elsewhere within the City and host another nuisance party and the process is repeated. Why can't this city charge individuals under the noise bylaw? This draft bylaw also does not address the option to charge guests attending the nuisance parties either. 6) I believe the Nuisance parties should not be tolerated and are a serious infringement within a neighbourhood and the effort to discourage and prevent them is very good.

Section 14.1: seems to encourage "tenants" to "not care" and let responsibility fall to landlord

Remove fines, discriminatory on lower income

STAFF COMMENTS

Property owners are responsible for their property and must take reasonable steps to ensure Bylaws are complied with. When a property owner fails to take reasonable steps a fee may be charged to recover some of the costs associated with addressing the nuisance party (i.e. road closure costs identified in Fees Bylaw). An owner who did not condone the nuisance party would not be billed for the costs. When an owner is responsible, the City believes that particular owner, and not the taxpayers at large, should have to pay.

Section 14(4) talks about fees not fines. There is no issue of guilt or innocence with respect to fees. Municipalities do have the authority under the Municipal Act to add fees to property.

Proposed wording NO CHANGE

(1) The City may impose a fee or charge upon any person hosting a Nuisance Party and/or the owner of Premises where the Nuisance Party is held

NUISANCE PARTIES

Original wording

Section 14

(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.

PUBLIC COMMENTS

Subsections 14(1) and 14(2) do not define how the "fee or charge" will be determined. As written, this is an open ended cost that can later be determined by the City. How these costs will be determined should be detailed and quantified within the bylaw.

STAFF COMMENTS

Applicable fees would be identified in the City User Fees Bylaw.

Section 14 provides for the collection of fees from individuals whose actions cause the City to incur clean up costs.

Proposed wording (No Change)

(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.

NUISANCE PARTIES

Original wording

Section 14

(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.

PUBLIC COMMENTS

Under Section 14 Nuisance Parties ... I liked every part of this section; I feel that it is important to hold the land owner accountable for their tenants.

This fails to address the "tenant party" issue. Care should be taken not to defer responsibility to the Landlord's tax roll. I suggest that tenant issues be discussed and clarified as this is the main issue in residential party disturbances.

Section 14.4 Should the City really put a "lean" on someone's property because of a party? No.

There must be a due process that falls within complies with the Landlord-Tenant Act

STAFF COMMENTS

Other sections are intended to address the tenant nuisance issue - sections 14(1), (2) and (3). This section 14(4) is to provide the City the ability to recover some costs (if required) in addressing nuisance parties where the owner is the cause.

Proposed wording (No change)

(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

Original wording

Section 15

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

PUBLIC COMMENTS

Way too much power to by-law

Training, Guidelines and limits to discretion?

How can by-law officers and police officers administer/enforce with different training

By-law officers do not have same training as cops

By-law officers must meet Police Services Act Standards for training

By-law officers are not accountable to the public the way elected officials are

only concern would be staff enforcement, in some cases it takes more than 1 officer to breakup student parties, and am concerned about your bylaw enforcement staff, I trust that policies and procedures would be put into place and ensure the safety of your staff.

STAFF COMMENTS

Safety of staff and training staff would be paramount.

Bylaw Officers are accountable to their supervisors, Council and ultimately the public. There is expectation that they will remain unbiased and uphold the bylaws to the City's expectations and guidelines. As well, every charge is subject to challenge in Court.

Proposed wording (No change):

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

ENFORCEMENT

Original wording

Section 22

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.

PUBLIC COMMENTS

Where does the authority to compel identification come from?

How is refusing ID and offence under this by-law?

STAFF COMMENTS

Police and Bylaw have different levels of authority to request identification under various legislation.

Proposed wording (No change)

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.

ENFORCEMENT

Original wording

Section 25

(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.

PUBLIC COMMENTS

A \$10,000.00 first offense fine is way out of the ballpark here and could not be upheld in any Canadian Court.

Under Enforcement 25. (1) and (2) do these points allow for any on-the-spot infraction tickets?

What minor offence has a \$10,000 fine? Too large

STAFF COMMENTS

All powers given to the City, including the maximum amount of fines, are given by the Province. The City is only exercising the powers already given to it under the Municipal Act. The City is unlikely to levy (nor is a court likely to approve) fines in the maximum permitted amount.

Upon conviction, fines are set by the Court in accordance with law. Set fines of a lesser value comparable to other Bylaw fines will be implemented.
Set fines will be requested to provide for on-the-spot tickets.

Proposed wording (No change):

(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.

ATTACHMENT C to Public Nuisance Bylaw Report #OT031303

CITY OF GUELPH BY-LAW (2013) - XXXXX
REGULATING PUBLIC NUISANCES

Short Form Wording	Offence Creating Provision	Set Fine
1 Enter identified prohibited/restricted City land	S. 7	\$500.00
2 Engage in violent/threatening/riotous conduct	S. 8(a)	\$500.00
3 Participate in a fight on City land	S. 8(b)	\$500.00
4 Obstruct sidewalk/designated trail/pathway on City land	S. 8(d)	\$300.00
5 Sell/rent/barter goods/services on City land	S. 8(e)	\$300.00
6 Offer for sale/rent/barter goods/services from City land	S. 8(e)	\$300.00
7 Display for sale/rent/barter goods/services from City land	S. 8(e)	\$300.00
8 Carry on trade/occupation/business/profession on City land	S. 8(f)	\$300.00
9 Place/allow the placement of vending machine/game on City land	S. 8(g)	\$300.00
10 Possess/use a weapon on City land	S. 8(h)	\$500.00
11 Interfere with an allowed activity carried out by any other person on City land	S. 8(i)	\$300.00
12 Enter any washroom/changeroom set apart for the opposite gender on City land	S.8(j)	\$500.00
13 Loiter in any washroom/changeroom on City land	S. 8(k)	\$500.00
14 Be objectionable to another person using or in the vicinity of a washroom/changeroom on City land	S. 8(k)	\$500.00
15 Operate photographic/recording device in washroom/changeroom on City land	S. 8(l)	\$500.00
16 Owner of horse/livestock/Dangerous Animal allow horse livestock/Dangerous Animal to enter/be on City land without legal authorization	S. 8(m)	\$300.00
17 Having care and control of a horse/livestock/Dangerous Animal allow horse/livestock/Dangerous Animal to enter/be on City land without legal authorization	S. 8(m)	\$300.00

18 Engage in conduct prohibited/restricted by a sign	S. 8(n)	\$300.00
19 Knock over/attempt to knock over a Canada Post mailbox/relay box/ utility box/newspaper box/waste collection container on City land	S. 8(o)	\$300.00
20 Engage in activity that may/does cause damage to City property	S. 9(a)	\$300.00
21 Break/injure/deface/prune/plant/move/remove a flower/ shrub/grass/plant material/tree/vegetation on City land	S. 9(b)	\$300.00
22 Damage/deface/break/move/remove a building/structure/ equipment of the City	S. 9(c)	\$300.00
23 Attach/stencil/paint/apply/fasten/erect a marking/graffiti/ sign/notice on City land	S. 9(d)	\$300.00
24 Dump/deposit snow in a park or public square	S. 9(e)	\$300.00
25 Build/light/stoke a fire on City land	S. 9(g)	\$500.00
26 Camp/dwell/lodge on City land	S. 9(h)	\$300.00
27 Place/install/erect a temporary/permanent structure on City land	S. 9(i)	\$300.00
28 Enter fountain/water feature not intended for such use on City land	S. 9(j)	\$300.00
29 Tether/launch/land an aircraft on City land	S. (9l)	\$300.00
30 Bring/operate/park/leave a Motor Vehicle on surface not intended for such use on City land	S. 9(m)	\$300.00
31 Sponsor/conduct/continue/host/create/attend/allow/cause a Nuisance Party	S. 13(1)	\$750.00
32 Fail to leave premises upon being directed by an order	S. 13(6)	\$500.00
33 Use a highway/portion of a highway while temporarily closed	S. 13(9)	\$500.00
34 Fail to comply with an order of an Officer	S. 13(20)	\$500.00
35 Obstruct/hinder/interfere with an Officer	S. 13(21)	\$500.00

STAFF REPORT



TO Operations, Transit and Emergency Services Committee

SERVICE AREA Guelph Transit

DATE March 18, 2013

SUBJECT Revised U-Pass Agreement

REPORT NUMBER OT031302

EXECUTIVE SUMMARY

PURPOSE OF REPORT

To provide a summary of the recommended changes to the U-Pass semester pricing structure for Spring 2013 through Winter 2016.

KEY FINDINGS

Guelph Transit, the University of Guelph administration, the Central Student Association (CSA) and the Graduate Students' Association (GSA) support the use of a multi-year contract to administer the U-Pass program. This approach provides a degree of stability for all parties to the agreement and allows future resource planning to take place with a greater degree of predictability.

FINANCIAL IMPLICATIONS

The proposed pricing structure provides annual rate increases in the range of 3% to 4% every September for the next three years. Based on an estimated volume of students attending the University and the future costs of service, the proposed fee structure provides stable revenues and a reasonable level of cost recovery for Guelph Transit. Annual incremental revenue to Guelph transit will be in the range of \$150,000. The estimated incremental revenue for 2013 under the proposed agreement is consistent with the forecasted U-Pass revenue in the 2013 budget.

ACTION REQUIRED

Make a recommendation to Council to approve the proposed multi-year U-Pass pricing structure and authorize the Mayor and the City Clerk to sign revised U-Pass agreements with the CSA and GSA at the University of Guelph.

RECOMMENDATION

1. THAT the Operations, Transit and Emergency Services (OTES) Committee Report #OT031302 Revised U-Pass Agreement dated March 18, 2013 be received;

STAFF REPORT



2. THAT the Mayor and City Clerk be authorized to sign this U-Pass Agreement with the CSA and GSA at the University of Guelph;

BACKGROUND

The City (Guelph Transit) has had a U-Pass Agreement in effect with the University of Guelph since the 1990's to provide unlimited regular bus service to University undergraduate and graduate students for a set fee per student per semester. Late night services for University of Guelph students are provided under a separate contract.

Subject to contractual conditions, University of Guelph students are not eligible to opt out of the program and registered students pay this fee to the City each semester regardless of whether or not they use the services of Guelph Transit. A separate agreement is in place with the Central Student Association (CSA) and the Graduate Students' Association (GSA). Guelph Transit and the CSA/GSA have been operating with an interim pricing agreement since May 2012 which expires in May 2013. The parties have been working together for the past number of months to develop a new pricing framework acceptable to all as well as to refine a limited number of contractual terms.

REPORT

Although the parties have operated with an interim agreement for the last year, all parties prefer to operate with a multi-year contract - this has been the model used historically. This approach minimizes the amount of resources used to negotiate and administer the contract and provides a degree of stability in future resource planning.

It is recommended that the following pricing structure per student per semester for both the CSA and GSA agreements be approved:

Spring 2013:	\$89.50 (same as existing price)
Fall 2013:	\$93.00
Winter 2014:	\$93.00
Spring 2014:	\$93.00
Fall 2014:	\$97.00
Winter 2015:	\$97.00
Spring 2015:	\$97.00
Fall 2015:	\$100.00
Winter 2016:	\$100.00

The proposed annual price increases for the U-Pass are in the range of 3 % to 4% which are reasonable fee increases for students while allowing Guelph Transit to continue to recover an appropriate level of costs in providing the service.

