



City of  
**Peterborough**

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**To:** **Members of the General Committee**

**From:** **Richard Freymond, Commissioner, Finance & Corporate Support Services**

**Meeting Date:** **January 29, 2024**

**Report:** **Insurance and Risk Management, Report FCSERM24-001**

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## **Subject**

A report to provide information about the City of Peterborough insurance program and risk management practices, to address insurance matters related to the Downtown Patio Licence Program, and to provide an update on a new insurance option to assist organizers of special events.

## **Recommendations**

That Council approve the recommendations outlined in Report FCSERM24-001, dated January 29, 2024 of the Commissioner, Finance and Corporate Support Services as follows:

- a) That staff, in consultation with the CAO, be provided authority to deny event applications that include high-risk activities received with less than 30 days' notice, with the exception of timely celebratory events intended to recognize the significant accomplishment of a person/group/team such as a provincial, national or international championship.
- b) That staff, in consultation with the CAO, be directed to deny an event application from an event organizer who has a demonstrated history of incomplete compliance with the City's event rules, guidelines, or regulations or who has debt to the City, other than otherwise due and payable municipal taxes.

- c) That Council grant staff the authority to determine which events on City-owned land are high risk events and to impose as a condition of receiving a permit for a high-risk event that the City's minimum insurance requirements be met at least 30-days before the permit's issuance; and
- d) That \$5 million Commercial General Liability be the minimum accepted insurance limit for downtown businesses seeking a patio extension licence.

## Executive Summary

- This report provides an overview of the municipal insurance market, the City's insurance program and policy premiums, claims history, and risk management practices.
- New insurance options have been introduced in 2024 to help special event organizers access insurance coverage, which will support the continuation and growth of community events. This new program addresses concerns about the increasing cost and other issues associated with insurance requirements for special events taking place on municipal property.
- This report contains a recommendation that businesses participating in the Downtown Patio Licence program be required to obtain and maintain a \$5 Million Commercial General Liability Policy.

## Background

### Municipal Insurance Market

There are currently four major municipal insurance providers in Ontario including BFL Canada, Marsh, Aon, and Intact Public Entities (IPE). BFL Canada is the City's Insurance Broker under contract until December 31, 2024, with an option to renew for an additional three years. Since 2019, the Frank Cowan Company, The Guarantee Company of North American, Jardine Lloyd Thompson and Travelers Insurance Company of Canada have been acquired by other insurers or pulled out of public entity insurance altogether. The limited number of providers in the municipal insurance market creates challenges for procurement and pricing and pose concerns for acquiring certain coverage as insurers may limit the types of risk they elect to insure on their book of business. In 2019, the City issued a Request for Proposal for Professional Insurance Broker Services and Insurance Coverage and only received two bids, including one from the incumbent insurance provider. The bids were less than \$16,000 apart; approximately 1% of the total contract price.

Each municipal provider works with their own panel of insurance carriers and each insurer controls their own underwriting and claims management. Insurers manage their risk by sharing their books of business with reinsurers or partner markets to supplement existing coverage or to provide additional lines of coverage. For instance, BFL Canada

works with Lloyds of London, a British marketplace of insurance and reinsurance syndicates that have their own books of business. Municipal insurance providers cannot access other providers’ partner markets due to exclusive agreements, which further limits competition. Not long-ago municipalities would have one insurer underwriting a specific policy, but now there are multiple insurers carrying a percentage of the risk on a given policy. For example, the City’s property policy is currently underwritten by five insurers.

**Insurance Market Cycle**

Insurance is a cyclical business that is defined as a soft market or hard market. A soft market typically lasts longer and exhibits low rates, more competition and possibly wider coverage, whereas a hard market is typically shorter in duration with higher rates, less competition in the market and more restrictive coverage. The last soft market began in the early 2000’s and lasted until 2019 when hard market conditions took hold.

Insurance companies make profit through investments and / or underwriting gains. When there is uncertainty in the financial market insurers are more selective of the risks they will insure, focusing on industry classes that will ensure profitability. Insurers take an in-depth look at a clients’ loss history and operations and increase premiums to be commensurate with the risk they are underwriting.

