



**SPECIAL
COMMITTEE
MEETING
OF COUNCIL**

JUNE 29, 2011

6:00 P.M.

MEETINGS

**FOR THE WEEK OF
JUNE 27TH, 2011**

Wednesday, June 29, 2011

6:00 p.m.

Special Committee Meeting of
Council
Council Chambers, 2nd Floor

PUBLIC MEETING

**HELD UNDER THE
*MUNICIPAL ACT***

Wednesday, June 29, 2011

6:00 p.m.

By-Law to License and Regulate
Rental Units in the City of North
Bay

GENERAL GOVERNMENT COMMITTEE

Wednesday, June 29, 2011

Page 1

Chairperson: Councillor Chirico
Vice-Chair: Councillor Koziol
Members: Councillors Anthony, Marosis
Ex-Officio: Mayor McDonald

GG-2011-04 Motion from Councillor Anthony dated January 10, 2011 re Council remuneration (F16/2011/CNB/COUNCIL).

GG-2011-15 Report from C.M. Conrad dated June 7, 2011 re Amendments to Procedural By-Law (C00/2011/BYLAW/PROCEDUR).

COMMUNITY SERVICES COMMITTEE

Wednesday, June 29, 2011

Page 1

Chairperson: Councillor Lawlor
Vice-Chair: Councillor Mendicino
Member: Councillor Vaillancourt
Ex-Officio: Mayor McDonald

- CS-2001-35 Rezoning applications by Consolidated Homes Ltd. – Golf Club Road (D14/2001/CHLTD/GOLFCLUB).
- CS-2003-37 Condominium application by Rick Miller on behalf of New Era Homes Ltd. - McKeown Avenue (D07/2003/NEHL/ MCKEOWN).
- CS-2004-29 Rezoning and Plan of Subdivision applications by Rick Miller on behalf of Grand Sierra Investments Ltd. - Sage Road (D12/D14/2003/GSIL/ SAGERD).
- CS-2010-21 Official Plan Amendment, Rezoning & Plan of Subdivision applications by Goodridge Planning Solutions on behalf of Jack & Helen Norman - Four Mile Lake Road (D09/D14/ D12/2010/NORMN/FOURMILE).
- CS-2010-24 Report from S. McArthur dated September 14, 2010 re Municipal Heritage Committee - Annual Award Proposal (R01/2010/ NBMHC/GENERAL).
- CS-2011-04 Motion moved by Councillor Mayne on January 24, 2011 re Designated Off-Leash Dog Area (R00/2011/PARKS/DOGPARK).
- **CS-2011-08 Report from M.B. Burke / B. Hillier dated February 28, 2011 re Rental Housing Licensing By-Law (C00/2011/BYLAW/ RENTHOUS).**

CS-2011-08

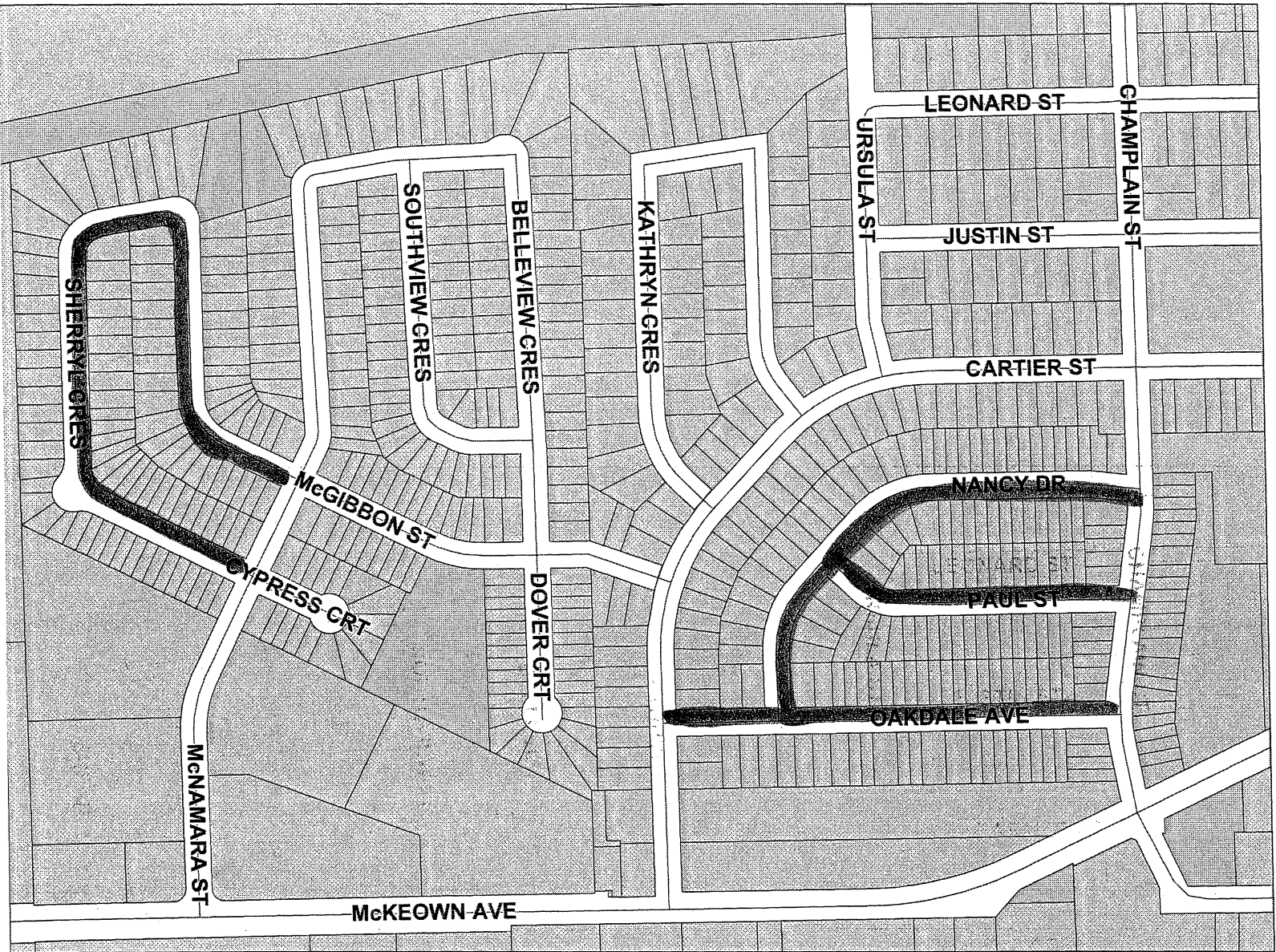
Draft recommendation.

- "That
- a) the maximum number of rental bedrooms in a dwelling unit under the Rental Housing Licensing By-Law be increased from 4 to 5;
 - b) the Rental Housing Licensing By-Law be made effective January 1, 2012 for the first licenses to be issued from May 1, 2012 to May 1, 2014;
 - c) Traffic & Parking By-Law No. 2002-001, Schedule 18 (No Parking Areas At Any Times) Section 28, be amended as follows:

<u>Road</u>	<u>Side</u>	<u>From</u>	<u>To</u>
<u>SECTION N</u>			
Nancy Drive	south & east	Champlain Street	Oakdale Road
<u>SECTION O</u>			
Oakdale Road	north	Champlain Street	Cartier Street
<u>SECTION P</u>			
Paul Street	north	Nancy Drive	Champlain Street
<u>SECTION S</u>			
Sherryl Crescent	even	McNamara Street	McNamara Street

- d) the Set Fines and Short Form Wording attached to Report to Council CORP 2011-48, for front yard parking and other Zoning By-Law parking offences be adopted to enhance enforcement."

Parking Restrictions



**CITY OF NORTH BAY
REPORT TO COUNCIL**

Report No: CORP 2011-48

Date: May 5th, 2011

Originator: MICHAEL B. BURKE

Subject: Supplementary Rental Housing Licensing Report

RECOMMENDATION

1. That the maximum number of rental bedrooms in a dwelling unit under the Rental Housing Licensing By-law be increased from 4 to 5.
 2. That the By-law be made effective January 1, 2012 for the first Licences to be issued from May 1, 2012 to May 1, 2014.
 3. That an advertised public meeting be arranged to consider the recommended By-law.
 4. That one side only parking be implemented on Paul Street, Oakdale Road, Nancy Street and Sherryl Crescent.
 5. That the short form wording schedule, for front yard parking and other zoning by-law parking offences, be adopted to enhance enforcement.
-

ZONING, FIRE AND BUILDING CODES:

Dwelling Units vs. Boarding House

The attached opinion outlines some of the legal history concerning the regulation of rental accommodations.

A fundamental issue is whether a property is being used as a dwelling unit or a boarding house. If it is used as a dwelling unit, it enjoys significant exemptions from Zoning, Fire and Building Code standards. Often the line between a dwelling unit and a boarding house is blurred or confused, sometimes deliberately in order to avoid the more rigid standards.

By introducing a licensing component, the municipality is able to apply a middle ground of regulation to avoid the all or nothing scenario of the dwelling unit/boarding house issue.