STAFF REPORT



A term has been added to the contract that allows the pricing structure to be reassessed if there is a significant change in the cost base of Guelph Transit (10% or greater) or if service to the University is significantly enhanced or declines during the life of the contract.

CORPORATE STRATEGIC PLAN

2.2 Deliver Public Service better.

3.1 Ensure a well designed, safe, inclusive, appealing and sustainable City.

DEPARTMENTAL CONSULTATION

Legal

COMMUNICATIONS

Guelph Transit will work with the Transit Committee at the University to ensure that all students are informed of the revised pricing structure on a timely basis.

ATTACHMENTS

ATT-1 Proposed CSA U-Pass Contract
ATT-2 Proposed GSA U-Pass Contract

Report Author

Michael Anders
General Manager
Community Connectivity and Transit
519 822 1260, Ext 2795
michael.anders@guelph.ca

Approved By

Derek McCaughan
Executive Director,
Operations, Transit and Emergency Services
519 822 1260, Ext 2018
derek.mccaughan@guelph.ca

ATTACHMENT 1

MEMORANDUM OF AGREEMENT

Dated this ____th day of _____, 2013

BETWEEN:

THE CORPORATION OF THE CITY OF GUELPH

Hereinafter called “**the City**”
OF THE FIRST PART

and

THE UNIVERSITY OF GUELPH CENTRAL STUDENT ASSOCIATION

Hereinafter called “**the CSA**”
OF THE SECOND PART

WHEREAS the City and the CSA wish to establish the general terms and conditions respecting the issuance of validation stickers on the University of Guelph Student Identification Card for the purpose of providing universal bus privileges (Universal Pass Program):

NOW THEREFORE, the parties mutually agree as follows:

1. A validation sticker issued and distributed by the CSA shall be affixed to the student card of each undergraduate student (full and part-time) who is enrolled in an academic program at the University of Guelph. The only exception will be those students who are affected by clause 15 of this Agreement.
2. A current validation sticker on the University of Guelph Student Identification Card (“student card”) shall permit the holder to use the City’s Transit Buses, including Mobility Services, during all hours of regular operation.
3. All students must clearly show their student card, with a current validation sticker, to the driver of the vehicle each and every time they board. The dates for any exceptions to this clause will be agreed upon by both parties on an as need basis. Generally, exceptions will be in effect during the period between the end of one semester and the end of the first week of classes of the next semester.
4. The City reserves the right to validate the identity of the holder with the student card presented. The City also reserves the right to confiscate any student card that is misused. All confiscated student cards will be forwarded to the University of Guelph Campus Police within three (3) business days, along with a report explaining the

reason(s) for the confiscation. Lost student cards found on Guelph Transit vehicles or property will be forwarded to the CSA within three (3) business days.

Students who misuse the Universal Pass Program will be monitored by the CSA and dealt with in accordance with the rules and regulations set out in the Bus Policies section of the CSA Policy Manual.

5. The City will not be responsible for any costs associated with the production or distribution of student cards and validation stickers. However, the City will provide one staff member per day during the three scheduled distribution periods to assist with the process.
6. Both parties will have the opportunity to provide input into the design of the validation sticker. The sticker design will be agreed upon every Winter semester in readiness for the upcoming academic year.
7. For the purposes of this Agreement, semester shall be defined generally as follows:
 - Winter Semester: January 1 through April 30;
 - Summer Semester: May 1 through August 31; and
 - Fall Semester: September 1 through December 31.
8. The per semester fee schedule shall be as per outlined below:

Semester	Fee
Summer 2013	\$89.50
Fall 2013	\$93.00
Winter 2014	\$93.00
Summer 2014	\$93.00
Fall 2014	\$97.00
Winter 2015	\$97.00
Summer 2015	\$97.00
Fall 2015	\$100.00
Winter 2016	\$100.00

The above price schedule will only be revisited during the term of this agreement if Guelph Transit's cost base for the provision of service to the University increases significantly (10% or greater), or the level of service to the University increases or declines significantly.

A new fee schedule will be developed, subject to referendum approval, prior to the end of the Fall Semester in 2015.

9. All students will include payment for the Universal Pass Program as part of their ancillary fees for each semester. The Registrar will collect these monies from the students. The Registrar will guarantee, as set out in the letter attached in Appendix A to this Agreement that monies will be forwarded to the CSA with sufficient time to meet the payment schedule detailed below. The CSA will retain all accrued interest and remit the principal amount to the City according to the following payment schedule:

Fall Semester: 50% October 15th

	35%	November 15 th
	15%	December 15 th
Winter Semester:	50%	February 15 th
	35%	March 15 th
	15%	April 15 th
Summer Semester:	50%	June 15 th
	35%	July 15 th
	15%	August 15 th

The cheque is to be made payable to:

Guelph Transit

And mailed to:

The City of Guelph, Transit Services
 Attention: Supervisor, Transit Business Services
 170 Watson Road South
 Guelph ON N1L 1C1

If the Registrar is more than 15 days late remitting monies to the CSA, the CSA will arrange for the Registrar to advise the City in writing. The CSA shall remit overdue funds owing to the City immediately upon receipt of these funds from the Registrar. The CSA shall not be held responsible for losses suffered by the City for late payment resulting from failure of the Registrar to transfer funds to the CSA in accordance with the above noted payment schedule.

10. Nothing in this Agreement alters, affects or prejudices any other rights or remedies to which the City or the CSA may be lawfully entitled.
11. The terms of this Agreement shall commence on May 01, 2013.
12. This Agreement does not have a specified termination date.
13. The City or the CSA may terminate this Agreement at any time with four (4) months written notice.
14. A maximum of fifty (50) students will be afforded the opportunity to 'opt in' to the Universal Pass Program during the Summer Semester only. This opportunity will only be offered to students who had enrolled in the previous Winter Semester and intend to enrol in the upcoming Fall Semester. The CSA will monitor the number of students who chose this option and report the total to the City. The opportunity to 'opt in' will be administered by the CSA according to the rules and regulations set out in the Bus Pass Policies section of the CSA Policy Manual.
15. A maximum of thirty (30) students will be afforded the opportunity to 'opt out' of the Universal Pass Program during each semester. This opportunity will only be offered to students who are unable to use any services offered by Guelph Transit. The CSA will monitor the number of students who chose this option and report the total to the City. The opportunity to 'opt out' will be administered by the CSA according to the rules and regulations set out in the Bus Pass Policies section of the CSA Policy Manual.

16. All students will use the Transit service offered by the City in accordance with the Rules and Guidelines detailed in Appendix B to this Agreement.
17. By the end of the Summer Semester of each year, the CSA will provide the City the following information for the next three (3) semesters:
 - The estimated undergraduate student enrolment;
 - Samples of the validation sticker;
 - The opening day of each semester;
 - The dates of late registration and class add period;
 - The date all classes start;
 - The dates for reading week;
 - The date classes end;
 - The dates exams are scheduled; and
 - The final day of each semester.
18. The City is required to provide uninterrupted regular City bus service for the duration of each semester. Failure of the City to provide regular bus service for greater than a total of seven (7) full service days during any semester will result in an adjustment of fees remitted to the City at the next payment date according to the formula detailed in Appendix C to this Agreement. Days for which the University is closed due to inclement weather will not be considered as days of non-service.
19. The CSA will advise the City as soon as they are aware that the University is, or will be, closed due to unforeseen circumstances (i.e. inclement weather, etc). The semester fee will not be adjusted to reflect any such closure of the University unless a semester is terminated and students receive a refund of ancillary fees. The Universal Pass Program would be considered null and void for the remainder of the affected semester.
20. A Transit Committee comprised of CSA members, GSA members, CSA and GSA staff, and Guelph Transit management will meet at least once per semester to discuss the Universal Pass Program and any outstanding transit-related issues.
21. This Agreement constitutes the entire agreement and supersedes any and all prior understandings, discussions, negotiations, commitments, representations, warranties and agreements, written or oral, expressed or implied between the City and the CSA.
22. This Agreement shall be subject to and interpreted in accordance with the laws of the Province of Ontario.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals.

SIGNED, SEALED AND DELIVERED in the presence of:

Authorized Signing Officers of:

**THE UNIVERSITY OF GUELPH,
CENTRAL STUDENTS ASSOCIATION**

Matthew Pecore, Local Affairs Commissioner

Joshua Ofori-Darko, HR & Operations Commissioner

Drew Garvie, Communications & CA Commissioner

**THE CORPORATION OF
THE CITY OF GUELPH**

Karen Farbridge, Mayor

Blair Labelle, City Clerk

Dated and Signed at Guelph

This ____th day of _____, 2013



OFFICE OF THE
ASSOCIATE VICE PRESIDENT STUDENT AFFAIRS

February 13, 2013

Joshua Ofori-Darko
Human Resources & Operations Commissioner
Central Student Association

Jose Luis Rodriguez Gil
GSA V.P. External
Graduate Students' Association

Dear Josh and Jose Luis:

I have reviewed the UPass agreement between the City and the CSA and GSA and have confirmed that it is consistent with the Student Fees Protocol. As such, I will be asking Student Financial Services to collect the fee as per the schedule and transfer the bus pass funds to the Central Student Association and the Graduate Students' Association according to the proposed terms of the agreement to be signed with the City of Guelph Transit Authority.

Yours sincerely,

A handwritten signature in cursive script that reads "Brenda Whiteside".

Brenda Whiteside
Associate Vice-President (Student Affairs)

cc M. Anders, GM Community Connectivity and Transit
M. Sheey, Student Financial Services

GUELPH • ONTARIO • CANADA • N1G 2W1 • (519) 824-4120 • FAX (519) 767-1693



RULES AND GUIDELINES FOR TRANSIT USERS

Passengers

Must pay the applicable fare or provide a valid transfer. Transfers are valid for one hour from time of issue. A transfer is valid as part of one continuous trip from origin to destination. A transfer is not valid for a return trip. A transfer is valid for a stopover or layover within the one hour time period. Passengers must present their transfer to the operator upon entry. The transfer must be unfolded, date side up for inspection. In the event of a dispute, passengers must pay the requested fare and may contact Guelph Transit for possible adjustment. Other key operating rules include:

- Passes must be clearly shown to driver when boarding the bus;
- No smoking, food or drinks on City buses;
- Priority seats are at the front of all buses for seniors and persons with a disability;
- No playing radios or audio devices unless using headphones;
- No skis, snowboards or equipment;
- No wearing inline skates;
- No wagons or bicycles;
- No swearing or use of profane or discriminatory language;
- No sleighs or toboggans (small infant single seats accepted);
- All passengers must exit by rear doors; and
- When standing, please move to the very back of the bus.

Guide Dogs and Service Animals

Guide Dogs and Service Animals are permitted on Guelph Transit vehicles. When it is not readily apparent (can't easily and clearly be seen) that an animal is a Service Animal, a letter from a physician or nurse confirming that the person requires the animal for reasons relating to their disability, must be presented to the driver when boarding a Guelph Transit vehicle. All other pets must be secured in a small pet carrier that can fit between the seats.