During the current hard market conditions, municipalities across Canada experienced double-digit premium increases primarily due to the number of catastrophic events worldwide such as wildfires and severe weather. An event is considered catastrophic when the total cost of the loss is more than \$30 million. The Insurance Bureau of Canada (IBC) gathers costs resulting from catastrophic losses. The table below shows statistics from the IBC Facts 2022 report and demonstrates how the costs associated with catastrophic events have steadily increased from 1983 through to 2022. The escalation in the cost of these claims impacts property and reinsurance rates worldwide, regardless of whether a municipality was directly impacted. Insurers will continue to pay for claims costs resulting from catastrophic events, and these events will continue to impact the City’s property insurance premiums.

Year	Cost of Catastrophic losses in Canada + adjustment expenses
1983	\$38.4 million
2001	\$302.3 million
2011	\$1.5 billion
2021	\$2.3 billion
2022	\$3.1 billion

Other factors impacting the double-digit premium increases during the recent hard market include:

- The long term nature of municipal liability claims, meaning that when an incident occurs in a given policy year, a claim may not be filed until years later, and it may

take several years after for the matter to be settled. It is difficult for insurers to forecast what the courts may award a plaintiff years after an incident occurred.

- Under Joint and Several Liability provisions of the **Negligence Act**, an at-fault defendant can be wholly responsible for damages if other negligent defendants are uninsured or insolvent. The victim must be compensated which means the involved municipality could be held responsible for 100% of the damage award, even if it is only found to be 1% at fault. For example, the City of Ottawa paid \$2.3 million for its role in a fatal collision between an SUV and an OC Transpo bus that killed three Carleton University students, even though the inebriated SUV driver was found to be 80% responsible.
- Court awards for severe bodily injury claims have increased in the last decade to provide future care costs for catastrophically injured plaintiffs. Municipalities have a large exposure to this type of damage award because of the broad scope of municipal services. Defending claims is becoming more complex and costly due to detailed investigations, expert involvement, and lawyers spending more time to bring matters to conclusion.
- Municipalities are difficult to insure due to their size, scale, and complexity. In an environment where there are limited insurance providers, the impact of one municipality's loss may be felt across the board. For instance, OC Transpo's high profile claims in 2008 (crash with SUV), 2013 (crash with VIA train) and 2019 (double decker bus crash at Westboro Station) have impacted transit auto policy premiums for all municipalities.
- Cyber incidents and related claims have risen drastically in recent years, and it is anticipated that these claims will continue to grow. In 2021, the Federal Government reported that Canada is among the top countries impacted by ransomware behind the UK and US, and the frequency of attacks around the world increased 151% from 2020-2021. Some insurers have eliminated this type of specialty coverage or will not insure government entities because of the high degree of risk.
- There is a growing exposure to class action lawsuits that are difficult and costly to defend even when a municipality is innocent of the allegations.

While there is growing stability in today's insurance market, the conditions cannot be reclassified as a soft market.

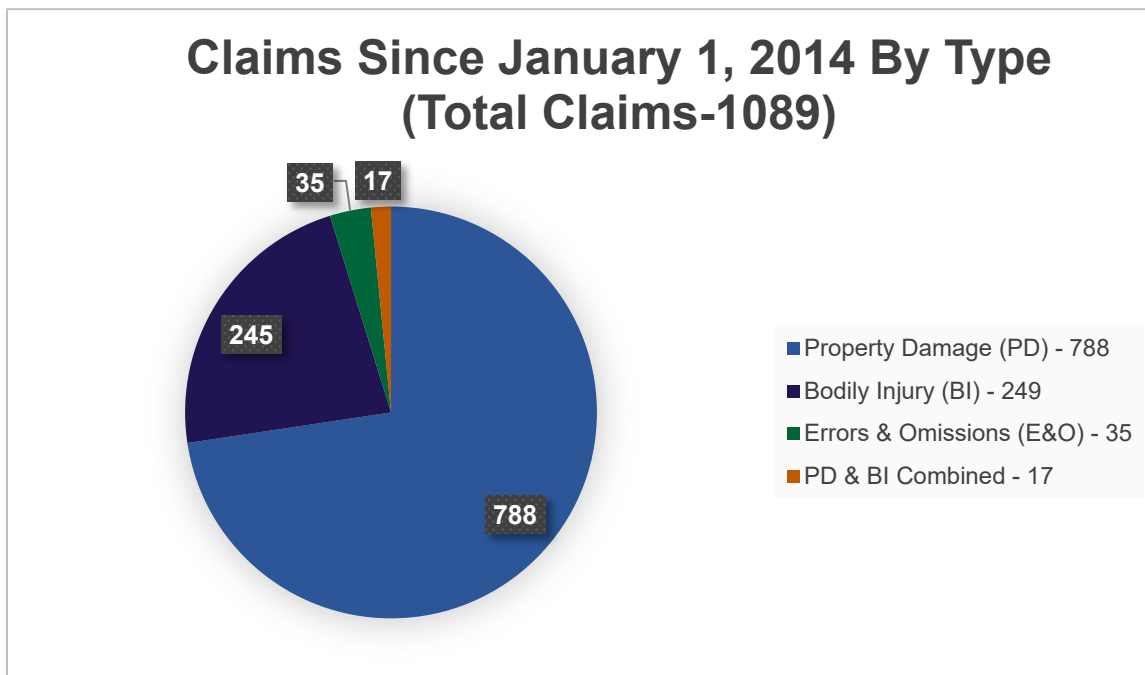
### **City of Peterborough Insurance Program**