CONSULTATION – See Schedule

A staff team has met with the landlords, residents, and student representatives from the College and University. In addition, we have met with the Legal Clinic, DNSSAB Housing Officers and the Nipissing Housing Corporation Executive Director. This report incorporates the results of all of those meetings. Please see the attached Consultation Schedule. Notice of the formal public meeting will be advertised in the local paper and provided to all who have asked.

Staff has had discussions with municipalities that have or are considering a similar licensing approach to Rental Housing. Municipalities including Oshawa, London and Waterloo have or are in the process of implementing Rental Housing Licensing By-laws. In general, North Bay's experience with respect to the By-law preparation and consultation mirror those of the other communities. It has been identified that although there is a measure of increased enforcement required these communities believe their By-laws are effective and serve an important purpose in maintaining the integrity and character of well established residential neighbourhoods. Most recently, Sudbury has indicated a desire to establish a Rental Housing Licensing By-law.

PARKING

The residents identified several specific parking issues which are being addressed by the Engineering and Public Works Department as to emergency vehicle access and one side only parking restrictions. 1,206 tickets have been issued this season which is comparable to the number last year with similar concentrations of efforts in similar areas.

Overnight parking stats:

2010 - 2011 – 1206 tickets
2009 - 2010 – 719
2008 - 2009 – 707
2007 - 2008 – 1198
2006 - 2007 – 553
2005 - 2006 – 471
2004 - 2005 – 545

As part of the licensing criteria, the applicant will be required to provide a parking plan which will outline the number of parking spaces available and define the specific parking area. As a measure of increased enforcement, Staff are preparing short form wording to issue tickets for parking outside of designated parking areas (i.e. on the front lawn).

Southview and Belleview Crescents were identified by the residents, as problem parking areas, but upon review by Engineering and Public Works, these areas do not appear to have significant parking concerns. However, serious congestion was noted on Paul Street, Oakdale, Nancy and Sherryl Crescent. One side only parking restrictions would be desirable for emergency vehicles, school bus and snow plow access.

POLICE ENFORCEMENT

The Police received 98 noise complaints from September 1, 2010 to March 19, 2011. 7 charges were laid, 48 warnings were issued. On the rest of the complaints, the noise had stopped or there was no sufficient noise to justify a charge.

The Police note that for the broad range of their calls, while there has been an increase in this area, it is not the area of the City which generates the most calls. Police calls are dealt with in a priority sequence and they encourage residents to call police when a noise issue arises.

The Police have recently appointed a Community Relations Officer, Alain Bedard. He has been reviewing strategies from other communities.

The Council does not have the jurisdiction to direct police priorities. The neighbours and landlords have been advised to direct these concerns to the Police Services Board.

FIRE CODE

While the Fire Code notes that rental accommodations for more than 4 persons require the additional precautions, it also provides that these restrictions do not apply to a property being used as a "dwelling unit". The City is proposing to cap the number of rental bedrooms under the Licensing By-law at 5. Each bedroom will be required to meet the building code requirements for a bedroom (size, egress etc.).

The Fire Prevention Office will not make an assessment without a complete inspection of the building. While a building may fit under the retrofit requirements in the Fire Code for boarding, lodging and rooming, it takes a considerable amount of information to be collected to make this determination and this determination would not be made without the input of the City Prosecutor. At part of this process, Fire Prevention would provide best fire safety practices and will not make a determination on the use of the property unless called in for a complaint or request.

DENSITY

Neighbourhoods within the City of North Bay have been designed over time to accommodate a certain level of density. A majority of the area that will be covered by the first phase of the Licensing By-law was designed for low density residential uses. Currently, the dwelling units that would be subject to this Licensing By-law house a varying number of tenants.

Staff are attempting to balance the needs of tenants in finding appropriate and safe rental accommodations, concerns and issues raised by neighbourhood residents and the concerns regarding the By-law by landlords. Based on this balance and a need to control density in this area, Staff is recommending that the maximum number of rental bedrooms allowed be increased from 4 to 5. This will allow transition and ensure control of the density.

ECONOMICS AND THE POTENTIAL FOR DISPLACED TENANTS

The City has no reliable information on whether tenants will be displaced. 7 of the 8 properties inspected recently had only 5 tenants each.

In consultation with the DNSSAB, we understand that in their view, there would be little or no impact on rent or numbers of accommodations from the By-law. Indeed, if prices do settle as a result of not having the artificial income boost from excessive rental housing within one house, then lease prices may in fact settle as well.

BY-LAWS OF GENERAL APPLICATION

The Waste Management By-Law recently saw set fines approved for it. These have been applied over the past winter season with generally favorable results.

A Yard Waste & Grass Cutting By-Law report will be coming forward for tightening the requirements to cut grass and for yard cleanup in order to complement the existing Property Standards By-law provisions.

HUMAN RIGHTS CODE

The Human Rights Commission takes an active interest in housing. It has issued a white paper and unsuccessfully applied to be an intervener in the Oshawa Supreme Court of Canada application. The Commission's position appears to be contrary to the fundamental principles of zoning based on progressive levels of density, wherein the commission would prefer lodging houses to be permitted in all zones.

RESTRICTED AREA PHASE-IN

This By-law is seen as being necessary not just in the short term, but also in the long term. As a result, we would like to ensure maximum time for compliance. We would propose that the By-law be effective as of January 1, 2012, that Licences be issued for a two (2) year period, the first set of Licences being effective from May 1, 2012.

The Council should eventually license the whole City. The restricted area is based on where the most serious density issues already exist given the limited resources available to the City. The phase in program is as follows and as shown on the attached schedule:

Remainder Pinewood/ Cedar Heights: January, 2013

West Ferris: January, 2013

Laurentian/Airport Heights: January, 2014

CBD/Old City:

January, 2015

Circle Lake:

January, 2016

SELF REGULATION

Another option was raised of registration only. This does not allow the Council to impose conditions such as the number of bedrooms, parking plans or inspections and is not recommended.

There have been discussions concerning facilitating after hours landlord contact. Other private security is not recommended as there is no enforcement mechanism beyond one's own property.

THE INTERIM ENFORCEMENT AND COMPLAINTS

The Building and Fire Department will continue to carry out their inspections. If complaint investigations indicate a boarding house, rather than a dwelling unit, in a residential, low density zone, then charges will proceed if supported by the evidence.

The Zoning By-Law prohibits parking on front lawns. However, in order to effectively enforce such offences, additional short form wordings and set fines are required. Please see the attached short form wording for a number of parking offences under the Zoning By-Law.

Administrative steps are being taken to ease the complaint process to discontinue the need for a complainant to physically attend at City Hall. Complaints will still be verified by enforcement staff.

Municipal By-Law enforcement will be expanded to recognize the additional set fine offences using existing resources. Any enforcement beyond those set fine offences is more properly left to the police.

RECOMMENDED OPTION

1. That the maximum number of rental bedrooms in the Licensing By-law be increased from 4 to 5.
2. That the By-law be made effective January 1, 2012 for the first Licences to be issued from May 1, 2012 to May 1, 2014.
3. That an advertised public meeting be arranged to consider the recommended By-law.
4. That one side only parking be implemented on Paul Street, Oakdale Road, Nancy Street and Sherryl Crescent.

5. That the short form wording schedule, for front yard parking and other zoning by-law parking offences, be adopted to enhance enforcement.

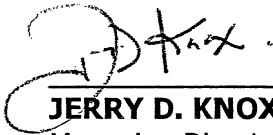
Respectfully submitted,



MICHAEL B. BURKE
City Solicitor, and Managing
Director, Corporate Services

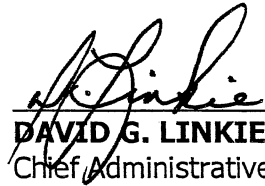
per 

ALAN KORELL
Managing Director Engineering &
Environmental Services & Works



JERRY D. KNOX
Managing Director Community Services

I concur in this report and recommendation



DAVID G. LINKIE
Chief Administrative Officer

Personnel designated for continuance: Michael B. Burke, City Solicitor

Attachments: Schedule "A" – Fire Code Application Opinion Re: Housekeeping Unit v. Lodging
Short form wording Schedule
Good Neighbourhood Housing Consultation Schedule
Phase In Schedule

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SCHEDULE "A"

Subject: Fire code Application opinion re: housekeeping unit vs lodging

We have been asked for our opinion as to whether the exemption for a "dwelling unit" from Part 9 of the Fire Code applies to the requirements for "boarding houses" in Section 9.3.

The first issue to be addressed is whether the premises constitute a dwelling unit. If the exemption applies then there is no need to look at Section 9.3, since it simply does not apply.

A "dwelling unit" is a defined term under the Fire Code:

Dwelling unit means a **suite** operated as a housekeeping unit, used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities.

The courts have established multi-purpose tests as to what constitutes a "housekeeping unit ... used as a domicile ... usually containing cooking, eating, living, sleeping and sanitary facilities"

This includes looking at how the rent is paid, locks on bedroom doors and whether the residents live as a single cohesive unit, that is whether they eat together, share household duties together or do other things together.

