

The Corporation of the City of Kawartha Lakes

Council Report

Report Number LIC2018-005

Date: August 14, 2018
Time: 2:00 p.m.
Place: Council Chambers

Ward Community Identifier: All

Subject: Short Term Residential Rentals Follow-up Report

Author Name and Title: Alix Hick, Senior Licensing Officer
Aaron Sloan, Manager Municipal Law Enforcement

Recommendation(s):

That Report LIC2018-005, **Short Term Residential Rentals Follow-up report**, be received;

That staff be directed to implement Option #1 Status Quo and Monitoring as outlined in Report LIC2018-004;

That By-Law 2016-206 be amended to amend **General Inspections (all Regulatory By-law Inspections not including Property Standards and Clean and Clear)**; and

That the necessary By-Law amendments be forwarded to Council for adoption.

Department Head: _____

Chief Administrative Officer: _____

Background:

At the Council Meeting of July 11, 2017 Council resolved that the Rolling Hills Estates Homeowners Association correspondence regarding Short Term Residential Rentals be referred to staff for review and report back on alternatives and implications by the end of Q1, 2018.

At the Council meeting of October 10, 2017, after receiving a report recommending no action be taken towards the regulation of short term residential rentals, council resolved that the matter be referred back to staff for further consultation with interested parties with a report to Council on options to license or regulate Short Term Residential Rentals in the City of Kawartha Lakes and potential costs by end of Q2 2018.

At the Council meeting of June 19, 2018, staff presented a report summarizing findings from the review, public consultation, and survey conducted regarding short term residential rentals. Staff recommended that Council direct staff to follow Option #1 as outlined in the report as maintaining status quo and monitoring with regards to short term residential rentals. The report was referred and Staff were directed to report back to Council at the August 14, 2018 meeting with any additional information.

Since the June 19, 2018 Council Meeting, staff has received three inquiries regarding short term residential rentals. The first inquiry was requesting that staff regulate all rentals, not just short term residential rentals, and the second and third requested further explanation on information presented in report LIC2018-004.

From a policy perspective, staff continues to recommend maintaining the status quo, meaning no new policies or by-laws are recommended to deal with the issues arising from short term residential rentals. However, staff will be implementing new processes to fully utilize existing legislation to address complaints and recommends amendments to the Consolidated Fee's By-law to streamline how fees for service are administered. A comprehensive review and proposed amendments to existing nuisance legislation is also proposed. Staff will be implementing communication and outreach strategies to engage with property owners and renters to foster a climate of respect for residents, properties, and the environment. Staff will also be increasing proactive enforcement of by-law violations at short term rentals as they are discovered by municipal law enforcement officers.

Rationale:

As discussed in previous reports, staff maintains that sufficient legislation already exists to effectively address the issues arising from short term residential rentals. This report will outline how staff believes existing legislation and processes can

be amended to effectively address the issues arising from short term residential rentals.

Fee’s for Service

The Fee’s By-law outlines the fees that can be charged to the owner of a property for inspections by Municipal Law Enforcement (MLE) staff that result in a by-law violation being found. Below is the current format of the fee’s listing within the by-law.

Service Description	Unit	Rate Effective January 1, 2018
Initial First Inspection	each	Free
Initial Final Inspection	each	Free
Second Offence Inspection	each	Free
Second Offence Final Inspection	each	\$110.00
Third Offence Inspection	each	Free
Third Offence Final Inspection	each	\$220.00
Fourth Offence Inspection	each	Free
Fourth Offence Final Inspection	each	\$435.00
Fifth Offence Inspection	each	\$875.00
Fifth Offence Final Inspection	each	\$875.00
Subsequent offences	each	Fees double
Certificate of Compliance (Includes Discharge from title / deed)	each	\$220.00

Staff are recommending wording changes and removing free additional inspections to make the schedule clear that fees are charged only when a violation is found. The changes will also protect owners of short term residential rental properties from vexatious complaints by including provisions that fee’s for service are only levied if by-law violations are found. Staff is proposing the below chart be used to amend schedule A-12 of the Fee’s By-Law.

Service Description	Unit	Rate Effective January 1, 2018
First Occurrence Inspection	each	Free
Second Occurrence Inspection	each	\$110.00
Third Occurrence Inspection	each	\$220.00
Fourth Occurrence Inspection	each	\$435.00
Fifth Occurrence Inspection	each	\$875.00

Subsequent Occurrences	each	Fees double
Certificate of Compliance (Includes Discharge from title / deed)	each	\$220.00

Council should note that the inspection fees schedule as suggested will allow the cost recovery of the associated inspection. Fee's will increase for repeat issues, including an administrative fee, which will be added to the tax roll of the property and collected in a like manner to municipal taxes.