The City's municipal insurance program includes the following lines of coverage:

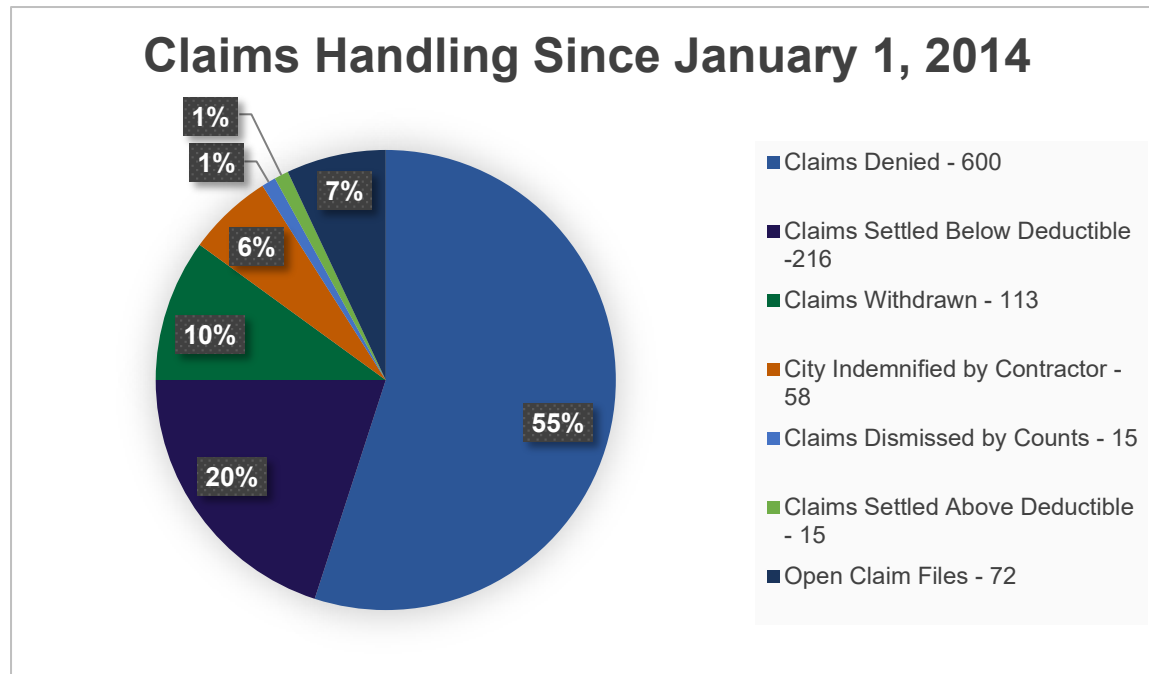
- General Liability
- Property Insurance
- Auto Liability

- Cyber Liability
- Aviation Liability
- Aviation Liability for Unmanned Aerial Vehicles (Drones)
- Marina Operators Liability
- Errors and Omissions Liability
- Environmental Impairment Liability
- Contractors Pollution Liability
- Comprehensive Crime Insurance
- Equipment Breakdown (Boiler and Machinery)
- Garage Automobile
- Volunteer Accident

The City's automobile and liability deductibles are set at \$50,000 and \$150,000 respectively, which allows the City to benefit from premium savings; however, higher deductibles result in increased claim costs to the City, as the City must self-insure for claim payments that fall below the deductible limits. Deductible limits are reviewed annually to assess potential premium savings. The liability deductible was increased from \$100,000 to \$150,000 during the 2024 renewal which resulted in a premium savings of \$155,751.