At a civil level, municipalities have had mixed success. Successful decisions have occurred in the following cases: *Windfield Farms v. Death*, the case from Oshawa that went all the way up to the Supreme Court of Canada and *Scozzafava v. St. Catherines (City)*, this case did not deal directly with the issue of rooming, boarding and lodging houses but the municipality was successful in passing an interim control by-law to control increased residential development in an area where single family homes were being turned into multiple unit homes to accommodate tenants. In other cases however, the municipalities were unsuccessful in proving a rooming, boarding and lodging house such as in the cases of *2161907 Ontario Inc. v. The Corporation of the City of St. Catherines* and *Jim Sommerville*; and *Good v. the Corporation of the City of Waterloo*. At a quasi-criminal level where the burden of proof is proof beyond a reasonable doubt, municipalities have again met with mixed success in proving rooming, boarding and lodging houses. There are not a lot of reported decisions in this area but we are aware of two successful cases, namely *Ottawa (City) v. Bentolila* and a case in Sudbury against a Kingston numbered company which was found to be operating a rooming, boarding and lodging house contrary to the Zoning By-Law. An example of an unsuccessful case would be the case of *R. v. Parks* in the City of North Bay. These cases are very "fact specific" and turn on the specific facts and evidence adduced in each particular case.

The legal difficulty is that the first inquiry is whether the individual renters live as a household unit. If they do, it does not matter that "lodging is provided for more than 4 in return for remuneration", since the household unit finding shields by the over-riding exemption of the premises from the boarding houses requirement in section 9.3.

The proposed Rental Housing Licencing By-law avoids this issue by focusing on the issue of how many bedrooms there are in the dwelling unit. This assumes that the premises constitute a dwelling unit. However, the application of the tests of a dwelling unit are still required, since if in fact the premises are not used as a household unit, then both the Fire Code and the Zoning by-law will apply to either prohibit the use under the Zoning By-law, or, if it is a permitted use, impose retrofit requirements.

Exemptions

9.1.2.2

(3) This Part does not apply to a **building** that contains not more than one **dwelling unit** and no other **major occupancy**.

SECTION 9.3 BOARDING, LODGING AND ROOMING HOUSES

9.3.1.1. (1) This Section applies to boarding houses, lodging houses, rooming houses and private rest homes in which residents do not require care or treatment because of age, mental or physical limitations, where

- (a) the **building height** does not exceed 3 **storey's** and the **building area** does not exceed 600 m²,
- (b) lodging is provided for more than four persons in return for remuneration or the provision of services or both, and
- (c) lodging rooms do not have both bathrooms and kitchen facilities for the exclusive use of individual occupants.

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THE CORPORATION OF THE CITY OF NORTH BAY - SET FINES
PART II – PLANNING ACT

Planning Act

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision or Defining Offence	COLUMN 3 Early Voluntary Payment Payable Within 7 Days	COLUMN 4 Set Fine
1.	Park vehicle without valid licence plate, contrary to Section 3.2(8)	Section 67(1)	\$65.00	\$75.00
2.	Park vehicle in front yard, contrary to Section 5.1.5.1	Section 67(1)	\$65.00	\$75.00
3.	Park commercial motor vehicle in residential zone, contrary to Section 5.1.6	Section 67(1)	\$65.00	\$75.00
4.	Park motor home with height greater than 1.8 metres in front yard in residential zone, contrary to Section 5.1.7	Section 67(1)	\$65.00	\$75.00
5.	Park travel trailer with height greater than 1.8 metres in front yard in residential zone, contrary to Section 5.1.7	Section 67(1)	\$65.00	\$75.00
6.	Park boat with height greater than 1.8 metres in front yard in residential zone, contrary to Section 5.1.7	Section 67(1)	\$65.00	\$75.00
7.	Park recreational vehicle with height greater than 1.8 metres in front yard in residential zone, contrary to Section 5.1.7	Section 67(1)	\$65.00	\$75.00
8.	Park accessory trailer with height greater than 1.8 metres in front yard in residential zone, contrary to Section 5.1.7	Section 67(1)	\$65.00	\$75.00
9.	Park snowmobile contrary to Section 5.1.7	Section 67(1)	\$65.00	\$75.00

Note: The penalty provision for the offence indicated above is Section 67(1) of the Planning Act for charges pursuant to the Zoning By-Law No. 28-80, as amended a certified copy of which has been filed

GOOD NEIGHBOURHOOD HOUSING CONSULTATION SCHEDULE

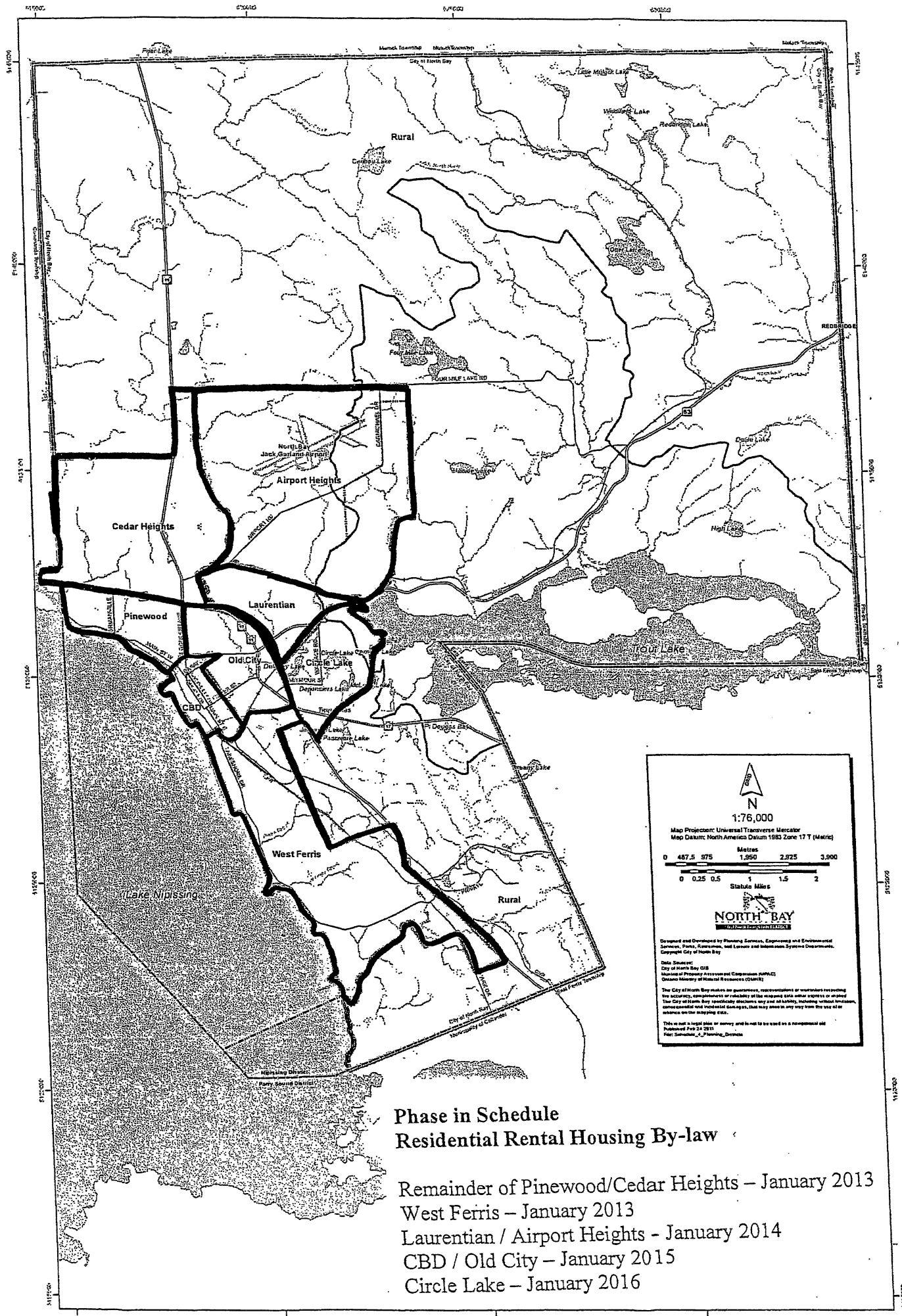
October 9, 2008	Meeting with staff, police and Nipissing University reps (Interdepartmental Committee formed)
October 28, 2008	Interdepartmental Committee Meeting
November 25, 2008	Interdepartmental Committee Meeting (minutes available)
January 6, 2009	Interdepartmental Committee Meeting (minutes available)
May 14, 2009	Information sharing session/public presentation at West Ferris Arena – Dave Linkie, staff, police, fire, legal etc.
July 9, 2009:	Good Neighbourhood Handbook developed and Forwarded to University and College (Handbook available)
August 8, 2009	Interdepartmental Committee Meeting – off campus accommodation registration process developed (available)
September 15, 2009	Town and Gown meeting: Shawn Killins, Bev Hillier, Anthony Koziol, Nipissing University and Canadore College representatives (minutes available)
February 1, 2010	Interdepartmental Committee Meeting
February 10, 2010	Interdepartmental Committee Meeting (minutes available)
February 11, 2010	Fire Prevention flyer developed (available)
August 10, 2010	Dave Linkie meets with new Canadore College President regarding student housing
August 19, 2010	Dave Linkie, members of Council and Senior City Staff meet with the President of Nipissing University and the appointed Chair of the Board of Governors
September 22, 2010	Follow-up meeting with Senior Nipissing University Staff and Senior City Staff identifying housing as a number 1 priority


