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Planning & Development Services

DATE: April 25, 2011
TO: Senior Management Team
FROM: Randy Berg, Supervisor, Municipal Law Enforcement
RE: Enforcement Strategy for Niagara on the Green

In response to Council's direction to prepare a by-law enforcement strategy and to make recommendations to Council, the following information on current procedures and possible changes in strategy are offered.

With respect to infractions of Property Standards, Clean Yards, Noise, Nuisance, etc. the current approach is to respond on a complaint basis only. Once a complaint is received, the property in question is attended and inspected. If a violation is observed or sufficient evidence is available that a violation had occurred, the investigating officer will attempt to speak to the owner or resident of the property. If the property is not owner occupied, the owner is contacted either by phone or mail.

Depending on the violation, the owner/resident will be requested to rectify the deficiency within a reasonable time frame. If cooperative, no further action is taken. If non-cooperative, the initial contact is followed by written notification to resident and owner. A time frame for compliance is given and details of possible consequences for non-compliance explained.

The issue of the number of rental units in a residential home has been approached in a different way. Upon receiving a complaint, the investigating officer will attend the property in question and attempt to gain information as to the residents of the building; number of residents, number of rooms, location of rental rooms, rental basis (roomer, boarder, lessee), conditions of rental, etc.

Access to the dwelling and rented rooms is attempted after a caution is issued. Naturally, once a resident is aware that the officer is there in an enforcement capacity and that the resident has the right to refuse entry, the resident will most often not permit entry. Further, as a result of previous approaches and correspondence, renters have advised that the property owners have told them not to allow Town staff on the property or inside the building and, in some cases, have threatened eviction. If access to interior is gained, the investigating officer will inspect for Property Standards compliance as well as confirm information gathered regarding room rental etc.

Where the owner of the property lives in the building, they are advised that only 2 roomers or boarders are permitted and are also advised of any concerns regarding Property Standards or Building Permits required. A schedule for compliance is discussed and if the owner is cooperative no further action is taken. If the owner is uncooperative, an Order is issued with a specific time for compliance and information regarding possible consequences of non-compliance.

As well as the reactive action of responding to complaints as above, Niagara on the Green is patrolled in a pro-active manner when an officer is in the vicinity, at least once a week and more often during spring, summer and fall, with regard to properties that have been identified as rental properties. A list has been developed from information from the Niagara Regional Police, residents of Niagara on the Green, Bayview-Wellington and through the history of complaints to the Town. Listed properties are visited on a pro-active basis when an officer is in the area on an investigation, which occurs more often during good weather in spring, summer and fall, inspected for any exterior evidence of violations of municipal by-laws and, when opportunity arises, the residents are interviewed for information. Historically it has been difficult to gain entrance to the dwelling units, particularly once a caution has been issued and the resident is aware they have the right to refuse entry. If the resident does not permit entry and there are no violations apparent from the exterior of the building, there is no further action.

The Parking Department continues to issue tickets and respond to complaints in the subdivision. As well as responding to complaints, Parking has been pro-active with advising residents of the winter restrictions due to snow removal efforts and a regular patrol within the subdivision for parking offences such as "Parking too close to a Driveway" and "Parking in a Prohibited Area".

The Fire Department was actively pursuing a violation in the courts that came to light last year during an inspection of a residence in Niagara on the Green due to a "gas smell" call. A number of violations of the Fire Protection and Prevention Act have been identified. On the advice of the Town's solicitors the charges were withdrawn.

The Building Department has also been involved in the enforcement process with respect to these multiple rental unit dwellings. Basements are an obvious place to expand a house's bedrooms but each basement completion requires a permit. This permit process allows a Building Inspector to inspect the basement area and ensure that all safety concerns have been dealt with adequately. However, once a Building Permit is closed a Building Inspector has no authority to enter a dwelling and inspect.

If a basement has been finished without a Permit, the owner can be required to obtain a Permit and the basement then inspected for compliance. If an owner refuses to apply for a Permit, an Order to Comply can be issued and if the owner fails to comply a charge can be laid and the owner forced to obtain a Permit through a Judge's Order.

Following are strategic changes that may impact the visible face of the rental accommodation business being conducted in Niagara on the Green.

1. Create a database containing all known and/or suspected properties, owners, tenants of rental properties. Include all known data; contact numbers, number of rooms, lease agreements, Rent Tribunal history, maintenance, Orders, Building Permits, etc.

2. Attend/inspect all properties listed on regular basis (weekly from September to May), pro-active action on all by-law issues, minimum time frame responses
3. Attend/inspect properties on specific occasions; move in week, move out week, long weekends during school year, reading week, March break, Friday and Saturday nights during good weather, etc.
4. Communicate with school, student reps, residents of subdivision of action plan, possible consequences and results
5. Coordinate combined effort of By-law Enforcement, Fire, Parking and Building to ensure all concerns are addressed in a consistent manner.
6. Budget staff time/resources to address increased attendance evenings, weekends. Resources may include Niagara Regional Police attendance on "Paid Duty" status to be prepared for student parties
7. Consider developing Licensing By-law to regulate rental accommodation in a residential unit for periods greater than 28 days
8. Develop a Policy and Procedure to administer and enforce Licensing depending on enforcement method chosen, i.e. traditional or Administrative Monetary Penalties (Section 151 of the Municipal Act)