Most claims brought against the City are handled in-house by Emergency and Risk Management Division staff. Approximately 30% of claims are referred to an outside adjuster and 10% of claims are litigated. Litigated files are referred to outside Legal Counsel. All below deductible claim costs such as adjusting fees, legal fees and settlement amounts are funded through the Insurance Reserve.



City insurance premiums are invoiced at the beginning of the calendar year and are a fixed cost, except for property, equipment and automobile premiums which are adjusted periodically throughout the year to account for assets purchased or sold.

The following table shows the City’s insurance renewal costs over the past 10 years. These costs do not include recoverable insurance charges for the provision of Fire Dispatch agreements, Automatic Aid agreements, Police Service contracts, and the Millbrook Water Treatment Plant contract.

Year	Annual Insurance Premiums (Jan 1)	Annual Insurance Premium % increase over previous year
2014	\$916,056	6%
2015	\$953,506	4%
2016	\$950,516	-0.3%
2017	\$1,028,952	8%
2018	\$1,025,106	-0.3%
2019	\$1,136,345	6%
2020	\$1,263,398	16%
2021	\$1,660,387	30%
2022	\$2,384,556	46%
2023	\$2,297,805	-.03%

The City's 2024 insurance renewal was quoted at \$2,454,995; a 3.75% increase over 2023, which includes a 7% increase on property values to keep pace with inflation.

The following are some noteworthy highlights of the City's insurance program:

**General Liability:**

- In 2019, the City's General Liability policy premium was \$441,000 compared to \$718,000 in 2023. The 2024 liability premium was quoted at \$734,501 with a \$100,000 deductible and \$578,750 with a \$150,000 deductible. The deductible was increased to \$150,000.
- The City currently has 72 open claims dating back to 2015. All claims are investigated and settled in accordance with facts and applicable case law. The City is required to notify the insurer of all bodily injury claims and any other claims that may exceed fifty percent of the City's deductible limits.
- The City receives dozens of road maintenance claims per year. The City relies on legislated Minimum Maintenance Standards (MMS) which dictate the frequency of road inspection and repair, and by meeting the MMS provisions, the City is not liable for damage to privately owned vehicles. When a claim arises related to road construction performed by contractors, the City relies on the contract indemnification language for its defense.
- On average, the City receives 12 sewer back up claims per year. The City relies on sewer inspection and cleaning records to defend these claims.
- On average, the City receives 10 tree claims per year, but numbers can be higher when extreme weather events occur. The City relies on inspection and maintenance records to defend tree claims.

**Property:**

- In 2019, the City's property premium was \$190,520 compared to 2023's premium of \$463,096. The 2024 property policy was quoted at \$539,630 with a \$100,000 deductible and \$486,785 with a \$250,000 deductible. The deductible remains at \$100,000 because the quoted premium savings was not sufficient to justify the additional risk.
- The City's total insured property values in 2019 were \$460 million and in 2023 were \$521.5 million. The 2024 property values will increase by approximately \$100 million with the addition of the Organics Facility, 1421 Lansdowne Street Property, new Fire Station #2, and the Miskin Law Community Centre.

- In 2024, staff will work with the BFL to evaluate restructuring the Property Policy from its current full blanket coverage to layered limits of loss between primary and excess insurance carriers. Primary insurance is the policy that responds first to cover financial liability from a triggering event. Excess insurance comes into effect after the primary insurance limit has been exhausted. Excess coverage layers are typically not as expensive as primary coverage, so this may be an attractive way to achieve further premium savings.
- For the most part, property premiums are out of the City's control, and are reflective of what the market dictates based on worldwide catastrophic losses.
- Investment in the Flood Reduction Master Plan capital projects has benefited the City's loss history and overall insurance premiums.

**Auto:**

- In 2019, the City's auto premium for all fleet vehicles including transit, fire and police was \$275,000. At that time, the City had one insurer on its auto policy, compared to the seven insurers that currently underwrite the insurance.
- For 2024, the City's total auto premium was \$865,920, allocated as follows:
  - All fleet vehicles except transit - \$288,247
  - Transit vehicles - \$577,873
- In 2019, the City insured 67 buses compared to 81 buses in 2024.
- The installation of cameras on City buses will be instrumental in the defense of future claims.