Good Neighbourhood Housing – Consultation Schedule

November 30, 2010	Meeting with Thibeault Terrace neighbours (8), Dave Linkie and Committee members (minutes available)
December 8, 2010	Interdepartmental Committee Meeting (minutes available)
January 14, 2011	Jerry Knox meets with Casey Phillips, Director Residence and Conference Services to discuss and provide a presentation to students regarding off campus housing
January 17, 2011	Interdepartmental Committee Meeting with representatives from Nipissing University and Canadore College
January 26, 2011	Meeting/information sharing session with landlords (8) from Thibeault Terrace. Note: these 8 landlords identified as a result of complaints received from neighbours this month
January 28, 2011	Shawn Killins and Bev Hillier meet with Martin Holmes, Off Campus Housing Coordinator with Nipissing University to discuss updating handbooks etc. and hold student presentations regarding off campus housing
February 1, 2011	Meeting with Dave Linkie, Committee Members, Shawn Chorney – Canadore, Linda Turcotte – Canadore, Casey Phillips – Nipissing University and Thibeault Terrace home owners (7) (minutes available)
February 8, 2011	Interdepartmental Committee Meeting
February 13, 2011 February 15, 2011 March 1, 2011 March 2, 2011	Off-Campus Housing information presentations (4) conducted on-campus by Shawn Killins, Bev Hillier and Genevieve de Bruyn Residence Life Supervisor, Nipissing University
February 15, 2011	Interdepartmental Committee Meeting
February 22, 2011	Interdepartmental Committee Meeting
February 28, 2011	Report to Council, CSBU #2011-36, Rental Housing Licensing By-law proposal

Good Neighbourhood Housing – Consultation Schedule

March 2, 2011	Interdepartmental Committee Meeting
March 8, 2011	Interdepartmental Committee Meeting
March 9, 2011	Evening meeting with landlords, real estate members in Council Chambers
March 11, 2011	Interdepartmental Committee Meeting
March 14, 2011	CSBU Committee Meeting in Council Chambers regarding Rental Housing Licensing By-Law
March 15, 2011	Interdepartmental Committee Meeting
March 16, 2011	Interdepartmental Committee presentation to neighbours from Thibeault Terrace in Council Chambers
March 18, 2011	Shawn Killins and Bev Hillier meet with DNSSAB
March 21, 2011	Interdepartmental Committee Meeting
March 29, 2011	Interdepartmental Committee Meeting
March 30, 2011	City facilitates neighbourhood and landlords evening meeting in Council Chambers
April 5, 2011	Interdepartmental Committee Meeting
April 19, 2011	Jerry Knox facilitates meeting with landlords and neighbours




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 Map Projection: Universal Transverse Mercator
 Map Datum: North America Datum 1983 Zone 17 T (Metric)

Metres	
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NORTH BAY
City of North Bay

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 Data Sources:
 City of North Bay GIS
 Ministry of Property Assessment and Compensation (MPAC)
 Ontario Ministry of Natural Resources (OMNR)
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 Published: Feb 24 2011
 File: Settlement_Planning_Division

**Phase in Schedule
 Residential Rental Housing By-law**

- Remainder of Pinewood/Cedar Heights – January 2013
- West Ferris – January 2013
- Laurentian / Airport Heights - January 2014
- CBD / Old City – January 2015
- Circle Lake – January 2016

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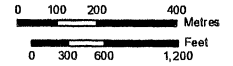
Commanda Township
City of North Bay

City of North Bay Rental Housing By-law 2011



Map Projection: Universal Transverse Mercator
Map Datum: North America Datum 1983 Zone 17 T (Metric)

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Data Sources:
City of North Bay GIS
Municipal Property Assessment Corporation (MPAC)
Ministry of Natural Resources (MNR)

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Published: May 8, 2011
File: RentalHousingLicensingBylaw2011_V3

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Schedule B
By-law 2011 - XX

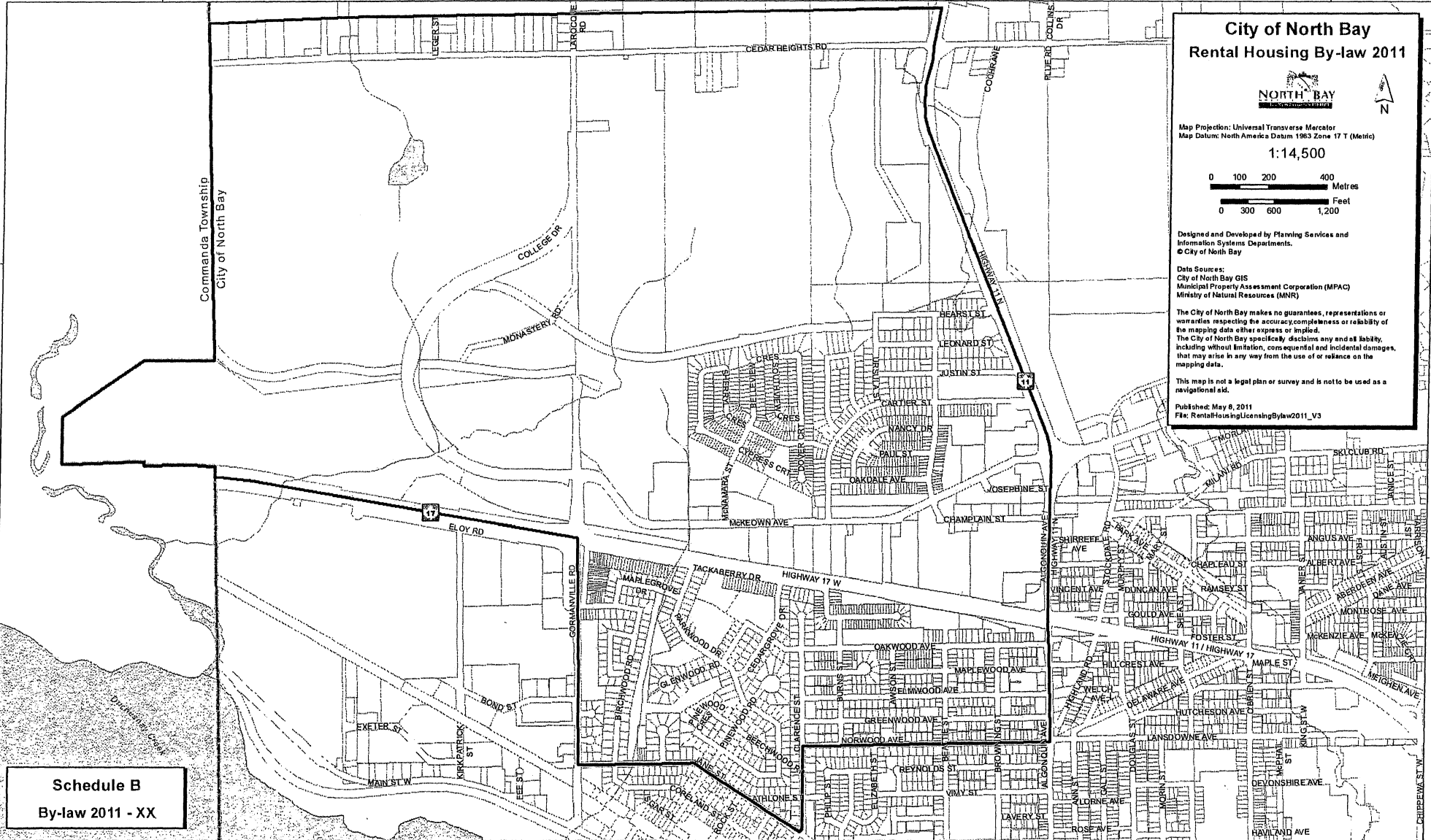
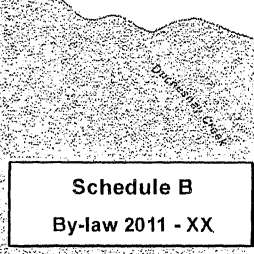
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City of North Bay

Report to Council

Report No: CSBU 2011 - 36

Date: February 28, 2011

Originator: Michael B. Burke, City Solicitor
Beverley Hillier, Manager, Planning Services

Subject: Rental Housing Licensing By-law

RECOMMENDATION

1. That City Council receive Report to Council CSBU 2011- 36 for information purposes; and
2. That Staff prepare a supplemental report and final By-law for Council's consideration subsequent to public consultation as outlined in to Report to Council CSBU 2011 – 36.