Transportation of Articles

- No pets (unless in small secured pet carrier to fit between the seats);
- Transportation of bulk items will be at the operator's discretion;
- Chemicals, toxic substances and flammables are not permitted;
- Firearms, offensive or prohibited weapons are not permitted;
- Parcels and personal items must be kept clear of the aisles; and
- Guelph Transit is not responsible for any lost or stolen articles.

Strollers

Single strollers are permitted on Guelph Transit. Passengers may board a bus without folding up strollers or bundle buggies, but it is the responsibility of passengers to ensure that their strollers and/or bundle buggies do not interfere with the safety or comfort of other passengers. Oversize strollers will not be allowed on the buses. An oversize stroller is considered anything larger than a single stroller and includes jogging strollers. Guelph Transit bus operators are responsible for the operation of the bus and for administering Guelph Transit's policies and regulations as outlined above. Regulations are for the comfort and safety of all passengers.

Priority Seating

Priority Seating is for the use of passengers with a disability. These seats are located close to the front of the vehicle. Customers are expected to respect and obey the purpose of the designated seating area, which means: **if you are sitting in one of these designated seats, you MUST vacate the seat for a passenger with a disability.** Bus Drivers will not enforce this requirement or intervene in any dispute related to Priority Seating.

The provision of Priority Seating on all conventional transit vehicles has been mandated as part of the Accessibility for Ontarians with Disabilities Act 2005 (AODA) accessibility standards requirements.



Courtesy Seating

Courtesy Seating is intended to provide additional seating for people who will benefit from having a seat near the front of the vehicle including:

- Seniors;
- Expectant mothers;
- Adults traveling with infants or small children; or
- Any other passenger who may benefit from a seat.

If you are sitting in one of these designated seats, please respect its purpose and give up your seat to those who need it. Bus Drivers will not enforce this requirement or intervene in any dispute related to Courtesy Seating.



For further inquiries, contact Guelph Transit by phone, 519-822-1811, or email, transit@guelph.ca



FORMULA FOR INTERRUPTED SERVICE REBATE

$$\begin{array}{rclcl}
 \text{Total days of service provided} & & & & \\
 \hline
 \text{Total days of service scheduled*} & \times & \text{Final enrolment} & \times & \text{Bus pass semester fee} \\
 & & \text{(for effected semester)} & & \text{(per student)} \\
 & & & & \\
 & = & \text{Adjusted Payment} & &
 \end{array}$$

***Total days of service scheduled** - will be based on the number of days Transit service is scheduled from the opening day to the final day of the effected semester as defined in Clause 17 of the CSA agreement

ATTACHMENT 2

MEMORANDUM OF AGREEMENT

Dated this ____th day of _____, 2013

BETWEEN:

THE CORPORATION OF THE CITY OF GUELPH

Hereinafter called “**the City**”
OF THE FIRST PART

and

THE UNIVERSITY OF GUELPH GRADUATE STUDENTS’ ASSOCIATION

Hereinafter called “**the GSA**”
OF THE SECOND PART

WHEREAS the City and the GSA wish to establish the general terms and conditions respecting the issuance of validation stickers on the University of Guelph Student Identification Card for the purpose of providing universal bus privileges (Universal Pass Program):

NOW THEREFORE, the parties mutually agree as follows:

1. A validation sticker issued and distributed by the GSA shall be affixed to the student card of each graduate student (full and part-time) who is enrolled in an academic program at the University of Guelph.
2. A current validation sticker on the University of Guelph Student Identification Card (“student card”) shall permit the holder to use the City’s Transit Buses, including Mobility Services, during all hours of regular operation.
3. All students must clearly show their student card, with a current validation sticker, to the driver of the vehicle each and every time they board. The dates for any exceptions to this clause will be agreed upon by both parties on an as need basis. Generally, exceptions will be in effect during the period between the end of one semester and the end of the first week of classes of the next semester.
4. The City reserves the right to validate the identity of the holder with the student card presented. The City also reserves the right to confiscate any student card that is misused. All confiscated student cards will be forwarded to the University of Guelph Campus Police within three (3) business days, along with a report explaining the reason(s) for the confiscation. Lost student cards found on Guelph Transit vehicles or property will be

forwarded to the GSA within three (3) business days. The use of the Universal Pass is subject to Section 10.2 Universal Bus Pass of the GSA ByLaws.

5. The City will not be responsible for any costs associated with the production or distribution of student cards and validation stickers.
6. Both parties will have the opportunity to provide input into the design of the validation sticker. The sticker design will be agreed upon every Winter Semester in readiness for the upcoming academic year.
7. For the purposes of this Agreement, semester shall be defined generally as follows:
 - Winter Semester: January 1 through April 30;
 - Summer Semester: May 1 through August 31; and
 - Fall Semester: September 1 through December 31.
8. The per semester fee schedule shall be as per outlined below:

Semester	Fee
Summer 2013	\$89.50
Fall 2013	\$93.00
Winter 2014	\$93.00
Summer 2014	\$93.00
Fall 2014	\$97.00
Winter 2015	\$97.00
Summer 2015	\$97.00
Fall 2015	\$100.00
Winter 2016	\$100.00

The above price schedule will only be revisited during the term of this agreement if Guelph Transit's cost base for the provision of service to the University increases significantly (10% or greater), or the level of service to the University increases or declines significantly.

A new fee schedule will be developed, subject to referendum approval, prior to the end of the Fall Semester in 2015.

9. All graduate students will include payment for the Universal Pass Program as part of their ancillary fees for each semester. The Registrar will collect these monies from the students. The Registrar will guarantee, as set out in the letter attached in Appendix A to this Agreement that monies will be forwarded to the GSA with sufficient time to meet the payment schedule detailed below. The GSA will retain all accrued interest and remit the principal amount to the City according to the following payment schedule:

Fall Semester:	50%	October 15 th
	35%	November 15 th
	15%	December 15 th
Winter Semester:	50%	February 15 th

	35%	March 15 th
	15%	April 15 th
Summer Semester:	50%	June 15 th
	35%	July 15 th
	15%	August 15 th

The cheque is to be made payable to:

Guelph Transit

And mailed to:

The City of Guelph, Transit Services
 Attention: Supervisor, Transit Business Services
 170 Watson Road South
 Guelph ON N1L 1C1

If the Registrar is more than 15 days late remitting monies to the GSA, the GSA will arrange for the Registrar to advise the City in writing. The GSA shall remit overdue funds owing to the City immediately upon receipt of these funds from the Registrar. The GSA shall not be held responsible for losses suffered by the City for late payment resulting from failure of the Registrar to transfer funds to the GSA in accordance with the above noted payment schedule.

10. Nothing in this Agreement alters, affects or prejudices any other rights or remedies to which the City or the GSA may be lawfully entitled.
11. The terms of this Agreement shall commence on May 01, 2013.
12. This Agreement does not have a specified termination date.
13. The City or the GSA may terminate this agreement at any time with four (4) months written notice.
14. All students will use the Transit service offered by the City in accordance with the Rules and Guidelines detailed in Appendix B to this Agreement.
15. By the end of the Summer Semester of each year, GSA staff will provide the City the following information for the next three (3) semesters:
 - The estimated graduate student enrolment;
 - The opening day of each semester;
 - The dates of late registration and class add period;
 - The date all classes start;
 - The dates for reading week;
 - The date classes end;
 - The dates exams are scheduled; and
 - The final day of each semester.

16. The City is required to provide uninterrupted regular City bus service for the duration of each semester. Failure of the City to provide regular bus service for greater than a total of seven (7) full service days during any semester will result in an adjustment of fees remitted to the City at the next payment date according to the formula detailed in Appendix C to this Agreement. Days for which the University is closed due to inclement weather will not be considered as days of non-service.
17. The GSA will advise the City as soon as they are aware that the University is, or will be, closed due to unforeseen circumstances (i.e. inclement weather, etc). The semester fee will not be adjusted to reflect any such closure of the University unless a semester is terminated and students receive a refund of ancillary fees. The Universal Pass Program would be considered null and void for the remainder of the affected semester.
18. A Transit Committee comprised of GSA members, CSA members, GSA and CSA staff, and Guelph Transit management will meet at least once per semester to discuss the Universal Pass Program and any outstanding transit-related issues.
19. This Agreement constitutes the entire agreement and supersedes any and all prior understandings, discussions, negotiations, commitments, representations, warranties and agreements, written or oral, expressed or implied between the City and the GSA.
20. This Agreement shall be subject to and interpreted in accordance with the laws of the Province of Ontario.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals.

SIGNED, SEALED AND DELIVERED in the presence of:

Authorized Signing Officers of:

**THE UNIVERSITY OF GUELPH,
GRADUATE STUDENTS' ASSOCIATION**

Shawna Holmes, V.P. Finance

Jose Pepe Rodriguez, V.P. External

**THE CORPORATION OF
THE CITY OF GUELPH**

Karen Farbridge, Mayor

Blair Labelle, City Clerk

Dated and Signed at Guelph

This ____th day of _____, 2013



OFFICE OF THE
ASSOCIATE VICE PRESIDENT STUDENT AFFAIRS

February 13, 2013

Joshua Ofori-Darko
Human Resources & Operations Commissioner
Central Student Association

Jose Luis Rodriguez Gil
GSA V.P. External
Graduate Students' Association

Dear Josh and Jose Luis:

I have reviewed the UPass agreement between the City and the CSA and GSA and have confirmed that it is consistent with the Student Fees Protocol. As such, I will be asking Student Financial Services to collect the fee as per the schedule and transfer the bus pass funds to the Central Student Association and the Graduate Students' Association according to the proposed terms of the agreement to be signed with the City of Guelph Transit Authority.

Yours sincerely,

A handwritten signature in cursive script that reads "Brenda Whiteside".

Brenda Whiteside
Associate Vice-President (Student Affairs)

cc M. Anders, GM Community Connectivity and Transit
M. Sheey, Student Financial Services

GUELPH • ONTARIO • CANADA • N1G 2W1 • (519) 824-4120 • FAX (519) 767-1693



RULES AND GUIDELINES FOR TRANSIT USERS

Passengers

Must pay the applicable fare or provide a valid transfer. Transfers are valid for one hour from time of issue. A transfer is valid as part of one continuous trip from origin to destination. A transfer is not valid for a return trip. A transfer is valid for a stopover or layover within the one hour time period. Passengers must present their transfer to the operator upon entry. The transfer must be unfolded, date side up for inspection. In the event of a dispute, passengers must pay the requested fare and may contact Guelph Transit for possible adjustment. Other key operating rules include:

- Passes must be clearly shown to driver when boarding the bus;
- No smoking, food or drinks on City buses;
- Priority seats are at the front of all buses for seniors and persons with a disability;
- No playing radios or audio devices unless using headphones;
- No skis, snowboards or equipment;
- No wearing inline skates;
- No wagons or bicycles;
- No swearing or use of profane or discriminatory language;
- No sleighs or toboggans (small infant single seats accepted);
- All passengers must exit by rear doors; and
- When standing, please move to the very back of the bus.

Guide Dogs and Service Animals

Guide Dogs and Service Animals are permitted on Guelph Transit vehicles. When it is not readily apparent (can't easily and clearly be seen) that an animal is a Service Animal, a letter from a physician or nurse confirming that the person requires the animal for reasons relating to their disability, must be presented to the driver when boarding a Guelph Transit vehicle. All other pets must be secured in a small pet carrier that can fit between the seats.