Improving Processes

As noted in previous reports, numerous pieces of legislation already exist to deal with many of the reported negative impacts resulting from short term residential rentals. The City has already enacted by-laws to address matters pertaining to parking, noise, property standards, burning, animals, and domestic waste disposal. Provincial law and statutes exist to address alcohol/controlled substance consumption, unsafe operation of motor vehicles or watercraft, and septic issues.

Often by-law violations can be remedied by education which results in increased knowledge of the expectations laid out in the by-laws and no further enforcement action is necessary. Issues such as parking have instant enforcement action by way of issuing a parking ticket to the owner of the vehicle. Other issues can require additional enforcement action by way of issuing orders or fines. Proceeding with legal action under the Provincial Offences Act can escalate to court which may result in higher fines and court ordered prohibition orders to discontinue the activity causing the by-law violation.

Education

Staff are also in the process of developing an education strategy which will involve an internal media component and an information sharing process that may reach out to a number of Cottage and Road Associations. As the strategy develops the education scope will expand as needed and as resources allow. Municipal Law Enforcement staff continue to be available to the public, Council and other city staff as a general information resource.

By-law Amendments

As part of this study/process staff has reviewed a number of by-laws. Staff are suggesting that the following by-laws be amended to reflect that the onus is additionally placed onto the property owner to ensure that they are taking responsibility for the activities that are occurring on the properties that they own.

Clean and Clear

The Corporation of the City of Kawartha Lakes By-Law 2014-026 as amended and being a by-law that requires owners of yards to clean and clear them. Section 3.05, 4.06 and 6.02 of the By-law allows for Cost

Recovery for clean and clear inspections. The mentioned sections currently reference “schedule A-9 of the Consolidated Fees By-law”. The suggested amendment to section 3.05, 4.06 and 6.02 will require the removal of the words “schedule A-9” to generally capture any future amendments or changes to the Consolidated Fees By-law.

Animals

The Corporation of the City of Kawartha Lakes By-Law 2017-039 as amended and being a by-law to regulate animals requires an Administrative Fee amendment by adding a section that advises “Where a Person or Owner has received an occurrence inspection an Administrative Fee may be charged for the inspection and the Administrative Fee as set out in the Consolidated Fees By-Law, if not paid, the fee shall be added to the tax roll of the property and shall be collected in a like manner as municipal taxes.”

Open Air Fires/Burning

The Corporation of the City of Kawartha Lakes By-Law 2016-110 as amended and being a by-law to regulate open air fires requires an Administrative Fee amendment by adding a section that advises “Where a Person or Owner has received an occurrence inspection an Administrative Fee may be charged for the inspection and the Administrative Fee as set out in the Consolidated Fees By-Law, if not paid, the fee shall be added to the tax roll of the property and shall be collected in a like manner as municipal taxes.”

Fireworks

The Corporation of the City of Kawartha Lakes By-Law 2007-236 as amended and being a by-law to regulate the sale and setting off of fireworks. The by-law advises that “no person shall discharge fireworks on any land of which he or she is not the owner, without obtaining permission of the owner to do so.” The by-law also describes situations in which a person may obtain a permit for a public exhibition of consumer fireworks. The by-law requires the addition of the following definition: “Person” means an individual, partnership, group or association, organization, company, corporation or cooperative and may also include owner. Section 8.19 currently advises the following “Where any holder of a permit fails or refuses to comply with a term or condition to which the permit is subject, the Fire Chief shall immediately revoke the permit and shall forthwith send a written notice of that revocation to the permit holder.” Section 8.19 may be changed to the following: “Where any holder of a permit fails or refuses to comply with a term or condition to which the permit is subject, the Fire Chief or Municipal Law Enforcement Officer shall immediately revoke the permit and the Fire Chief shall forthwith send a written notice of that revocation to the permit holder.”

Further the by-law requires an Administrative Fee amendment by adding a section that advises “Where a Person or Owner has received an occurrence inspection an Administrative Fee may be charged for the inspection and the Administrative Fee as set out in the Consolidated Fees By-Law, if not paid, the fee shall be added to the tax roll of the property and shall be collected in a like manner as municipal taxes.”

Noise

The Corporation of the City of Kawartha Lakes By-Law 2005-25 as amended and being a by-law to regulate noise requires an Administrative Fee amendment by adding a section that advises “Where a Person or Owner has received an occurrence inspection an Administrative Fee may be charged for the inspection and the Administrative Fee as set out in the Consolidated Fees By-Law, if not paid, the fee shall be added to the tax roll of the property and shall be collected in a like manner as municipal taxes.”

Scenarios

Below are examples of how existing by-laws and fees could be applied to situations at short term residential rentals. It is important to note that the below scenarios are hypothetical and mitigating factors and enforcement options are always considered when an officer attends a call.

Scenario #1

MLE staff is called to a short term residential rental property because a neighbour has complained that a dog is running at large. MLE staff attends the property and observe the dog running at large. Staff speaks to the renters and explains the by-law requiring that dogs must not roam off of the property. The renters tether the dog and no further complaints are received. A fee is not charged and the property owner is not invoiced because this was the first instance of a complaint regarding dogs at large at the property.