BACKGROUND

The City of North Bay has recognized a need within the community to deal with various rental housing issues occurring within the City of North Bay. This comes from a variety of complaints that have been received over many years regarding conflict around, and resolutions to, students and non-student issues in residential neighbourhoods in the City.

Complaints regarding rental housing generally are with respect to neighbourhood nuisance issues such as property standards, noise, parking, waste management, and life safety issues such as the number of tenants, use of rental units and construction within rental units without a permit.

As a result of the complaints received, the City has had preliminary consultation with Nipissing University, Canadore College, staff, students, local residents and landlords. These meetings have set the stage for the development and implementation of a Rental Housing Licensing By-law which will license rental housing within the area shown on Schedule B. Staff has prepared a Draft Rental Housing Licensing By-law (attached as Schedule A).

In summary the By-law will:

- limit the number of tenants per rental unit to four (4);
- apply to single detached, semi-detached and duplex dwelling units;
- will not apply to owner occupied rental units where no more than two (2) bedrooms are rented to tenants;
- as part of the license renewal process annual inspections will be required to ensure the rental units comply with the Ontario Building Code, the Ontario Fire Code, the City's Property Standards By-law, the City's Zoning By-law, the City's Waste Management By-law and the Electrical Safety Code;
- require landlords/owners of rental properties to acquire and renew their license on a yearly basis
- impose an annual licensing fee of \$300 plus an initial ESA inspection fee.; and
- be presented for Council consideration by May 2, 2011 and proposed to be effective on September 1, 2011.

City Staff has done a significant amount of research regarding rental housing issues within other communities. We recognize the need for rental accommodation within the community and have attempted to develop a Rental Housing Licensing By-law that would license rental units, help to ensure safe living accommodations and also balance the character, enjoyment and amenities of existing residential neighbourhoods.

With the completion of the Draft By-law, Staff will be conducting consultation with Nipissing University, Canadore College, local residents and landlords in March 2011. Through this consultation Staff will receive input and comments on the Draft By-law. The By-law will be revised and brought back for Council's consideration together with a supplemental report outlining the comments received. In addition to consultation with stakeholders, a public meeting will be held in front of Council for broad community input on 20 days notice in mid-April 2011. It is anticipated the By-law would be passed by City Council on May 3, 2011 and come in to effect on September 1, 2011. Fire, Building and Planning Services will start conducting inspections in May 2011 for licenses to be issued under the By-law.

OPTIONS ANALYSIS

Option 1:

Do not proceed with the Draft Rental Housing Licensing By-law or associated public consultation.

Option 2:

Consult with the public regarding the Draft Rental Housing Licensing By-law and report back to Council.

RECOMMENDED OPTION

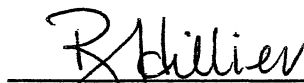
Option 2 is the recommended option.

The Draft Rental Housing Licensing By-law will attempt to regulate rental housing within the area shown on Schedule B. This is being completed based on concerns raised from local residents, landlords, Nipissing University and Canadore College.

Respectfully submitted,



Michael B. Burke
City Solicitor



Beverley Hillier, MCIP, RPP
Manager, Planning Services

MBB/BH/dlb

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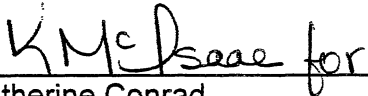
Ron Melnyk

By-law Enforcement Coordinator

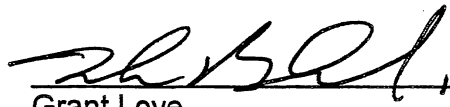


Elizabeth Courville, ACST


Zoning Administrator



Catherine Conrad
City Clerk

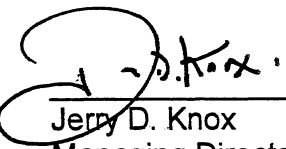


for Grant Love
Fire Chief



Shawn Killins
Chief Building Official

We concur in this report and recommendation.



Jerry D. Knox
Managing Director, Community Services



David G. Linkie
Chief Administrative Officer

Personnel designated for continuance: City Solicitor
Manager, Planning Services
Chief Building Official
Fire Chief
By-law Enforcement Coordinator

11 May 2011

THE CORPORATION OF THE CITY OF NORTH BAY

By-law No. 2011-_____

RENTAL HOUSING LICENSING BY-LAW

Table of Contents

1	INTERPRETATION	4
2	PROHIBITIONS	8
3	SCOPE	8
4	ADMINISTRATION	9
5	APPLICATION FOR AND RENEWAL OF A LICENCE	9
6	LICENCE ISSUANCE	12
7	LICENCE CONDITIONS	13
8	POWERS OF THE ISSUER OF LICENCES	15
9	HEARINGS BEFORE THE HEARINGS OFFICER	17
10	ENFORCEMENT	18
11	PENALTIES	19
12	ADMINISTRATIVE PENALTIES	20
13	MISCELLANEOUS	22

THE CORPORATION OF THE CITY OF NORTH BAY

By-law No. 2011-__

BEING A BY-LAW TO PROVIDE FOR THE LICENSING AND REGULATION OF RENTAL UNITS IN THE CITY OF NORTH BAY

WHEREAS subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25 provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001*, provides that a municipality may pass by-laws respecting: in paragraph 5, Economic, social and environmental well-being of the municipality; in paragraph 6, Health, safety and well-being of persons; in paragraph 7, Services and things that the municipality is authorized to provide under subsection (1); in paragraph 8, Protection of persons and property; in paragraph 11 Business Licensing;

AND WHEREAS subsection 151(1) of the *Municipal Act, 2001*, provides that, without limiting sections 9 and 10 of the Act, a municipality may: provide for a system of licences with respect to a business;

AND WHEREAS subsection 151(5) of the *Municipal Act, 2001*, provides that subsection 151(1) applies necessary modifications to a system of licences with respect to any activity, matter or thing for which a by-law may be passed under sections 9, 10 and 11 as if it were a system of licences with respect to a business;

AND WHEREAS the Council for The Corporation of the City of North Bay considers it necessary and desirable for the public to regulate the renting of residential premises for the purpose of protecting the health and safety of the persons residing in residential rental premises by ensuring that the certain regulations are met, that the required essentials such as plumbing, heating and water are provided, for ensuring that the residential rental premises do not create a nuisance to the surrounding properties and neighbourhood and to protect the residential amenity, character and stability of residential areas;

AND WHEREAS section 23.2 of the *Municipal Act, 2001*, permits a municipality to delegate certain legislative and quasi-judicial powers;

AND WHEREAS subsection 391(1) of the *Municipal Act, 2001*, provides that a municipality may impose fees and charges on persons for services or activities provided or done by or on behalf of it.

AND WHEREAS section 444 of the *Municipal Act, 2001*, provides that the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity, and any person who contravenes such an order is guilty of an offence;

AND WHEREAS the Council of The Corporation of the City of North Bay has ensured that sufficient information has been made available to the public and has held at least one public meeting after due notice of the purpose of informing the public of this By-law;

AND WHEREAS the Council of The Corporation of the City of North Bay passed a resolution on _____, 2011, to approve the adoption of a by-law to provide for the licensing and regulation of Rental Units in the City of North Bay;

AND WHEREAS it is deemed expedient to pass this by-law;

NOW THEREFORE the Council of The Corporation of the City of North Bay enacts as follows:

BY-LAW

~~AND WHEREAS SECTION 22(1) OF THE MUNICIPALITY ACT, R.S.O. 1990, CAP. 223, AS AMENDED, PROVIDES THAT THE COUNCIL OF A MUNICIPALITY MAY ENACT BY-LAWS THAT ARE NECESSARY FOR THE PROPER ADMINISTRATION OF THE MUNICIPALITY AND THAT ARE NOT IN CONFLICT WITH THE ACT OR ANY OTHER ACT OF PARLIAMENT;~~

1 INTERPRETATION

1.1 For the purposes of this By-law

“Apartment Building” means a building consisting of four or more dwelling units, which units have a common entrance from the street level and the occupants of which have the right to use, in common, halls, stairs, elevators, yards or any combination of the above;

“Applicant” means a person applying for a licence under this By-law;

“Bedroom” means a room or area within a Rental Unit used, designed, equipped or intended for sleeping;

“Building” means any structure, whether temporary or permanent, used or built for the shelter, accommodation or enclosure of persons, animals or chattels, other than a lawful boundary wall or fence, and shall include any structure, loading dock, staging gallery, wall, excavation, storage tank, gasoline pump, pump island, bleacher, fence, swimming pool, grandstand, tent, awning, bin, bunker or platform, vessel or vehicle used for any of the said purposes is deemed a building;

“By-law Enforcement Coordinator” means the By-law Enforcement Coordinator of the City or a person delegated by him or her for the purposes of this By-law;

“Chief Building Official” means the Chief Building Official as appointed by Council pursuant to the Building Code Act;

“City” means The Corporation of the City of North Bay;

“City Clerk” means the Clerk of The Corporation of the City of North Bay or a person delegated by him or her for the purposes of this By-law.