Transportation of Articles

- No pets (unless in small secured pet carrier to fit between the seats);
- Transportation of bulk items will be at the operator's discretion;
- Chemicals, toxic substances and flammables are not permitted;
- Firearms, offensive or prohibited weapons are not permitted;
- Parcels and personal items must be kept clear of the aisles; and
- Guelph Transit is not responsible for any lost or stolen articles.

Strollers

Single strollers are permitted on Guelph Transit. Passengers may board a bus without folding up strollers or bundle buggies, but it is the responsibility of passengers to ensure that their strollers and/or bundle buggies do not interfere with the safety or comfort of other passengers. Oversize strollers will not be allowed on the buses. An oversize stroller is considered anything larger than a single stroller and includes jogging strollers. Guelph Transit bus operators are responsible for the operation of the bus and for administering Guelph Transit's policies and regulations as outlined above. Regulations are for the comfort and safety of all passengers.

Priority Seating

Priority Seating is for the use of passengers with a disability. These seats are located close to the front of the vehicle. Customers are expected to respect and obey the purpose of the designated seating area, which means: **if you are sitting in one of these designated seats, you MUST vacate the seat for a passenger with a disability.** Bus Drivers will not enforce this requirement or intervene in any dispute related to Priority Seating.

The provision of Priority Seating on all conventional transit vehicles has been mandated as part of the Accessibility for Ontarians with Disabilities Act 2005 (AODA) accessibility standards requirements.



Courtesy Seating

Courtesy Seating is intended to provide additional seating for people who will benefit from having a seat near the front of the vehicle including:

- Seniors;
- Expectant mothers;
- Adults traveling with infants or small children; or
- Any other passenger who may benefit from a seat.

If you are sitting in one of these designated seats, please respect its purpose and give up your seat to those who need it. Bus Drivers will not enforce this requirement or intervene in any dispute related to Courtesy Seating.



For further inquiries, contact Guelph Transit by phone, 519-822-1811, or email, transit@guelph.ca



FORMULA FOR INTERRUPTED SERVICE REBATE

$$\begin{array}{rclcl}
 \text{Total days of service provided} & & & & \\
 \hline
 \text{Total days of service scheduled*} & \times & \text{Final enrolment} & \times & \text{Bus pass semester fee} \\
 & & \text{(for effected semester)} & & \text{(per student)} \\
 & & & & \\
 & = & \text{Adjusted Payment} & &
 \end{array}$$

***Total days of service scheduled** - will be based on the number of days Transit service is scheduled from the opening day to the final day of the effected semester as defined in clause 15 of the GSA agreement

COMMITTEE REPORT



TO **Operations, Transit and Emergency Services Committee**

SERVICE AREA Corporate & Human Resources
DATE March 18, 2013

SUBJECT 2012 Delegation of Authority Report
REPORT NUMBER CHR-2013-09

SUMMARY

PURPOSE OF REPORT:

To advise of staff action with respect to Council's delegated authority in 2012 relating to those services under the jurisdiction of this standing committee.

KEY FINDINGS

This report is an annual report back to Committee and Council on how authority which has been delegated to staff has been exercised.

FINANCIAL IMPLICATIONS

As this is an annual reporting mechanism, there are no financial implications.

ACTION REQUIRED

To recommend that Committee receive the information contained in the report.

RECOMMENDATION

1. That the report dated March 18, 2013 entitled "2012 Delegation of Authority Report" with respect to delegated authority under the purview of the Operations, Transit and Emergency Services Committee be received.

BACKGROUND

The *Municipal Act* provides Council with the authority to delegate its powers to a person or body subject to some noted restrictions. Over the years, Council has delegated their authority on various matters either by way of a resolution of Council or through a specific by-law. The following are the principal references related to Council's existing delegations of authority under the purview of the Operations, Transit and Emergency Services Committee:

- By-law (2006)-18173 delegated authority to approve certain agreements relating to real property.

- By-law (2013)-19529 delegated authority with respect to a variety of routine administrative functions which are considered to be minor in nature.

REPORT

The delegation of authority from Council contributes to the efficient management of the City while still adhering to the principles of accountability and transparency. The following is a summary of the actions taken in 2012 with respect to authority delegated by Council.

By-law (2006)-18173		
Real Property Agreements	Approval Authority	Description
<u>Delegate:</u> <i>Executive Director responsible for the program or land management and the Manager of Realty Services</i>	Executive Director of Operations, Transit and Emergency Services and Manager of Realty Services	Agreement to enter the property known as 17 Tipperary Place for the City's installation of a storm sewer
	Executive Director of Operations and Transit and Manager of Realty Services	Licence Agreement - with The Canadian Legion, Branch 234 - Colonel John McCrae - 57 Watson Parkway South – use of city property for sportsfields

By-law (2013)-19528		
Schedule "F" Parking Enforcement Agreements on Private Property	Private Property Owner	Location
<u>Delegate:</u> <i>Executive Director, Operations, Transit & Emergency Services</i>	Riocan Holdings Inc. , and property agent - Total Security Management	35 Harvard Road
	Wellington Standard Condominium Corporation No. 174, and property agent - Total Security Management	26-88 Katemore Drive
Schedule "O" Noise Control By-law Exemptions	Exemption & Location	Date
<u>Delegate:</u>	MTO Highway 6 Laird Road to Woodlawn Road Improvements	July 23, 2012 to September 30, 2012

<i>Executive Director Operations, Transit and Emergency Services</i>	Italian Canadian Club 135 Ferguson St- Festival Italiano	July 6, 7 and 8, 2012
Schedule "T" Exotic Animal Exemptions <u>Delegate:</u> <i>Executive Director Operations, Transit and Emergency Services</i>	Details	Location/date
	To permit a camel in the Santa Claus Parade	Downtown- November 18, 2012

CORPORATE STRATEGIC PLAN


- Organizational Excellence: 1.3 Build robust systems, structures and frameworks aligned to strategy
- Innovation in Local Government: 2.3 Ensure accountability, transparency and engagement

DEPARTMENTAL CONSULTATION

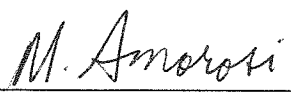
All service area staff taking action with respect to a delegated authority in 2012 were canvassed in the preparation of the report. The Clerk's Department continues to work with staff to capture and document this ongoing action as well as to pursue further opportunities for delegated authority.

COMMUNICATIONS

Information regarding the Delegation of Authority policy is available from the City's "[Accountability and Transparency](#)" webpage.


Prepared By:
 Tina Agnello
 Deputy City Clerk


Reviewed By:
 Blair Labelle
 City Clerk


Recommended By:
 Mark Amorosi
 Executive Director of Corporate & Human Resources

INFORMATION REPORT



TO City Council

SERVICE AREA Operations, Transit & Emergency Services

DATE March 1, 2013

SUBJECT Revised Guelph Transit 2011 Annual Report

REPORT NUMBER OT031304

EXECUTIVE SUMMARY

SUMMARY OF REPORT

To present the Guelph Transit Department 2011 Annual Report

KEY FINDINGS

2009 was the first full year after a new service model was introduced with a significant increase in capacity and new routes.

Budget performance, since this change, has been within the targeted parameters of 5%.

Since 2009 revenues and ridership have been trending upwards, in a positive manner.

FINANCIAL IMPLICATIONS

There are no financial implications resulting from this report.

BACKGROUND

This is the revised version of the first annual report of Guelph Transit. This report provides committee with information related to budget performance, a balanced scorecard on performance indicators, sustainability, customer service, internal processes and employee development or learning and growth.

The first draft was presented, in report #OT091234 Guelph Transit Annual Report, to the Operations, Transit & Emergency Services Committee on September 17, 2012. The following resolution was passed;

THAT the Guelph Transit 2011 Annual Report be referred back to staff to include historical data to show context and trends of important indicators.

REPORT

Guelph Transit provides people with mobility and access to employment, community resources, medical care, and recreational opportunities across Guelph.

INFORMATION REPORT



Public transportation also helps to reduce road congestion and travel times, air pollution, energy and oil consumption, all of which benefit both riders and non-riders alike.

Guelph Transit operates essentially around the clock: regular weekday service is provided from 5:40 a.m. to 1:00 a.m. and late night service for the University of Guelph runs from 12:30 a.m. to 3:30 a.m. Guelph Transit provides both conventional and mobility services to the community through a fleet of 65 low floor conventional buses and 10 mobility vans. Mobility services are supplemented through a contract with an external vendor to provide accessible taxi service.

2011 included creating and/or updating various operational and fare programs, and preparing for the implementation of the Transit Growth Strategy and the opening of Guelph Central Station in 2012.

Attached is the 2011 Guelph Transit Annual Report.

CORPORATE STRATEGIC PLAN

2.3 Ensure accountability, transparency and engagement.

DEPARTMENTAL CONSULTATION

Consultation conducted internally to Guelph Transit.

COMMUNICATIONS

There are no communications requirements associated with this report.

ATTACHMENTS

Appendix A: 2011 Guelph Transit Annual Report

Report Author

Katherine Gray
Service Performance Development Co-ordinator
519-822-1260 x2006
katherine.gray@guelph.ca

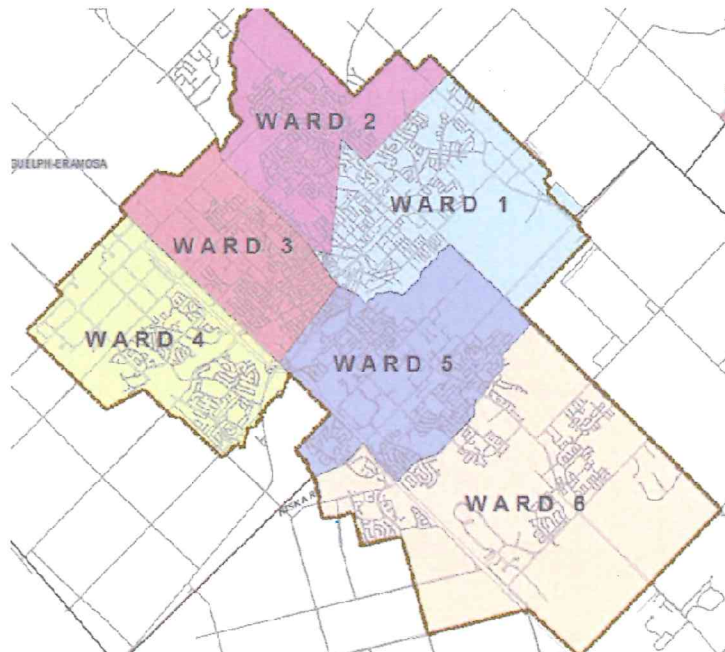
Recommended By

Michael Anders
General Manager
Community Connectivity & Transit
519-822-1260 x2795
michael.anders@guelph.ca

Approved By

Derek McCaughan
Executive Director
Operations, Transit & Emergency Services
519-822-1260 x2018
derek.mccaughan@guelph.ca

2011 Guelph Transit Annual Report



2011 Guelph Transit Annual Report

Message from the General Manager

I am pleased to present the 2011 Guelph Transit Annual Report. Each year presents its own unique challenges and issues, and 2011 was no different. In addition to creating and/or updating various operational and fare programs, staff was very busy preparing for the implementation of the Transit Growth Strategy and the opening of Guelph Central Station in 2012.