Scenario #2

MLE staff is called to a short term residential rental because of excessive noise. This is the second call and second time staff have attended the property for noise by-law violations. As staff approaches the property, they hear very loud music and noisemakers. Staff speaks to the renters and educates them on the by-laws. MLE staff may choose to charge/fine the renter for the noise by-law violation. Staff will also view this as the second staff attendance at the property to conduct an inspection for a noise complaint and the owner is invoiced a \$110 inspection fee.

Scenario #3

MLE staff has been called to a property for the 5th time this year regarding excessive noise. Staff attend and determine that there is a noise violation. Staff charge/fine the violator (renter). In court, the renter pleads guilty and the fine amount is upheld. Considering that this is the 5th violation for the property, staff

considers it appropriate to invoice the owner the inspection fee of \$875 as well as lay charges against the owner for permitting the violation of the noise by-law. Two weeks later, MLE staff are called to the property again for a noise violation. The officer decides to charge the owner again and also appeal to the Court to issue an order to discontinue activity as the issues are persistent and unlikely to end as long as the property is being used as a short term residential rental. Additional neighborhood citizens provide documents and testimony regarding the noise violation. The decision to issue the order is that of the Justice of the Peace hearing the matter.

Scenario #4

MLE staff receive a complaint that large amounts of garbage is strewn about a property. When staff attends, they verify that the property is not well kept and also note a strong odor of sewage. Staff uses the provisions of the clean and clear and property standards by-laws, to compel the owner to address the matter. Because a violation has been determined, the applicable administrative fees will apply. Staff also report to the Building Department regarding concerns about the septic system which are investigated by the appropriate staff person.

Complaint Process and Staffing

As noted throughout this review process, staff is unable to address issues at short term residential rentals if they are not informed of them. Staff continues to collect information from every applicable complaint that is reported to the Municipal Law Enforcement Division by phone or online by asking the following questions

- Is this a rental property?
 - If so,
 - Is it a long term rental (greater than 30 days); or
 - A short term residential rental (less than 30 days)
 - Unsure.

N/A is used for occurrence types that do not fall into a category that applies to the data collection. For example, a stray dog in a local park, parking in a fire route at City hall, littering from a vehicle, long grass on a vacant property etc.

As of the submission date for this report, 6 complaints specific to short term residential rentals were received by municipal law enforcement.

Period:	January 1-July 26, 2018	
Long Term Rental Over 30 Days		118
Short Term Rental Less Than 30 Days		6
N/A		356
Unsure		257

Staff have also noted a low frequency of complaints. A regulatory by-law is only useful if it is enforceable and staff is only able to take enforcement action if we are contacted regarding a violation. Future considerations for a regulatory by-law may be brought to Council if an increase in complaint frequency occurs or if service demands warrant changes to existing nuisance regulations or the creation of other regulations is needed to address the unregulated concerns.

Staff understands that issues arising from short term residential rentals are very real for certain areas of the City and that instances of by-law violations overwhelmingly occur during the evening and on weekends.

Other Alternatives Considered:

The other alternatives that were considered regarding the regulation of short term residential rentals are outlined in report LIC2018-004 which is attached to this report.

Consideration has also been given to the creation of additional permanent full time municipal law enforcement officers. The additional officers would allow for greater schedule flexibility, efficient complaint response by reducing time delays due to occurrence volume, and strengthen all response and training programs. Additional staff may also benefit other seasonal enforcement issues.

Council should be aware that if a new shift with expanded hours is created an amendment would be required to Article 15.01(vi) of the Collective Agreement between The City of Kawartha Lakes and the Canadian Union of Public Employees Local 855 for the agreed upon hours of work for municipal law enforcement officers.

To this end staffing increases are being considered as part of the 2019 budget process and recommendations will be brought to Council as part of the budget report. At present, limited evening and weekend enforcement exists, but not overnight. Random and focused enforcement in partnership with Police Services is being considered in future seasons.

Financial/Operation Impacts:

Implementation of Option #1 as outlined in report LIC2018-004.

Relationship of Recommendation(s) to the 2016-2019 Strategic Plan:

Goal #1 of the 2016-2019 Strategic Plan is "A Vibrant and Growing Economy." Objective 1.1.1 speaks to bringing business to the City and to expand local employment. Legislation that supports the creation of tourism accommodation will increase the demand of businesses in the area and will have positive

implication on creating employment opportunities. Objective 1.3.1 is to enhance tourism. Short term residential rentals play a vital role in enhancing tourism by providing accommodation.

By consulting closely with resident regarding this matter, staff have utilized a strategic enabler of providing exceptional customer service.

Review of Accessibility Implications of any Development or Policy:

N/A

Consultations:

Manager of Municipal Law Enforcement

Attachments:



June19ShortTermRe
ntalReport.pdf

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Department Head: Cathie Ritchie, City Clerk