“Converted Dwelling” means a building which has been altered by the creation of more dwelling units than existed originally, with each dwelling unit having its own sanitary facilities and cooking facilities.

“Council” means the Municipal Council of The Corporation of the City of North Bay;

“Dwelling Unit” means a suite of habitable rooms which:

- i) is in a building;
- ii) is used or intended to be used by one or more persons as a single, independent and separate household unit;
- iii) contains food preparation and sanitary facilities for the exclusive common use of the occupants, and;
- iv) has a means of egress directly to the outside of the building or structure in which it is located, which may be a means of shared egress with another residential unit.

“Fire Chief” means the Chief of North Bay Fire & Emergency Services of the City or a person delegated by him or her for the purposes of this By-law;

“Gross Floor Area” means the sum of all floor areas above grade, except in the case of an apartment building where part of the area of the basement is used for a dwelling unit(s), in which case the said area constitutes part of the gross floor area measured between the internal faces of the exterior walls of the building at the level of each floor, including any part of the building above grade used for the storage or parking of motor vehicles, locker storage and laundry facilities, but excluding any part of the building used for mechanical purposes which are an integral part of the building;

“Hearings Officer” means a person or body that has been delegated the power or duty to hold a hearing or provide an opportunity to be heard for the purpose of this Bylaw;

“Inspectors” means:

- i) a member of the Fire Prevention Division of the Fire & Emergency Services of the City and includes the Fire Chief and any other member of the Fire & Emergency Services designated by the Fire Chief;
- ii) Chief Building Official
- iii) Building Inspectors
- iv) Property Standards Inspectors;
- v) Zoning Administrator; or
- vi) By-law Enforcement Coordinator and any By-law Enforcement Officers designated by the By-law Enforcement Coordinator.

“Issuer of Licences” means a person appointed by the Council to issue the licences as set out in this By-law;

“Landlord” includes:

- i) each owner of a Rental Unit; and,
- ii) each person who permits occupancy of a Rental Unit.

“Licensee” means any person, corporation or partnership licensed under this By-law;

“Lot” means any parcel of land with frontage on a road which is a separate parcel of record or is shown as a whole lot on a registered Plan of Subdivision, including any part of which is subject to an easement or right-of-way. (Section 44, By-law No. 165-80);

“Medical Officer of Health” means the Medical Officer of Health for the North Bay Parry Sound District Health Unit or a person delegated by him or her for the purposes of this By-law;

“Municipality” means the land within the geographic limit of the City of North Bay;

“Owner” includes:

- i) each person owner of a Rental Unit, and
- ii) each person who permits occupancy of a Rental Unit.

“Person” includes:

- i) individuals,
- ii) corporations, and
- iii) partnerships.

“Rent” includes the amount of any consideration paid or required to be paid or given by or on behalf of a Tenant to a Landlord or the Landlord’s agent for the right to occupy a Rental Unit and for any privilege, accommodation or thing that the Landlord provides for the Tenant in respect of the occupancy of the Rental Unit;

“Rental Area” means each Lot as depicted in Schedule “B” of this By-law;

“Rental Property” includes each Building containing a Rental Unit and the Lot on which the Rental Unit is situate.

“Rental Unit” means a Building or part of a Building:

- i) consisting of one or more rooms;
- ii) containing toilet and cooking facilities;
- iii) designed for use as a single housekeeping establishment; and
- (iv) used or intended for use as a rented residential premises.

“Tenant” includes a person who pays rent or provides services in lieu of paying rent, in return for the right to occupy a Rental Unit.

“Zoning Administrator” means the Zoning Administrator of the City or a person delegated by him or her for the purposes of this By-law.

2 PROHIBITIONS

- 2.1 No person shall operate a Rental Unit without holding a current valid licence issued under the provisions of this By-law.
- 2.2 No person shall hold himself, herself or itself out to be licensed under this By-law if they are not.
- 2.3 No person shall contravene or fail to comply with a term or condition of his, her or its licence imposed under this By-law.
- 2.4 No person shall operate a Rental Unit while the licence issued under this By-law is under suspension.

3 SCOPE

- 3.1 This By-law applies to the specified geographical area as depicted in Schedule “B” of this By-law for those properties that are zoned for low density residential use, which, for the purpose of this By-law, are: “Residential First Density (R1)”, “Residential Second Density (R2)”, “Residential Third Density (R3), Residential Multiple First Density (RM1), Residential Multiple Second Density (RM2), or have a legal non-conforming

R1, R2, R3, RM1 or RM2 property according to the City's Comprehensive Zoning By-law, no. 28-80, as amended.

3.2 This By-law does not apply to:

3.2.1 a "Housing project" as that term is defined in the *Social Housing Reform Act, 2000*, S.O. 2000, c.27;

3.2.2 an Apartment Building;

3.2.3 a Rental Unit that is occupied by one (1) Tenant, in which no more than one (1) other Bedroom is occupied by a Tenant; or to

3.2.4 a Rental Unit that is occupied by the owner of the Rental Unit as their sole residence and in which no more than two (2) bedrooms are occupied by Tenants.

4 ADMINISTRATION

4.1 The administration of this By-law is assigned to the City Clerk who shall generally perform all of the administrative functions conferred upon him or her by this By-law and without limitation may:

4.1.1 receive and process all applications for all licences and renewals of licences under this By-law,

4.1.2 issue licences in accordance with the provisions of this By-law;

4.1.3 impose terms and conditions on licences in accordance with this By-law, and,

4.1.4 refuse to issue or renew a licence or revoke or suspend a licence in accordance with this By-law.

5 APPLICATION FOR AND RENEWAL OF A LICENCE

5.1 Every application for a licence and renewal licence shall be made to the Issuer of Licences on the forms provided by the Issuer of Licences.

5.2 Without limitation, every application for a licence or a renewal shall include the following information:

5.2.1 the name, municipal address and telephone number of each Landlord;

- 5.2.2 the municipal address and legal description of the Rental Unit;
- 5.2.3 if a Landlord is a corporation, the name, address and telephone number of each director and officer; and shareholder;
- 5.2.4 if a Landlord is a partnership, the name address and telephone number of each partner;
- 5.2.5 the number of bedrooms;
- 5.2.6 a statement by each Landlord certifying the accuracy, truthfulness and completeness of the application; and
- 5.2.7 each Landlord's signature or of any duly authorized Landlord's agents that would bind the Landlord.
- 5.3 Every person applying for a licence or renewal of a licence shall provide in full at the time the application is submitted all of the information requested on the application form as well as:
- 5.3.1 payment of the prescribed fee as set out in Schedule "A" of this By-law;
- 5.3.2 a copy of the transfer/deed evidencing a Landlord's ownership;
- 5.3.3 if a Landlord is a corporation, a copy of:
- 5.3.3.1 the Landlord's articles of incorporation; and
- 5.3.3.2 a corporate profile report issued by the Ontario Ministry of Consumer and Business Services;
- 5.3.4 a floor plan of the Rental Unit, including, for each room, its dimensions and its proposed use;
- 5.3.5 a maintenance plan identifying measures that the Landlord will implement for the purpose of complying with the City's Waste Management and Property Standards By-laws;
- 5.3.6 a parking plan that complies with the City's Zoning By-law, as amended, and that shows the location and dimensions of all parking spaces for vehicles on the Rental Property;

5.3.7 proof of Placement of insurance that:

5.3.7.1 includes a limit of liability of not less than \$2,000,000.00 (two million dollars) per occurrence for property damage and bodily injury;

5.3.7.2 identifies the proposed use as residential rental; and that

5.3.7.3 requires that the Issuer of Licences be notified of any intended cancellation by the insurer no fewer than fifteen (15) days prior to such cancellation;

5.3.8 a statement from or on behalf of the City's Fire Chief confirming that the Rental Property and its proposed use comply with the *Fire Protection and Prevention Act, 1997* (Ontario) and its regulations;

5.3.9 an initial certificate issued by the Electrical Safety Authority (ESA) confirming that the Rental Property and its proposed use comply with the *Electrical Safety Code, O. Reg. 164/99*, and such further certificates as may be required by an Inspector;

5.3.10 a statement from or on behalf of the City's Chief Building Official confirming that the Rental Property and its proposed use comply with the *Building Code Act, 1992* (Ontario) and its regulations;

5.3.11 a statement from or on behalf of the City's Zoning Administrator confirming that the subject property is in conformity and compliance with the City's Zoning By-law, no. 28-80, as amended;

5.3.12 a statement from or on behalf of the By-law Enforcement Coordinator as to any noise by-law convictions during the previous year at this location and comments thereon; and

5.3.13 proof of payment of any fine, fee or property taxes owed to the City by any Landlord respecting any Rental Property; and

5.4 All documents and information required by sections 5.2 and 5.3 must be submitted at the time of the application for or renewal of a licence under this By-law.

5.5 The Issuer of Licences may refuse an application for a licence or its renewal where any of the documents required by sections 5.2 and 5.3 of this By-law are incomplete or lacking in any way.