Guelph Transit is one of the largest service areas in the City of Guelph with 190 full-time and part-time employees. Our strength lies in our employees and both ATU and NUME staff do an outstanding job in dealing with a wide variety of operational issues as well as providing first class customer service to riders and the general public.

Guelph Transit operates essentially around the clock: regular weekday service is provided from 5:40 a.m. to 1:00 a.m. and late night service for the University of Guelph runs from 12:30 a.m. to 3:30 a.m. Guelph Transit provides both conventional and mobility services to the community through a fleet of 65 low floor conventional buses and 10 mobility vans. Mobility services are supplemented through a contract with an external vendor to provide accessible taxi service.

Over the past couple of years, Guelph Transit has moved from a focus on planning (Transit Growth Strategy and Transit Technology Plan) to directing its activities to prepare for the implementation of those plans. The magnitude of changes planned for 2012 (new service model, route system and inter-modal terminal) is unprecedented in the history of Guelph Transit. There has been tremendous support and cooperation between City departments, community groups and local businesses in being able to move forward to the point where Guelph Transit can affect the change.

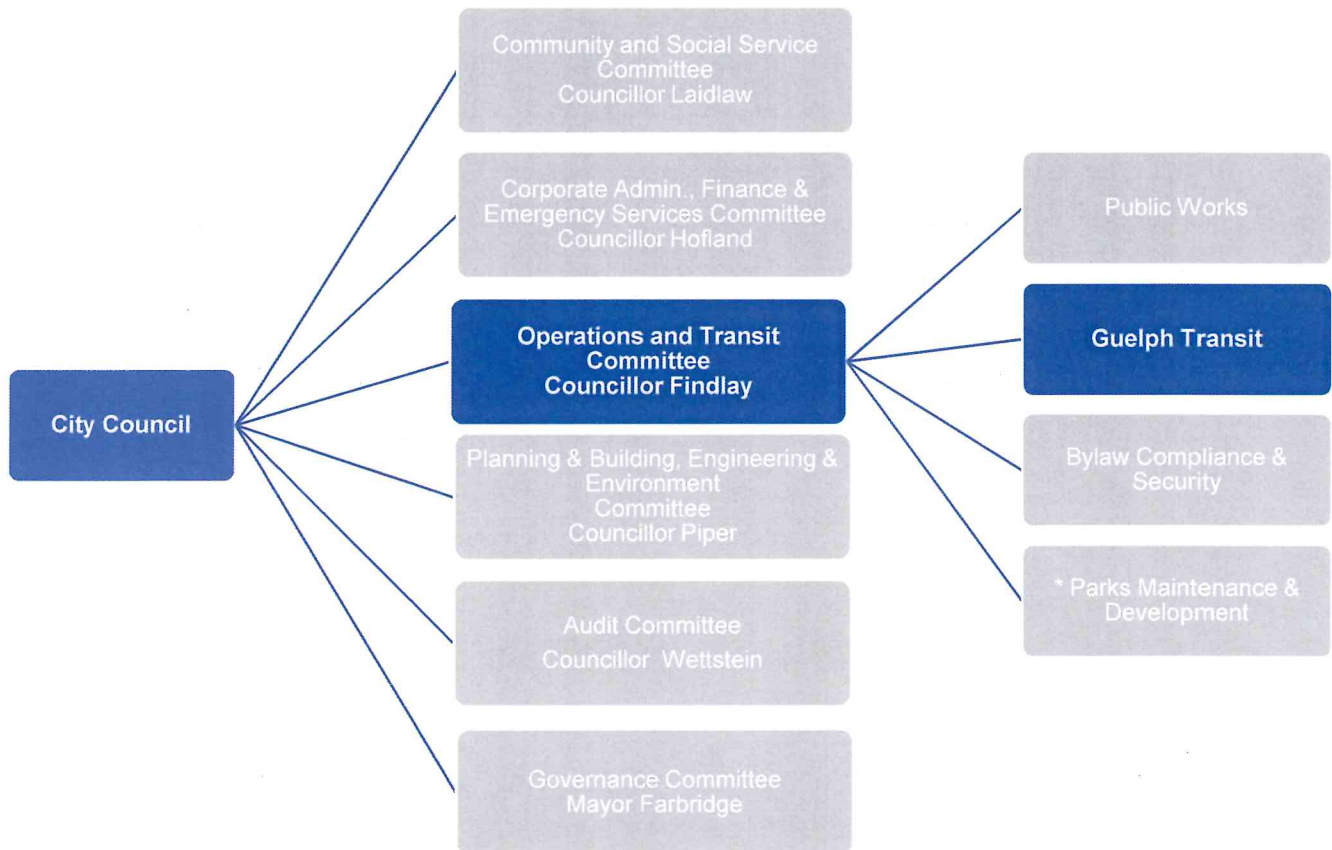
Our Mission

To ensure Transit is the preferred transportation choice over the single occupant vehicle for residents, employees and visitors to Guelph

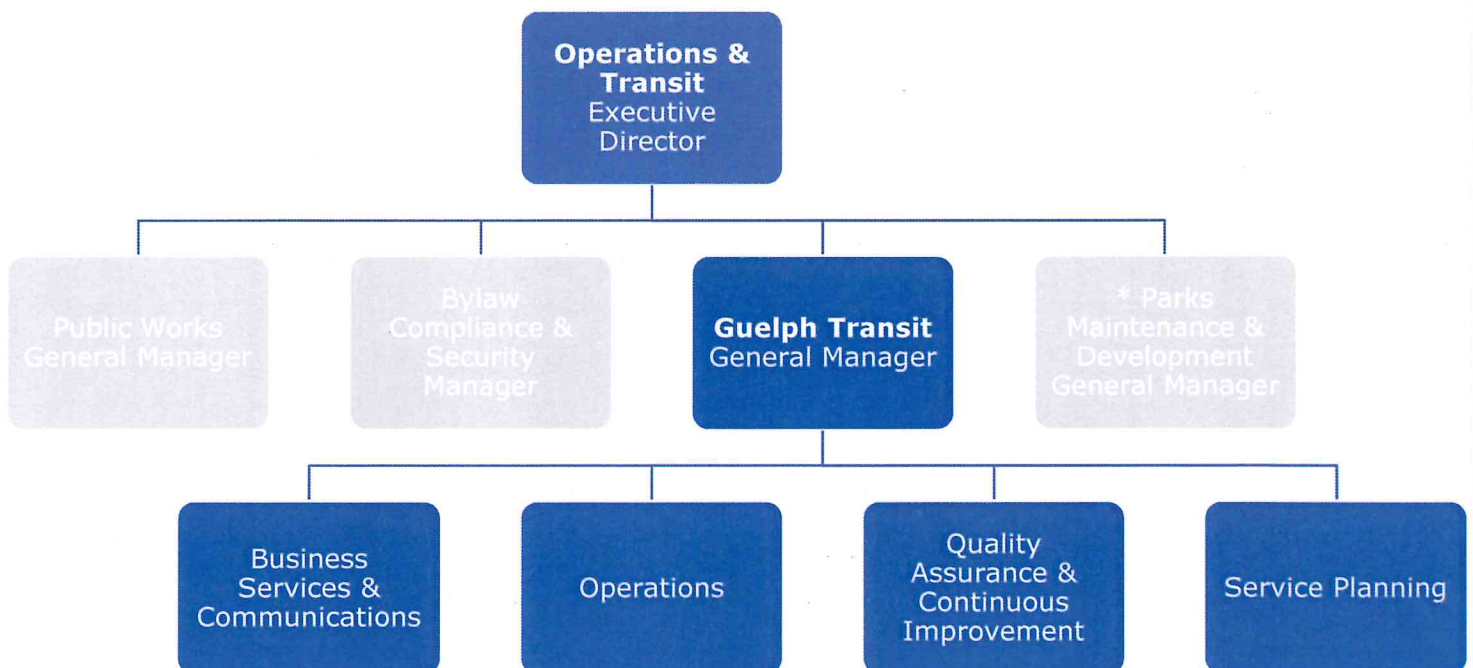
Our Role

Guelph Transit provides people with mobility and access to employment, community resources, medical care, and recreational opportunities across Guelph. Public transportation also helps to reduce road congestion and travel times, air pollution, and energy and oil consumption, all of which benefit both riders and non-riders alike.

Our Governance Structure



Our Department



**Report has been prepared based upon the organization structure in place in 2011. Parks Maintenance & Development was realigned to Community and Social Services in February 2012.*

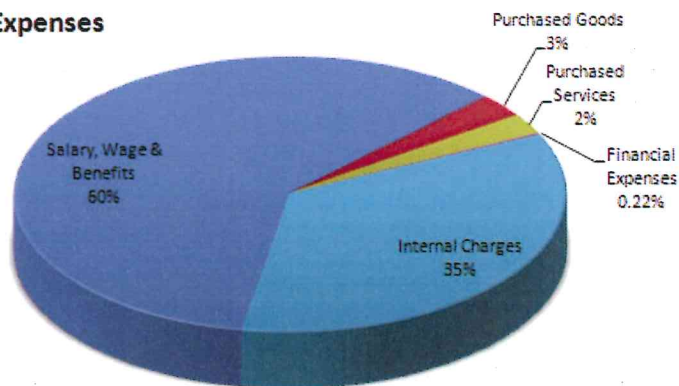
2011 Budget Performance

Guelph Transit's financial performance was within 2.0% of budget, as reported from RAC Financial system. This 2.0% resulted from slightly higher than expected revenues achieved through user fees and service charges offset by higher than forecast internal charges for fuel and maintenance.

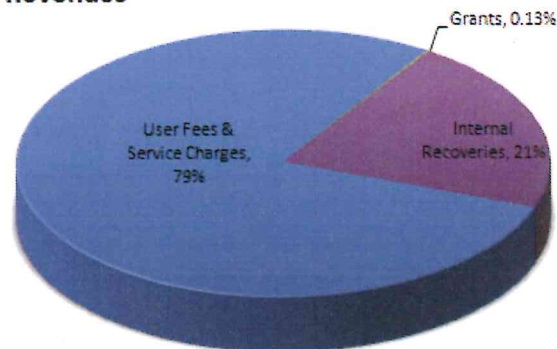
Transit	2011 Budget	2011 Actuals	2011 Variance
Revenue			
User Fees & Service Charges	(9,998,600)	(10,259,362)	
Product Sales	(1,000)	(1,521)	
External Recoveries	(21,900)	(17,620)	
Total Revenue	(10,021,500)	(10,278,503)	2.5%
Expenditure			
Salary, Wage & Benefits	13,524,600	13,601,237	
Purchased Goods	832,100	655,313	
Purchased Services	580,310	541,620	
Financial Expenses	53,000	50,471	
Total Expenditure	14,990,010	14,848,641	-1.0%
Net Before Internal Charges & Recoveries	4,968,510	4,570,138	-8.7%
Internal Charges & Recoveries			
Internal Charges	7,407,600	7,882,406	
Internal Recoveries	(2,891,500)	(2,774,438)	
Total Internal Charges & Recoveries	4,516,100	5,107,968	11.6%
Net Budget	9,484,610	9,678,106	2.0%

Breakdown of Operating Budget

Expenses



Revenues



Performance

Transit Performance Dashboard

Illustrated below is the Transit dashboard. Several key performance indicators have been aligned into four categories to illustrate progress towards achieving the goals of the department. Items in the dashboard marked in green indicate that the metrics are reporting to target, those identified with yellow or red indicates metrics that are not reporting towards target. The + or - symbols identify the direction of the trend to the targets. No symbol identifies a lack of trending information.