**Cyber:**

- The City first purchased cyber insurance in 2018 for \$32,000. The policy deductible at that time was \$50,000.
- The cyber policy premium in 2023 was \$84,000 with a deductible of \$150,000 and the 2024 cyber policy premium was quoted at the same rate but with a mandatory \$250,000 deductible.
- The premium and deductible has more than doubled despite no reported losses on this policy.



## **Risk Management**

To counter the rising cost of insurance and to ensure continued access to necessary lines of coverage, the City must minimize its risk exposure through sound policies and good risk management practices, including:

- Strong indemnification and insurance provisions in contracts with third parties
- Adherence to City policies and procedures
- Operational risk assessment and staff training
- Maintenance of accurate and detailed records (i.e., inspections, permits, service records, training, licences, incident reporting, etc.)
- Compliance with legislation (i.e., Municipal Act, Ontario Building Code, Minimum Maintenance Standards, Ontario Water Resources Act, etc.)
- Risk transfer to insurers or self-insurance, where appropriate
- Use of cameras in city facilities and fleet vehicles
- Investigation and resolution of claims to determine liability, damages, and ways to mitigate or prevent future claims
- Pursuit of at-fault third parties to compensate for damages to City property

## **Contracts with Vendors / Third Parties**

Indemnification and insurance provisions are included in agreements to protect the City's finances and its other interests. Several factors are taken into consideration when determining the insurance requirements for a given contract, including the nature of work being undertaken, the risk to the City, and the recommended industry standards for coverage based on the operations of the third-party vendor.

Periodically, it is a challenge for vendors to provide sufficient insurance coverage because their broker does not insure the type of activity they are performing and the vendor does not wish to pursue another insurer, or the insurance is cost prohibitive. The City must make the difficult choice to accept the increased risk or move on from the contract. A recent example is the municipal snow clearing contract. It became increasingly difficult for snow clearing contractors to secure insurance for their operations resulting in fewer bidders and skyrocketing bid costs to the City which led to the service being brought in-house in 2024.

On occasion, the City is sued for work performed by contractors that is alleged to have caused third-party property damage. The City's interests are protected by the indemnification language and contractor's insurance as specified in the contract. The City does not intervene in the resolution of claims involving contractors and refers claimants to pursue the contractor directly.

## **Downtown Patio Extensions**

The same principle the City applies to the contractors we hire also applies to downtown patio extensions, except the CGL coverage currently required for patio extensions is insufficient. To date, the City has accepted \$2 million Commercial General Liability

(CGL) coverage from downtown establishments seeking a patio extension. Industry standards dictate that commercial entities should carry a minimum of \$5 million coverage, especially for locations serving alcohol. The City currently requires \$5 million CGL for all commercial special events taking place on City property. During COVID-19, the Peterborough DBIA asked the City to accept \$2 million CGL for patio extensions citing that it was cost prohibitive for businesses to carry the additional limits in tough economic times.

Increasing insurance limits from \$2 million to \$5 million does not typically result in a doubling of premium costs. A recent CGL quote for a restaurant / bar in the Peterborough area with \$500,000 in annual sales with greater than 20% in liquor sales was \$1,920 for \$2 million CGL and \$2,550 for \$5 million CGL; a difference of \$630 a year for two and a half times the coverage. Typically, the biggest factors which determines a party's insurance premium are the nature of their business and their claims history. If a Court awards a plaintiff a sum which exceeds the available coverage of an insured's policy, the concept of joint and several liability, operates to engage the City's General Liability insurance policy to pay the difference between the insured's coverage and the plaintiff's award.

In 2023, six of the 21 patio permit holders evidenced \$5 million CGL, one patio holder evidenced \$4 million CGL, and the remaining permit holders evidenced \$2 million CGL. It is unclear if the 14 businesses that evidenced \$2 million CGL only carry that coverage or if they only evidenced the \$2 million limit because that is what the City requested. It is common in the insurance industry to only evidence the insurance limit requested even if higher coverage exists.

### **New Insurance Program to Assist Special Events / Road Closures**

In 2024, the City introduced a new insurance program to assist special event organizers with accessing insurance, which will reduce barriers for organizing community events given the increasing costs associated with insurance and the shifting focus on liability that have made events like these more challenging for event organizers to run.

The City provides indoor and outdoor venues for private and community events. Examples of long-standing community events include the Dragon Boat Festival, Music Fest, CIBC Run for the Cure, and Folk Festival. These events support local business, tourism, and community connection.