5.6 The Issuer of Licences may also refuse to accept an application for a licence where any of the documents required by clause 5.3.3 and by paragraphs 5.3.7, 5.3.8, 5.3.9 and 5.3.10 of this By-law was issued prior to the sixtieth (60th) day preceding the date on which the application is submitted.

6 LICENCE ISSUANCE

6.1 Each licence shall include the following:

6.1.1 The licence number;

6.1.2 Date the licence was issued and the date it expires;

6.1.3 The municipal address of the Rental Unit;

6.1.4 The name, address and telephone number of each Landlord;

6.1.5 Where a Landlord is a corporation, the name address and telephone number of each director and each officer of the Landlord or of their duly authorized agent; and

6.1.6 Where a Landlord is a partnership, the name, address and telephone number of each partner.

6.2 A licence issued under this By-law shall be valid only for the period of time for which it was issued.

6.3 The issuance of a licence or renewal thereof under this By-law is not intended and shall not be construed as permission or consent by the City for the Licensee to contravene or fail to observe or comply with any law of Canada, Ontario or any by-law of the City.

6.4 Every licence, at all times, is owned by and is the property of the City and is valid only in respect of the person and for the Rental Unit on the Rental Property named therein. A separate licence shall be required for each Rental Property.

6.5 No licence issued under this By-law may be sold, purchased, leased, mortgaged, charged, assigned, pledged, transferred, seized, distrained or otherwise dealt with.

- 6.6 The Licensee shall notify the City Clerk of any change in ownership of the Rental Unit or Rental Property within seventy-two (72) hours of the completion of such change in ownership.
- 6.7 Within seventy-two (72) hours of a change in ownership for a Dwelling Unit, the new owner shall provide the following information and documentation to the City Clerk in order to have a licence reissued:
- 6.7.1 the name, municipal address and telephone number of each Landlord;
 - 6.7.2 a copy of the transfer/deed evidencing the new ownership;
 - 6.7.3 proof of Placement of insurance according to section 5.3.7 of this By-law;
 - 6.7.4 a statement by each Landlord certifying no changes have been made to documents submitted according to sections 5.3.4, 5.3.5 and 5.3.6 of this By-law;
 - 6.7.5 a statement by each Landlord certifying the Rental Unit conforms with section 7 of this By-law; and
 - 6.7.6 each Landlord's signature or of any duly authorized Landlord's agent that would bind the Landlord.
- 6.8 Following a change in ownership, a reissued licence under this By-law shall be valid only for the period of time for which it was originally issued.
- 6.9 Following a change in ownership of a Dwelling Unit, no fee shall be required to reissue a licence under this By-law.
- 6.10 All licence fees paid under this By-law are non-refundable.

7 LICENCE CONDITIONS

- 7.1 No Landlord shall permit Rent to be collected except for a Rental Unit in respect of which a licence has been issued pursuant to this By-law and except pursuant to the following conditions, each of which is a condition as a requirement of continuing to hold the licence.
- 7.1.1 Subject to paragraph 7.1.2, 7.1.3 and 7.1.4 of this By-law, the number of Bedrooms occupied by Tenants in the Rental Unit does not exceed five (5);

7.1.2 No more than 40% of the Rental Unit's Gross Floor Area – Residential below the average elevation of the finished surface of the ground where it meets the exterior of the Building may be comprised of Bedrooms provided that each such Bedroom must have been constructed in accordance with and must comply with all applicable law;

7.1.3 No room within the Rental Unit is used as a Bedroom except a Bedroom depicted in the licence;

7.1.4 No more than 40% of the Gross Floor Area – Residential of the Rental Unit's ground floor may be comprised of Bedrooms;

7.1.5 Each Tenant is a party to a written tenancy agreement with a Landlord;

7.1.6 A Landlord does not directly or indirectly require or cause a Tenant to refuse or consent to lawful entry and inspection of a Rental Unit for the purpose of determining compliance with this By-law;

7.1.7 A Landlord notifies the Issuer of Licences in writing within two (2) days of any change to any information provided pursuant to section 5 and 6 of this By-law;

7.1.8 A legible copy of the licence is posted and maintained prominently and visibly within one (1) meter of the interior of the Rental Unit's main entrance door;

7.1.9 A Landlord maintains insurance respecting the Rental Unit that:

7.1.9.1 includes a limit of liability of not less than \$2,000,000.00 (two million dollars) per occurrence for property damage and bodily injury;

7.1.9.2 identifies the use as residential rental; and that

7.1.9.3 requires that the Issuer of Licences be notified of any intended cancellation by the insurer no less than fifteen (15) days prior to such cancellation;

7.1.10 The Landlord and the Rental Property comply with all applicable law including:

- 7.1.10.1 the *Health Protection and Promotion Act* (Ontario) and its regulations, as amended;
- 7.1.10.2 the *Fire Protection and Prevention Act, 1997* (Ontario) and its regulations, as amended;
- 7.1.10.3 the *Electrical Safety Code*, O. Reg. 164/99, as amended;
- 7.1.10.4 the *Building Code Act, 1992* (Ontario) and its regulations, as amended;
- 7.1.10.5 the City's *Carbon Monoxide Alarm By-law*, as amended;
- 7.1.10.6 the City's *Zoning By-law*, as amended;
- 7.1.10.7 the City's *Property Standards By-law*, as amended; and
- 7.1.10.8 the City's *Waste Management By-law*, as amended.
- 7.1.11 No fine, administrative penalty or fee is owed to the City by any Landlord;
- 7.1.12 The Landlord and the Rental Property comply with the maintenance plan submitted pursuant to section 5.3.5 of this By-law; and
- 7.1.13 No vehicle may be stopped or parked on any part of the Rental Property except within a parking space identified on the parking plan shuttered pursuant to section 5.3.6 of this By-law.

8 POWERS OF THE ISSUER OF LICENCES

- 8.1 The power and authority to issue or renew a licence, refuse to issue or refuse to renew a licence, to cancel, revoke or suspend a licence, to impose terms and conditions, including special conditions, on a licence, are delegated to the City Clerk.
- 8.2 The City Clerk shall issue a licence or renew a licence where the requirements or conditions of this By-law have been met.
- 8.3 The City Clerk may refuse to issue, refuse to renew or revoke or suspend a licence or impose a term or condition on a licence on the following grounds:
- 8.3.1 the conduct of the Applicant or Licencee, or any partner, officer, director, employee or agent of the Applicant or Licencee, affords reasonable cause to believe that the Applicant or Licencee will not carry on or engage in the operation of the Rental Unit in accordance with the law or with honesty or integrity;
 - 8.3.2 there are reasonable grounds to believe that an application or other documents provided to the City Clerk by or on behalf of the Applicant or a Licencee contains a false statement;
 - 8.3.3 an Applicant or Licencee is carrying on activities that are in contravention of this By-law; or
 - 8.3.4 an Applicant or Licencee does not meet all of the requirements of this By-law or that the Rental Unit or Rental Property does not comply with the provisions of this By-law.
- 8.4 Notwithstanding any other provision of this By-law, the City Clerk may impose terms and conditions on any licence at issuance, renewal or any time during the term of the licence, including special conditions, as are necessary in the opinion of the City Clerk to give effect to this By-law.
- 8.5 Where the City Clerk is of the opinion that:
- 8.5.1 an application for a licence or renewal of a licence should be refused;
 - 8.5.2 a reinstatement should not be made;
 - 8.5.3 a licence should be revoked;
 - 8.5.4 a licence should be suspended, or,

8.5.5 a term or condition of a licence should be imposed; the City Clerk shall make that decision.

8.6 Where the City Clerk has made a decision under subsection 8.5, the City Clerk's written notice of that decision shall be given to the Applicant or the Licencee by regular mail to the last known address of that person and shall be deemed to have been given on the third day after it is mailed. Service on a corporation can be affected by registered mail to the address of the corporation's registered head office.

8.7 The written notice to be given under subsection 8.6 shall:

8.7.1 set out the grounds for the decision,

8.7.2 give reasonable particulars of the grounds;

8.7.3 be signed by the City Clerk, and,

8.7.4 state that the Applicant or Licencee is entitled to a hearing by the Hearings Officer if the Applicant or Licencee delivers to the City Clerk, within ten (10) days after the notice in subsection 8.6 is served, and the appeal fee as set out in Schedule "A" of this By-law.

8.8 Where no appeal is registered within the required time period, the decision of the City Clerk shall be final.

8.9 Despite subsection 8.7 where a licence is voluntarily surrendered by the Licencee for revocation, the City Clerk may revoke the licence without notice to the Licencee.

9 HEARINGS BEFORE THE HEARINGS OFFICER

9.1 The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Hearings Officer.

9.2 The provisions of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, except sections 17, 17.1 and 19, applies to all hearings conducted by the Hearings Officer under this By-law.

9.3 When the Applicant or Licencee, who has been given written notice of the hearing, does not attend at the appointed time and place, the Hearings Officer may proceed with the hearing in his or her absence and the Applicant or Licencee shall not be entitled to any further notice of the proceeding.