Transit Performance Dashboard

Financial Sustainability

Performance to approved budget

Revenue	+
Cash Fares	+
Ticket Fares	+
Passes	+
U-Pass/Late Night	+
Expenditure	-

Customer Service

Customer Contacts

Customer Complaints

Customer Contacts & Complaints is a new measure in 2011, continue to collect the data to conduct trend analysis

Internal Process

Ridership	+
Rides per Capita	+
Schedule Adherence	+
Kilometres Travelled	+

Learning & Growth

Internal Training (*planned expenditure*)

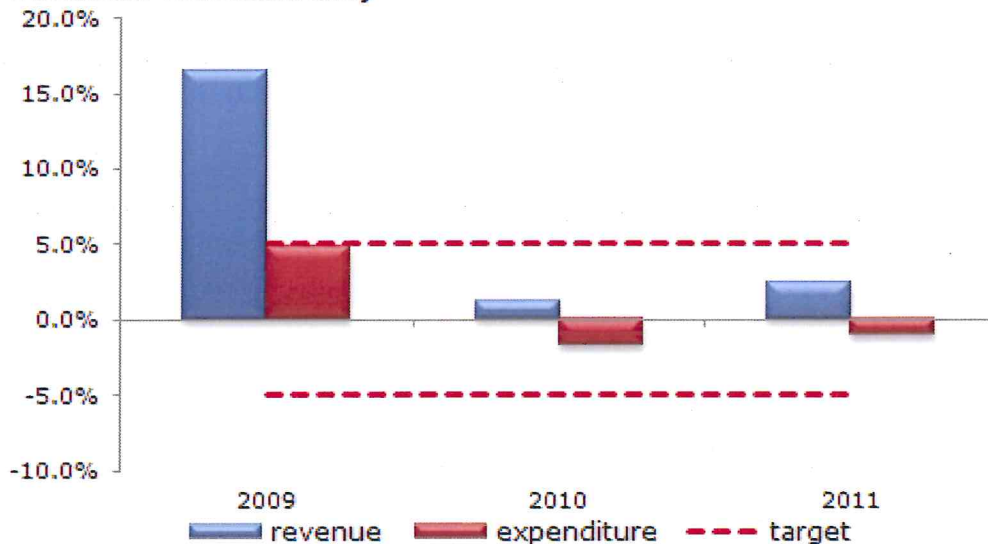
Attendance (*unplanned/culpable sick time*)

Attendance rating is based on 1,535 unplanned sick days for ATU members. This is 16% of the City's unplanned/culpable sick days.

Transit Performance Trends

Sustainability

Financial Sustainability

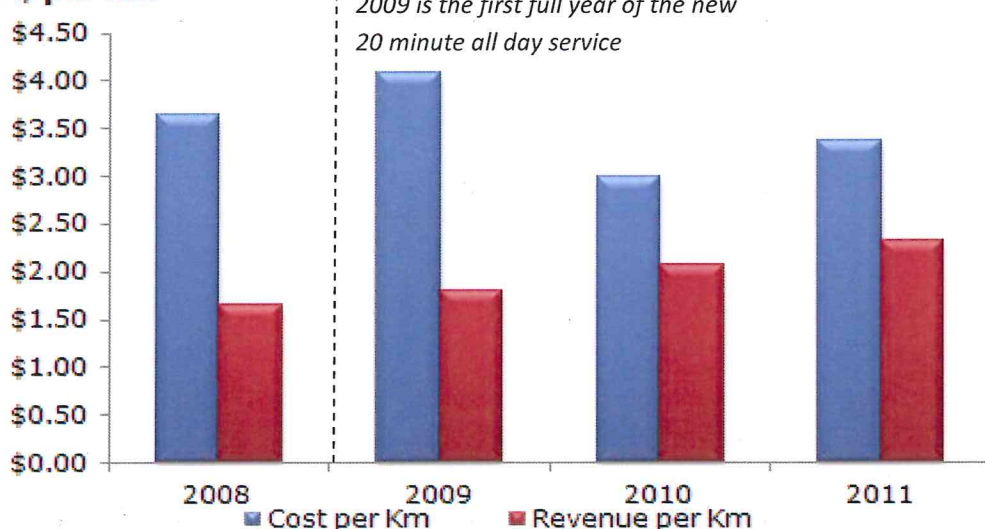


Goal is to be within 5% of approved budget annually

2009 was the first full year after a new service model was introduced (June 2008) with a significant increase in capacity and new routes.

2010 and 2011 budget management has resulted in Transit being within the target of 5% of the approved budget.

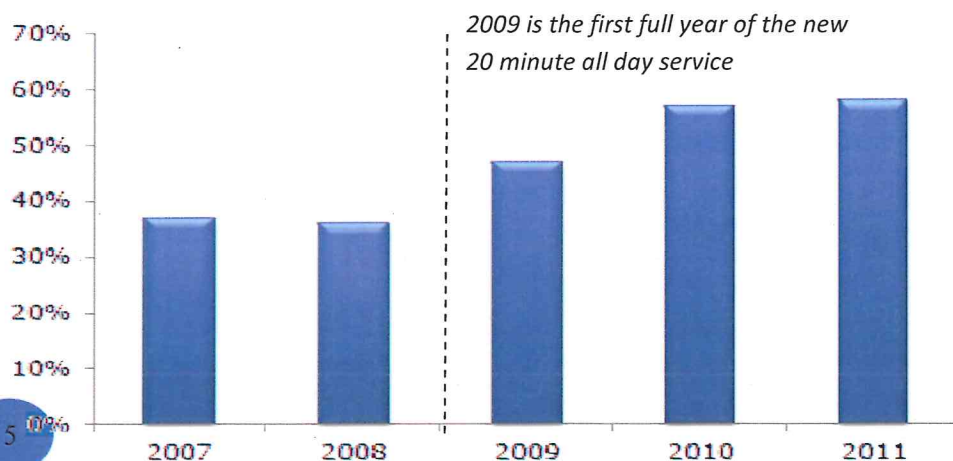
\$ per Km



Kilometers travelled in 2011 was 1% less than 2010 resulting in the cost per km to rise.

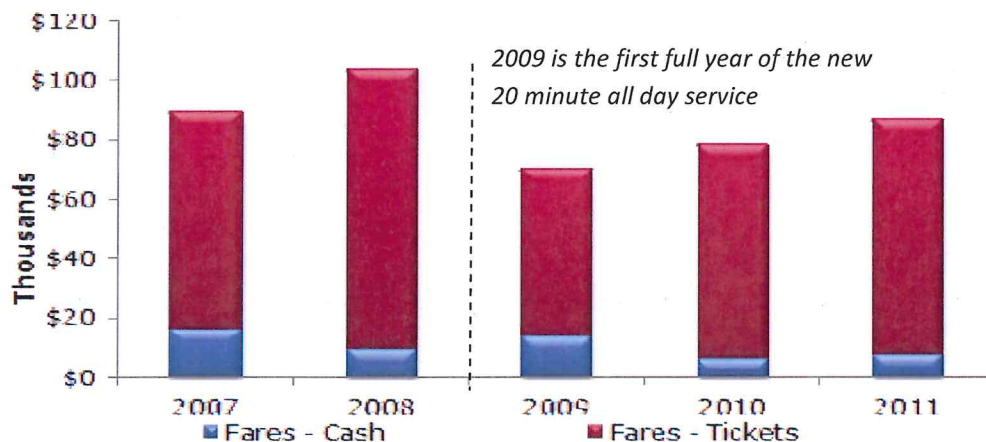
Fare increases and increases in U-Pass fees in 2010 and 2011 resulted in increased revenue per km.

Revenue Cost Ratio



Increase in U-Pass fees of approximately 30% and reduction in kilometers travelled have resulted in a leveling of the revenue cost ratio.

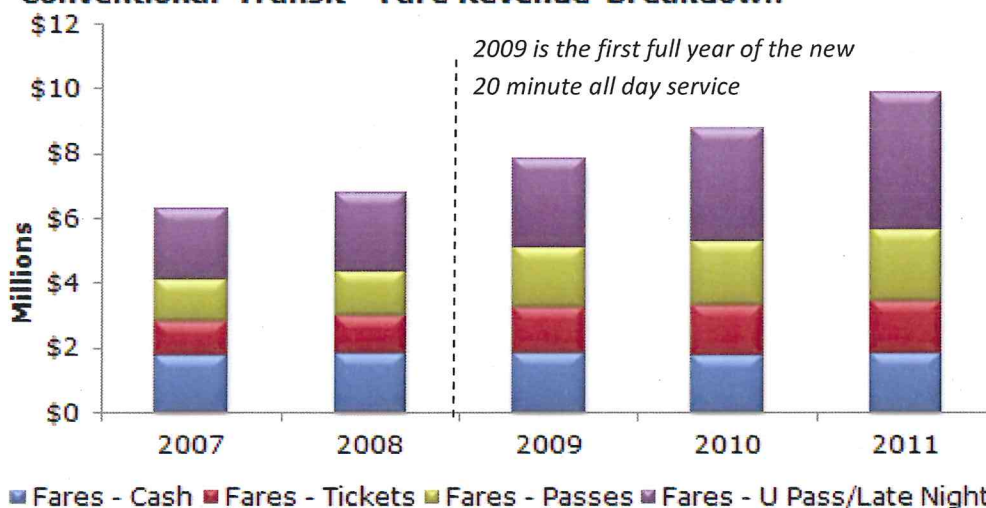
Mobility Transit - Fare Revenue Breakdown



There has been a steady increase in fare revenue corresponding to the recent fare increases as well as a small growth in ridership..

Expected reduction in mobility fare revenue in 2012 due to the planned introduction of fare parity on January 1, 2012.

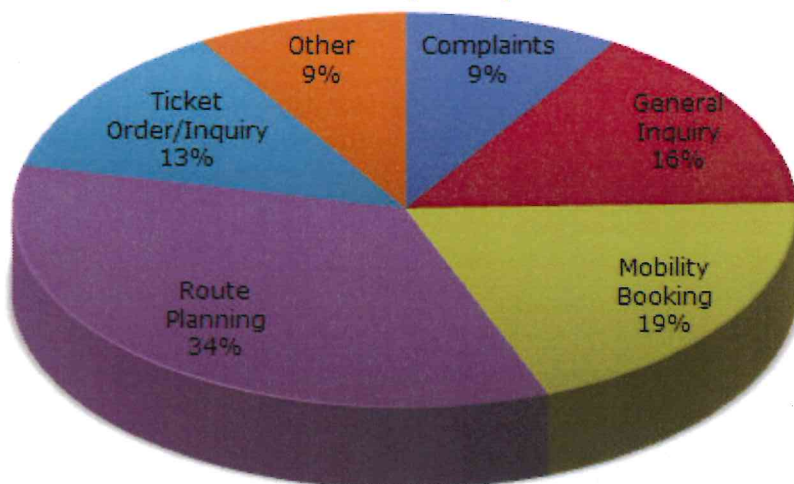
Conventional Transit - Fare Revenue Breakdown



Combination of rate and ridership increases have resulted in a steady increase in revenues.