The City utilizes a standard "Special Event Application" for all special events and road closures. The application is a guiding document to aid organizers in planning a successful and safe event. The City requires all indoor and outdoor facility users and event organizers to provide insurance coverage for their event and to submit a Certificate of Insurance. If there is a loss at an event and the City is brought into a claim, there is protection afforded to the City from the event organizers policy.

Staff from Recreation and Park Services, the City Clerks office, and Emergency and Risk Management support event organizers in the planning of events, ensuring risks are

mitigated through information provided in the application process and through staff support. Often, events are organized by volunteers who are not experienced in risk management or insurance which requires staff to provide significant support and direction to organizers. When event organizers struggle to meet event safety or insurance requirements, staff spend considerable time communicating with the organizers to explain requirements and to offer suggestions and support. The existing insurance and risk mitigation requirements are important features that must be maintained to ensure safe and enjoyable events in Peterborough.

As a result of the insurance challenges, the City worked with BFL to address the constraints and in 2024 introduced a new program called Instant Risk Coverage (IRC). IRC offers insurance for low, medium, and high-risk events, as well as coverage for shows which will help to streamline the administrative process for event organizers. The option will remain for users to provide their own insurance through a broker of their choice. The IRC program will bridge the gap when Event Organizers are unsure of how to move forward with insurance or are unable to secure the required coverage from their current insurance provider.

Other benefits of the IRC program include:

- No cost to the City to join the IRC program
- Insurance applications are processed through an online portal customized to meet the City's insurance requirements and includes a live chat staffed by IRC to answer insurance and application related questions, thereby reducing the amount of City staff time involved in the process
- Policy language automatically protects the interests of the City
- The premium rating structure is based on actual time, meaning that a 30-minute meeting will be a cheaper rate than an all-day meeting, for example
- Policies are refundable if the event is cancelled before the start date
- Reasonable premiums compared to other programs that insure special events

Events that fall outside the current IRC program parameters can be quoted under a separate application process.

In 2023, there was a total of 285 Special Event applications received for indoor and outdoor events including 226 applications for private events (i.e. Family or business related "invite only" events) and 59 for community events (i.e. Events open to the public). In addition, there were 12 Special Event Road Closure applications processed through the Clerks office, including:

1. Mega Bike
2. Way of the Cross
3. Dragon Boat

4. Rotary Ribfest
5. Pride Parade
6. Butterfly Run
7. St Patrick's Day parade/run
8. Canada Day parade
9. Canada Day Fireworks
10. CIBC Run for the Cure
11. Remembrance Day
12. Santa Claus Parade

For several years, the City offered a User Group Insurance program through BFL for qualifying individuals or groups who do not have their own insurance; however, the program had some limitations. The program did not provide coverage for high-risk events or offer a "show" rate that insured all vendors under one policy. While some event organizers had a CGL policy, their policy did not cover certain activities such as bouncy castles or events involving alcohol, and their insurer did not offer the additional coverage. These issues resulted in administrative challenges and gaps in the insurance coverage provided by event organizers.

Of all the special event applications in 2023, 25 events either cancelled, adjusted the activities, or had last-minute insurance issues that caused significant stress for the organizers and City staff. Some examples include:

- PMHC and PGHA Awards Banquet – Insured through Hockey Canada but insurance did not cover banquets. The User Group Program could not be used for this group because they had an existing CGL policy.
- Peterborough Folk Festival, Senior's Showcase, Peterborough Vegefest – Event organizers struggled to obtain vendor insurance to cover all participant. Events were almost cancelled; however, organizers were able to secure insurance from another provider at the last minute.
- Coin Show, Mom to Mom Sale, Capable Con, Canadian Family Health Counselling, Peterborough Fall Fling, Annual March Madness Craft & Vendor Show – cancelled because event organizers were unable or unwilling to secure vendor insurance.

By transitioning to the new Instant Risk Coverage insurance program for special events, every example provided above would be eligible to purchase insurance that meets the City's requirements.

According to the 2023 data, the previous User Group Program for insurance could only be sold to 34% of the private event requests due to limits regarding organizations, or activities at the event and only 9% of the special event applicants would be eligible to purchase BFL Insurance based on the information included in the initial application.

The new Instant Risk Coverage insurance program introduced in 2024 will greatly support the ability of event organizers to access insurance coverage that is necessary to support special events in the community.