- 9.4 At the conclusion of the hearing, the Hearings Officer may give its decision orally or in writing but in each case it shall provide its decision in writing, with reasons, within thirty (30) days of the hearing to the Applicant or Licencee and the Issuer of Licences.
- 9.5 The Hearings Officer may uphold or vary the decision of the Issuer of Licences or make any decision that the Issuer of Licences was entitled to make in the first instance.
- 9.6 The decision of the Hearings Officer is final.
- 9.7 Notwithstanding anything in this By-law to the contrary, where an Applicant or Licencee appeals against or requests a review of a decision concerning a Rental Housing licence, no decision in the appeal or review shall be made unless each Owner of a Lot situated within thirty (30) meters of the Rental Property subject of the appeal or review has been given no fewer than seven (7) days notice of the hearing of the appeal or review and has been given an opportunity to be heard at the hearing of the appeal or review which hearing shall be open to the public.

10 ENFORCEMENT

- 10.1 Inspectors, acting under the Fire Chief's, Chief Building Official's, Zoning Administrator's or By-law Enforcement Coordinator's instructions, may enforce this By-law.
- 10.2 Subject to section 437 of the *Municipal Act, 2001*, as to entry of dwelling units, the Inspector may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not:
- 10.2.1 this By-law is being complied with;
 - 10.2.2 a direction or order of the City made pursuant to the *Municipal Act, 2001*, or any successor thereof or made pursuant to a By-law of the City is being complied with;
 - 10.2.3 a condition of a licence issued under a by-law of the City is being complied with; or
 - 10.2.4 an order made pursuant to Section 431 of the *Municipal Act, 2001*, which prohibits the continuation or repetition of an offence is being complied with.
- 10.3 An Inspector may for the purpose of an inspection:

10.3.1 require the production for inspection of documents or things relevant to the inspection;

10.3.2 inspect or remove documents or things relevant to the inspection for the purpose of making copies or extracts;

10.3.3 acquire information from any person concerning a matter related to the inspection ; and

10.3.4 alone or in conjunction with a person possessing special or expert knowledge, make examinations or take test samples or photographs necessary for the purpose of the inspection.

10.4 The Inspector may undertake inspections pursuant to orders which are made pursuant to section 438(2) of the *Municipal Act, 2001*.

10.5 No person shall hinder or obstruct or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law, including carrying out an inspection.

11 PENALTIES

11.1 Any person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine, penalty or order as provided for in the *Provincial Offences Act, R.S.O. 1990, c. P.33*, or in the *Municipal Act, 2001, S.O. 2001, c.25* as amended or any successor thereof.

11.2 A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law is guilty of an offence.

11.3 A person convicted under this By-law is liable to a maximum fine of \$25,000.00 upon a first conviction and a maximum fine of \$50,000.00 for any subsequent conviction.

11.4 Despite section 11.3, where the person convicted is a corporation, the corporation is liable to a maximum fine of \$50,000.00 upon a first conviction and a maximum fine of \$100,000.00 for any subsequent conviction.

11.5 If this By-law is contravened and a conviction entered, 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,

11.5.1 prohibiting the continuation or repetition of the offence by the person convicted; and,

11.5.2 requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

12 ADMINISTRATIVE PENALTIES

12.1 Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with this section 12, be liable to pay to the City an administrative penalty in the amount of \$250.

12.2 An Officer who finds that a person has contravened any provision of this By-law may issue a penalty notice addressed to the person.

12.3 The penalty notice shall be given to the person to whom or to which it is addressed as soon as is reasonably practicable and shall include the following information:

12.3.1 Particulars of the contravention;

12.3.2 The amount of the administrative penalty;

12.3.3 Information respecting the process by which the person may exercise the person's right to request a review of the administrative penalty; and

12.3.4 A statement advising that an administrative penalty will, unless cancelled or reduced pursuant to the review process, constitute a debt of the person to the City.

12.4 No Officer may accept payment of an administrative penalty.

12.5 A person who receives a penalty notice may request a review of the administrative penalty by the Hearings Officer in accordance with this paragraph 12.5.

12.5.1 The person's right to request a review expires on the tenth (10th) day after the penalty notice is given to the person.

12.5.2 The person's right to request that the Hearings Officer extend the time to request a review expires on the twentieth (20th) day after the penalty notice is given to the person at which time the administrative penalty shall be deemed to be affirmed.

12.5.3 The person shall be given seven (7) days notice of the date, time and place of the hearing of a review request under clause 12.5.1 or an extension request under clause 12.5.2.

12.5.4 The Hearings Officer shall not make a determination with respect to a review request under clause 12.5.1 or an extension request under clause 12.5.2 unless the Hearings Officer has given to the Licencee, the Issuer of Licences and the Officer who issued the penalty notice an opportunity to be heard.

12.5.5 The Hearings Officer may affirm the administrative penalty or extend the time to request a review of an administrative penalty.

12.5.6 The Hearings Officer may cancel or reduce the administrative penalty or may extend the time for payment of the administrative penalty only where the Hearings Officer is satisfied that doing so would maintain the general intent and purpose of this By-law and that

12.5.6.1 there is reason to doubt that the person contravened this By-law;

12.5.6.2 the person took all reasonable steps to prevent the contravention; or that

12.5.6.3 the cancellation, reduction or extension of the time for payment is necessary to relieve undue financial hardship.

12.5.7 The decision of a Hearings Officer is final and not subject to review including review by any Court.

12.5.8 The Issuer of Licences may at any time cancel, reduce or extend the time for payment of an administrative penalty, including any late payment fee imposed pursuant to Schedule "A" of this By-law..

12.5.9 An administrative penalty that is deemed to be affirmed pursuant to clause 12.5.2 or that is affirmed or reduced or in respect of which the time for payment has been extended pursuant to clause 12.5.5

or paragraph 12.6 constitutes a debt to the City of each person to whom or to which the penalty notice was given.

12.5.10 Where a person has paid an administrative penalty that is then cancelled or reduced pursuant to clause 12.5.5 or paragraph 12.6, the City shall refund the amount cancelled or reduced.

12.5.11 Where an administrative penalty is paid within fifteen (15) days after the date that it becomes due and payable, no person to whom the penalty notice was given shall be liable for an offence in respect of the contravention described in the penalty notice.

12.5.12 Where an administrative penalty is not paid within fifteen (15) days after the date that it becomes due and payable, each person to whom the penalty notice was given shall pay to the City a late payment administrative fee pursuant to Schedule "A" of this By-law.

13 MISCELLANEOUS

13.1 This by-law may be referred to as the "Residential Rental Housing Licensing By-law".

13.2 This By-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the City or by any governmental authority having jurisdiction to make such restrictions or regulations.

13.3 If there is a conflict between a provision of this By-law and a provision of any other City By-law, the provision that establishes the higher standard shall apply.

13.4 This by-law shall come into force and effect on January 1, 2012.

READ A FIRST TIME IN OPEN COUNCIL THE _____ DAY OF _____, 2011.

READ A SECOND TIME IN OPEN COUNCIL THE ___ DAY OF _____, 2011.

READ A THIRD TIME IN OPEN COUNCIL AND ENACTED AND PASSED THIS DAY OF _____, 2011.

Mayor
Allan McDonald

City Clerk
Catherine Conrad

SCHEDULE "A"
FEEES

Licence Fee for a licence for each Rental Property	\$ 300.00
Licence Renewal Fee for each licence renewed under this By-law	\$ 300.00
Late Payment Fee	\$ 25.00
Appeal Fee	\$50.00

DRAFT

ENGINEERING & WORKS COMMITTEE

Wednesday, June 29, 2011

Page 1

Chairperson: Councillor Vrebosch-Merry
Vice-Chair: Councillor Mayne
Member: Councillor Bain
Ex-Officio: Mayor McDonald

EW-2010-03 Report from A. Korell/J. Houston dated March 26, 2010 re Kate Pace Way west end bike route connection between Memorial Drive and Gormanville Road (R05/2010/KPWTR/WESTENDR).

ITEMS REFERRED BY COUNCIL FOR A REPORT

<u>DATE</u>	<u>ITEM</u>
March 29, 2005	Backflow Prevention Program survey of all industrial, commercial and institutional buildings (due September 2005) .
April 28, 2008	Ways to assist the hospitals with making further appeals to the Province for financial assistance with the infrastructure cost increases.
September 21, 2009	Review, update and consolidation of Noise By-Law (due June 30, 2010) .
March 8, 2010	Comprehensive Long-Term Financial Plan (due April 30, 2010) .
May 3, 2010	Track the net financial benefits created through increased assessment as a result of the Airport Industrial Community Improvement Plan sites being developed.
June 28, 2010	On completion of Tender 2010-74 (Lakeshore Drive Outdoor Sports Complex Phase V - Completion of fields and associated appurtenances), a summary of the total cost of the project and funding sources.
December 30, 2010	Quarterly report on progress of WSIB appeal, error corrections and cost projections for 2011.
January 24, 2011	Comprehensive review of City owned Lake Nipissing accesses.