Customer Service

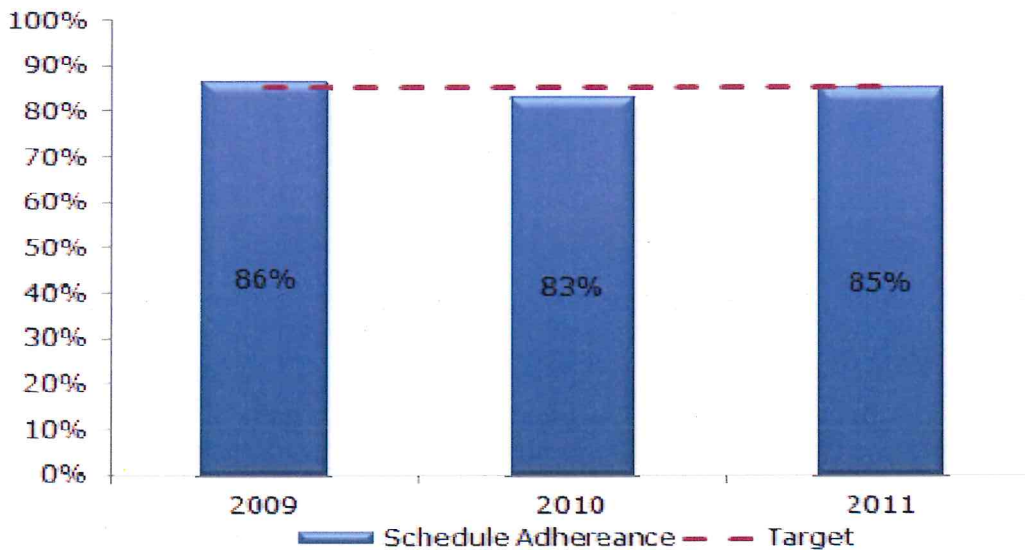
Customer Contact Breakdown (*2011)



** Customer Contacts & Complaints is a new measure in 2011. Will continue to collect the data to conduct trend analysis in the coming months and years.*

Internal Process

Schedule Adherence

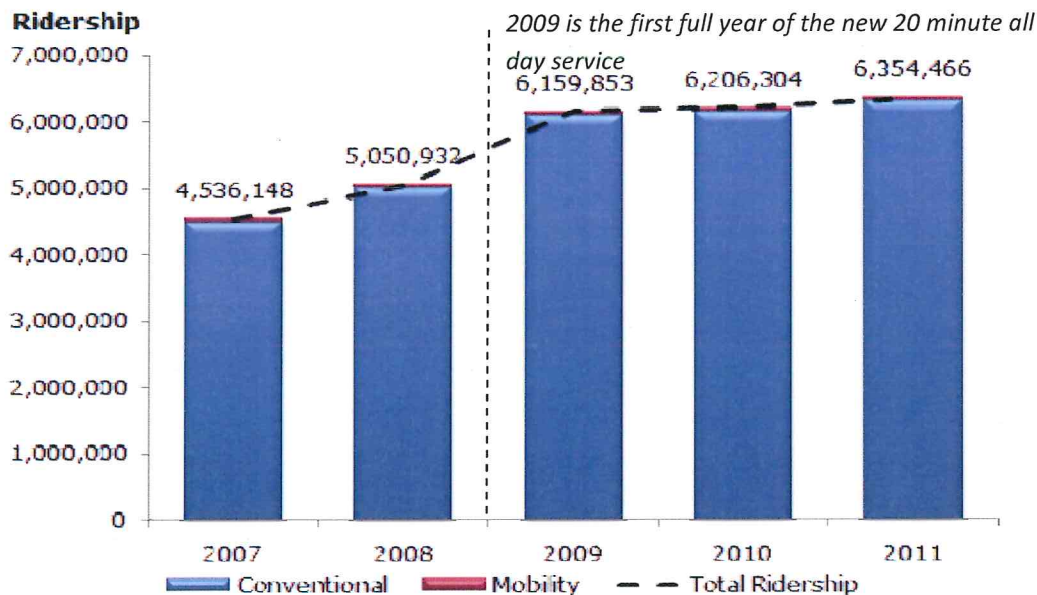


Tracking began with the new route system in 2009. Adherence data is only available for three years. Will continue to gather data for trending.

Adherence is the percentage of time the vehicle arrives at stops no more than 2 minutes early or 5 minutes late compared to the scheduled time.

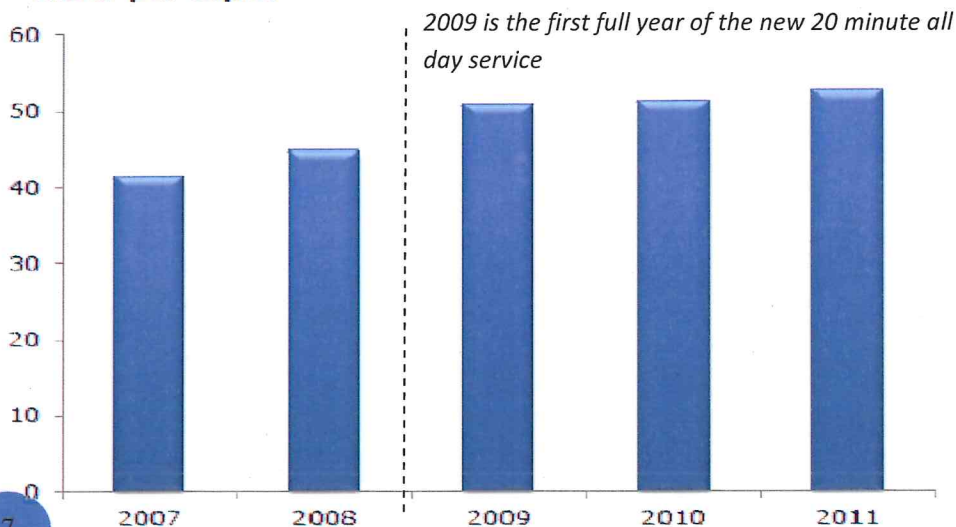
A target of 85% is in line with industry standards for transit properties the size of Guelph.

Ridership



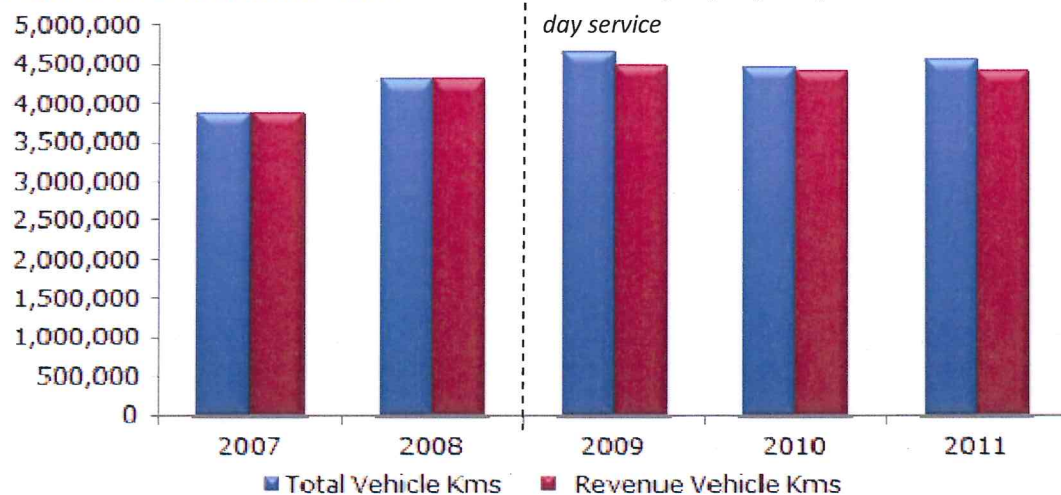
Ridership is the total of conventional and mobility transit revenue passengers.

Rides per Capita



The increase in ridership has been slightly higher than the population base increase.

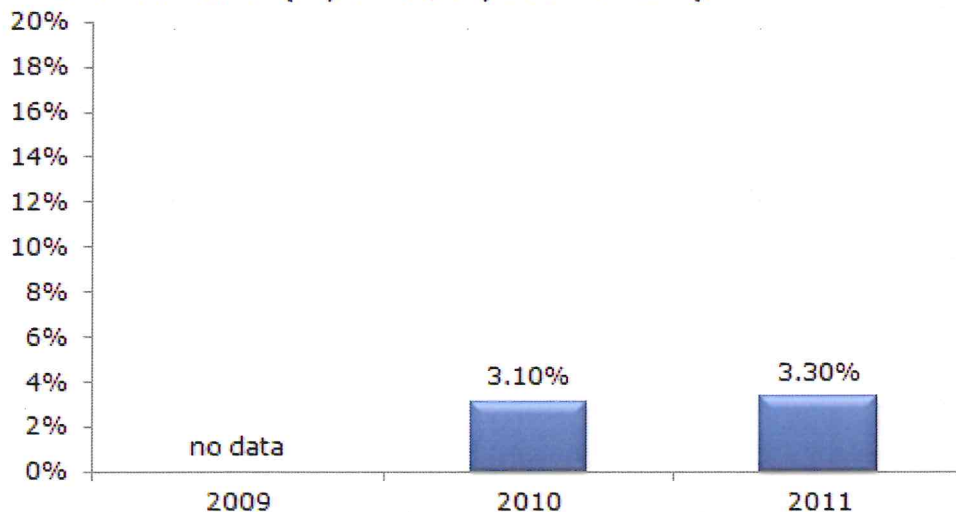
Total Kms vs Revenue Kms



Kilometers travelled have remained reasonably constant. There is continual adjusting to remove unproductive non-revenue generating travel.

Learning & Growth

Staff Attendance (unplanned/culpable sick time)



Attendance rating is based on 1535 unplanned sick days for ATU members. These days are all unpaid sick leave/unapproved time off.

This is 16% of the City's unplanned/culpable sick days.

This metric does not include STD, LTD or vacation

Guelph Transit Balanced Scorecard

	Measure	2011 Achievement	2012 Goals	Initiatives
Sustainability	Revenues	2.5% over	to be within 5% of budget	
	Cash Fares	3% increase from 2010	<i>Statistic – no goal set</i>	
	Ticket Fares	5% increase from 2010	<i>Statistic – no goal set</i>	
	Passes	13% increase from 2010	<i>Statistic – no goal set</i>	
	U-Pass	19% increase from 2010	<i>Statistic – no goal set</i>	
	Revenue per km	11% increase from 2010	<i>Statistic – no goal set</i>	
	Cost per km	13% increase from 2010	<i>Statistic – no goal set</i>	
	Expenditures	1% under budget	to be within 5% of budget	Continue to work closely with Finance Department to build a reasonable budget. In particular, budget variances to be reported on a monthly basis in order to make decisions that will maintain overall variance at 5% or less at year end.
	Overall Budget	2% over budget	To be within 5% of budget	
Customer Service	External Contact	7,687	<i>Statistic No targets set</i>	This includes general inquiries, customer complaints, bookings, etc.
	Customer Complaints	9%	<10% of total external contacts	Implement the Transit Growth Strategy revised routes and service model
	Dropped Trips	N/A	<1%	New measure defined late 2011; collect data for 2012 and onward. This is a measure of trips that did not go out as scheduled or could not be completed.