## Special Event Application Review Process

From a process perspective, when a complex Community Special Event application is received, staff circulate the form to a review committee comprised of various City Divisions and stakeholders including Clerks, Public Works, Police, Fire, Building, Risk Management, Public Health, etc., for comments and feedback. Depending on the activities listed in the application, additional information may be required for staff to respond appropriately and determine the level of insurance required to provide adequate coverage for the event. Additional City services may also be required for the event to take place safely. Examples include Paid-Duty police presence, organizing a road closure, engineering review of tents, or public works sanitation support. Further, depending on the event, additional requirements such as a Special Occasion Permit may be required if alcohol is involved, or if inspections are required from other regulatory authorities such as Public Health or the Technical Standards and Safety Authority (TSSA).

Given the length of time the review process takes for high-risk events, that applications received with less than 30 days' notice be denied. Only after the City has received the comments from staff or stakeholders can the insurance requirements be determined. Events that are deemed to be high-risk include activities such as those: involving alcohol/beer, a parade, using a mobile stage, discharging fires/fireworks, having a midway, having a vehicle / boat race, operating monster trucks, or those with the potential for property damage to high value items, such as a car show. The City would be exposing itself to unwarranted liability if it were to permit an event that had not received review and comments from staff and stakeholders. No municipal council wants to find itself faced with a situation where an event happened in the absence of the event organizer having obtained the right insurance policy(ies) in the correct amount(s). However, it is recommended that in some cases, an exception be granted by staff in consultation with the CAO to permit a timely celebratory event such as a small victory parade to acknowledge a local sport teams' provincial, national, or international championship title.

Throughout the special event application process, staff work closely with the event organizer to communicate expectations, regulations, and requirements for a safe event. For an event to proceed, event organizers must sign an agreement that acknowledges the event details as indicated on the application, and stipulates requirements related to insurance, facility usage, fees, and indemnification. There have been occasions in the past where event organizers have signed the agreement, but blatantly disregarded the requirements. In some cases, this has happened repeatedly with the same event organizer. As such, it is recommended that in consultation with the CAO, if an event organizer ignores the City's requirements, future event requests by the same event organizer be denied by staff.

## Strategic Plan

Strategic Pillars: Community & Wellbeing, Governance & Fiscal Sustainability

Strategic Priorities: Enhance the natural, recreational, sports, the arts, and cultural aspects of our community.

Pursue service excellence in governance to support long-term fiscal sustainability of the City while respecting the impact of decisions on taxpayers.

The City values community events and the individuals and organizations that make these events happen. The events foster community resiliency, neighbourhood identity, civic pride, sense of belonging. Staff want to work in partnership with community leaders to ensure events can continue safely and efficiently.

Staff work closely with the insurance broker, insurance adjuster, and legal counsel to manage the City's Insurance Program, contract insurance requirements, and claims management processes to ensure fiscal responsibility and appropriate risk management.

## Engagement and Consultation

A comprehensive consultation process with departments responsible for reviewing applications and supporting special events was completed. Input was received from the Recreation and Parks Services, Emergency and Risk Management, Legal Services, and Clerks. Staff from these Divisions engage with event organizers regularly and have been receiving ongoing feedback about the increased cost and barriers associated with insurance, risk management, and liability associated with offering community events.

## Budget and Financial Implications

There are no budget or financial implications associated with this report.

The City's Insurance Reserve has an uncommitted balance of \$1,085,391.

## Conclusion

Staff are seeking endorsement to simplify certain aspects associated with insurance requirements for events to streamline the application process and ensure community events can continue safely in Peterborough. Staff are also seeking endorsement to increase the insurance requirements to \$5 million GCL for applicants of the Downtown Patio Licence Program.

Submitted by,

Richard Freymond  
Commissioner, Finance and Corporate Support Services

**Contact Name:**

Jodi DeNoble  
Manager, Emergency and Risk Management  
Phone: 705-742-7777 Ext. 2722  
Toll Free: 1-855-738-3755  
Email: [jdennoble@peterborough.ca](mailto:jdennoble@peterborough.ca)

Rob McAulay  
Director, Recreation Services  
Phone: 705-742-7777 Ext. 2204  
Toll Free: 1-855-738-3755  
Email: [rmcaulay@peterborough.ca](mailto:rmcaulay@peterborough.ca)