Measure		2011 Achievement	2012 Goals	Initiatives
	Full Buses	N/A	To be set once data is collected for analysis	New measure defined late 2011; collect data for 2012 and onward.
Internal Process	Convention Transit Ridership	6,948,000	5% increase	Implementation of the Transit Growth Strategy
	Mobility Transit Ridership	48,466	5% increase	Continue with the Mobility Fare Parity program
	Schedule Adherence	85%	85%	Continue to monitor performance
	Pass Sales	36,000	5% increase over 2011	Pilot program for the affordable bus pass.
	Kilometres Travelled	1% decrease from 2010	Statistic – no goal set	
	Rides per Capita	3% increase from 2010	3% increase	
Learning & Growth	Attendance (Lost time due to unplanned sick leave)	3.3%	2%	Work with HR on the implementation and integration of the new Attendance Management Software
	Training	100%	100% of Target	Develop a more robust training plan for the department

Guelph Transit

Guelph Transit's main operations are based at 170 Watson Road South. Guelph Transit operates with a fully accessible fleet of 65 low floor conventional buses. It also has a fleet of 10 mobility vans. Guelph Transit has 150 full-time and 20 part-time operators. Operations and administration are managed by a staff of 20. There is also a complement of 25 Fleet staff, under the direction of the Public Works Department, located at the Watson Road facility performing vehicle maintenance and cleaning duties.

Guelph Transit service is comprised of 16 base routes, 2 perimeter routes, 2 community bus routes and 3 university express runs. Service is provided every 20 minutes from 5:40 a.m. until 6:20 p.m. From 6:45 and on weekends/holidays service is every 30 minutes. The Guelph Transit service model is based on a hub and spoke system with St. George's Square as the main transfer point. The University Centre at the University of Guelph is the other major hub in the Guelph Transit system.

2011 Achievements

Accessible Bus Pad Program

Guelph Transit has an ongoing program to upgrade existing bus stops to make the infrastructure accessible. The program primarily consists of pouring concrete pad according to AODA standards and providing hard surface access to sidewalks where required. A total of 54 bus stops were upgraded in 2011.

GO Transit Fare Integration

Guelph Transit negotiated an agreement with GO Transit whereby GO Transit provides a fare subsidy for any trips taken on Guelph Transit that connect to GO rail or GO bus service.

There are two elements to the program. GO Transit passengers showing a daily ride ticket, multi-ride ticket or a monthly pass without a Guelph Transit sticker pay a \$0.60 cash fare when boarding Guelph Transit - GO Transit provides Guelph Transit a subsidy of \$1.70 for each qualifying ride - the total of \$2.30 collected by Guelph Transit equates to an adult ticket fare. Riders who use a GO monthly pass have the option of purchasing a discounted monthly sticker (\$18) which allows them to board a Guelph Transit vehicle without having to pay a fare onboard. GO Transit then provides Guelph Transit \$54 for each sticker sold which provides Guelph Transit the equivalent of an adult monthly pass.

Guelph Mercury Feature Series on Guelph Transit

In June 2011, the Guelph Mercury published a weeklong series of articles on Guelph Transit. The stories covered a variety of topics including a day in the life of an operator, Guelph Transit operations, Transit Growth Strategy implementation, Guelph Transit financial performance and a history of Guelph Transit.

Mobility Fare Parity

Historically, fare options for mobility services were very limited and riders essentially had to pay the equivalent of an adult fare. The AODA recognized the inequity of this approach and will be requiring all transit properties in Ontario by January 1, 2013 to offer the same fare structure for conventional and mobility services. Guelph Transit took a very proactive approach to the issue and developed all the necessary material in 2011 to support the implementation of fare parity on January 1, 2012. The recommendation by staff to implement fare parity a year earlier than required by legislation was approved by Council in November 2011.

Introduction of Arboc Mobility Bus

Along with input and feedback from Mobility Service and Fleet staff, Guelph Transit selected a new supplier for mobility vans. The Arboc bus is based on a GM drive train platform and can be serviced at a regular dealership. The vehicle has received praise from both operators and riders and is becoming the standard for mobility operations across the province.

War Veteran Program Revisions

Historically, Downtown Parking and Guelph Transit have provided services at no cost to individuals who have served in the Canadian Armed Forces. However, there were some significant differences in the eligibility criteria and program features between the two service areas. Revisions to the Guelph Transit War Vet Program were developed to eliminate inconsistencies and make the Transit program consistent with the Parking program to the greatest degree possible. The recommended changes to the program were approved by Council in February 2011.

Affordable Bus Pass Program

Guelph Transit and Community and Social Services staff collaborated to develop an Affordable Bus Pass Program which has expanded eligibility criteria in comparison to the Subsidized Bus Pass Program which has existed in the same form since its introduction in 2000. Staff developed detailed procedures to manage the application process and the administration of the sales process. Council approval was given for a two year pilot which is expected to begin in the summer of 2012.

Transit Facility Renovation - 170 Watson Road South

A number of major renovation projects were completed at Guelph Transit's main base on Watson Road including installation of perimeter security fencing, installation of additional CCTV security cameras, overhaul of key HVAC systems, installation of solar panels to heat water for the bus wash, reconstruction of a secure front office ticket

counter and relocation of the AVL office making much more efficient use of available floor space. All renovations were fully compliant with AODA requirements.

Guelph Central Station Construction

Construction continued on Guelph Central Station which will eventually become home to Guelph Transit, GO Bus, GO Rail, Greyhound and VIA Rail. The bus platform and circulation roadway construction has been completed and efforts in 2012 will be directed at completing support facilities including operator bathrooms, overhead canopy structure and shelter infrastructure. Efforts were and continue to be directed at transferring ownership of the VIA Rail Station to the City of Guelph. It is expected that Guelph Central Station will open in the spring of 2012.

University Centre Facility Redevelopment

Ridership at the University of Guelph continues to experience significant growth year after year. The University of Guelph and Guelph Transit worked together on the redevelopment of the University Centre bus bays to provide increased capacity for additional Guelph Transit vehicles to access the facility. The project provided for 6 permanent bus bays between South Ring Road East and Stone Road. There are a total of 12 bus bays at the University Centre.

Bus Shelter Advertising Contract

Guelph Transit's bus shelter advertising contract expired in 2011. A new business model was put into effect whereby Guelph Transit will be responsible for installation and maintenance of all shelters and the external contractor is only responsible for media sales. This has resulted in a higher minimum monthly revenue guarantee per advertising face as well as a higher percentage of gross revenues for Guelph Transit.

Transit Advisory Committee

The Transit Advisory Committee was reconstituted in 2011 with a revised Terms of Reference. The Committee was reformed to provide a forum for community and user input into transit operations. This was critical considering the transit changes that are planned for 2012: implementation of the Transit Growth Strategy and opening of Guelph Central Station.

St. Joseph's Health Centre Facility Agreement

On-site conventional bus service was removed in 2011 from St. Joseph's Health Care Facility due to major construction on Westmount Road. Service was not returned to the facility after the construction was finished due to the impending implementation of the Transit Growth Strategy and numerous operational issues faced by Guelph Transit vehicles when operating on-site. Due to feedback from the community, staff from the two organizations worked together to eliminate the identified operating issues and restore service to its previous level. Staff were commended by community leaders for finding a workable solution in a timely manner.

Planning for Transit Growth Strategy Implementation

Staff has expended a great deal of time and effort preparing for the implementation of the Transit Growth Strategy recommendations. In January 2012, Guelph Transit will introduce a new service model (15 minute peak and 30 minute off-peak service) and a new system of routes. Leading up to the implementation, staff had to prepare a variety of support and communication materials including bus stop signs, info posts, revised system map, route schedules, driver's handbook, customer handouts, route brochures and web site material.

2012 Division Plans

Transit Technology Plan

Based on the Transit Technology Plan recommendations that were approved by Council, Guelph Transit will be developing detailed specifications and retaining a qualified vendor to implement Phase 1 of the Plan in 2012. Elements of Phase 1 include on-vehicle hardware and software, CAD/AVL upgrades, automated stop calling and scheduling software for conventional and mobility services.

Implementation of Transit Growth Strategy Routes and Service Model

It is planned to implement the Transit Growth Strategy revised routes and service model on January 1, 2012. Staff have prepared various communication elements to inform riders of the changes that will be occurring. Material has also been created to prepare operators for the new routes and service model.

Opening of Guelph Central Station (May 2012)

It is planned that the new inter-modal transportation hub will open in May 2012. At that time, Guelph Transit will move its downtown hub from St. George's Square to the new facility on Carden Street. When the 22 bay terminal opens GO Bus, GO Rail and VIA Rail will also be operating out of the station. When Guelph Central Station development is completed, Greyhound will also be a tenant at the facility.

AODA Integrated Standards - Priority Seating

THE AODA Integrated Transportation Standards are being phased in over a number of years starting in 2012. The first standard and associated regulation is related to the provision of priority seating on buses. Transit properties in Ontario have been working through the Ontario Public Transit Association to develop a single industry wide approach to satisfy the requirements of this standard. The solution will include new decaling on the vehicles along with a communication plan for both riders and operators.

Negotiate New UPass Agreement

The UPass Agreement with the CSA/GSA at the University of Guelph is due to expire at the end of the Winter 2013 semester. Due to the lead time required and the need for a student referendum to approve any fee increase above 5%, the parties to the contract have agreed to put in place an interim agreement that leaves the existing terms in place and provides a modest revenue increase for Guelph Transit. The interim agreement will be in effect until the end of the Winter 2013 semester which will allow the parties to start negotiations in Fall 2012 and conclude a new contract before the end of the Winter 2013 semester.

Negotiate New Late Service Agreement

The existing Late Night Service Agreement with the CSA at the University of Guelph covers the Fall 2012/Winter 2013 semesters. A new agreement will be negotiated for Fall 2013/Winter 2014 starting in late 2012.

Revise Key Performance Indicators

To assist staff in managing Guelph Transit performance and to provide Council and the public a clear and concise picture of performance a revised set of key performance indicators will be developed during 2012.

Introduction of Affordable Bus Pass Program

Council approved in October 2011, a two-year pilot of an Affordable Bus Pass Program. This program has expanded eligibility criteria and will replace the existing Subsidized Bus Pass Program. In order to provide detailed and accurate information on ridership and revenue impacts of the new program, Guelph Transit will be introducing monthly passes with a magnetic stripe at the same time the pilot program starts. The stripe will allow the mechanical verification of data related to new and existing Guelph Transit users.

Did you know?

In 2011

- Guelph Transit vehicles travelled the equivalent of 6 return trips between the earth and the moon
- Guelph Transit vehicles consumed over 2.6 million litres of bio-diesel fuel
- The number of passengers carried by Guelph Transit would fill the Rogers Centre 140 times
- Guelph Transit vehicles lined up end to end would cover the length of 9 football fields
- The Guelph Transit website had almost 300,000 hits in 2011