



**City of Kingston  
Report to Council  
Report Number 21-261**

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**To:** Mayor and Members of Council  
**From:** Jenna Morley, Director, Legal Services & City Solicitor  
**Resource Staff:** Sarah Gareau, Municipal Prosecutor & Senior Legal Counsel  
**Date of Meeting:** November 2, 2021  
**Subject:** Short-Term Rental By-Law Set Fine Amounts

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**Council Strategic Plan Alignment:**

Theme: Regulatory & compliance

Goal: See above

**Executive Summary:**

On October 5, 2021, Council deferred the staff recommendation set out in [Report Number 21-238](#) to approve set fine amounts for contraventions of By-Law Number 2021-10, the Short-Term Rental By-Law, and directed staff to report back at the November 2 Council meeting with respect to set fine amounts that are “in keeping with” the administrative monetary penalty amounts that were presented in June 2021.

The purpose of this report is to seek Council’s approval of the updated set fine amounts set out in Exhibit A attached to this report, which will be submitted to the Ministry of the Attorney General for approval.

**Recommendation:**

**That** Council approve the set fine amounts in the schedule attached as Exhibit A to Report Number 21-261 for contraventions of By-Law Number 2021-10; and

**That** staff be directed to submit the required Set Fine Schedule to the Ministry of the Attorney General for approval as attached as Exhibit A to Report Number 21-261.

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**Authorizing Signatures:**

ORIGINAL SIGNED BY DIRECTOR,  
LEGAL SERVICES & CITY SOLICITOR

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**Jenna Morley, Director, Legal  
Services & City Solicitor**

ORIGINAL SIGNED BY CHIEF  
ADMINISTRATIVE OFFICER

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**Lanie Hurdle, Chief  
Administrative Officer**

**Consultation with the following Members of the Corporate Management Team:**

Paige Agnew, Commissioner, Community Services

Craig Desjardins, Acting Commissioner, Corporate Services

Peter Huigenbos, Commissioner, Business, Environment & Projects                      Not required

Brad Joyce, Commissioner, Transportation & Public Works                                      Not required

Jim Keech, President & CEO, Utilities Kingston    Not required

Desirée Kennedy, Chief Financial Officer & City Treasurer                                      Not required

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**Options/Discussion:****Background**

On October 5, 2021, staff presented [Report Number 21-238](#), seeking approval of the following recommendation to establish set fine amounts for contraventions of By-Law Number 2021-10, the Short-Term Rental By-Law:

**That** Council approve the set fine amounts in the schedule attached as Exhibit A to Report Number 21-238 for contraventions of By-Law Number 2021-10; and

**That** staff be directed to submit the required Set Fine Schedule to the Ministry of the Attorney General for approval as attached as Exhibit A to Report Number 21-238.”

Council deferred the recommendation and directed staff to report back at the November 2 Council meeting with respect to set fine amounts that are “in keeping with” the administrative monetary penalty amounts that were presented in June 2021.

The purpose of this report is to seek Council’s approval of the updated set fine amounts set out in Exhibit A attached to this report, which will be submitted to the Ministry of the Attorney General for approval.

**The Short-Term Rental By-Law**

City of Kingston By-Law Number 2021-10, the Short-Term Rental By-Law, came into effect on June 1, 2021. As outlined in [Report Number 21-238](#), since the enactment of the By-Law, the City has received very few applications for short-term rental licences relative to the number of confirmed short-term rental listings identified by LTAS (Harmari). To date, the Licensing and Enforcement Division has focussed its efforts on public education and voluntary compliance with the By-Law. It is now appropriate to establish a system for enforcement of the By-Law.

**By-Law Enforcement**

Under the *Provincial Offences Act*, an enforcement officer can issue either (1) a Part I offence notice (i.e., a ticket) indicating a set fine, or (2) a Part III summons, for contraventions of municipal by-laws.

A Part III summons includes a court date and compels an individual’s attendance before the court for a hearing of the matter. This process requires significant court and law enforcement resources, which are paid for by the taxpayer. The Part III summons process is generally appropriate for more serious offences or repeat offenders.

Alternatively, a Part I offence notice (i.e., a ticket) with a set fine provides an individual with the option of settling the matter out of court by simply paying the ticket. It is important to note that receiving a Part I ticket does not preclude an individual from requesting a trial. An individual who receives a Part I ticket with a set fine can either pay the fine or request a trial before a Justice of the Peace in accordance with the *Provincial Offences Act*. Also, repeat offenders

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could still be prosecuted in court where the opportunity exists to seek a substantially higher fine.

Staff are requesting direction from Council to apply to the Province for set fine amounts pursuant to Part I of the *Provincial Offences Act*, as outlined in Exhibit A of this report. If Council does not approve set fines under the *Provincial Offences Act* for contraventions of the Short-Term Rental By-Law, enforcement officers will be required to issue a Part III summons in every instance.

### **Set Fine Amounts**

The Province has established a list of set fines for various offences prosecuted under the *Provincial Offences Act*. By way of example, the set fine for permitting an unlicensed person to drive a motor vehicle is \$200. The set fine for a defective braking system is \$400 and the set fine for driving with a hand-held communication device is \$500.

Similarly, set fines have been established and approved for contraventions of other by-laws in the City of Kingston, including the Animal Control By-Law, the Sign By-Law, the Noise By-Law, the Nuisance Parties By-Law, and the Open Air Fires By-Law. By way of example, the set fine for creating a nuisance party under the Nuisance Party By-Law is \$500. The set fine for attempting to obstruct or hinder an agent under the Nuisance Party By-Law is \$375.

Further to Council's direction, staff are recommending set fines ranging from \$180 to \$500 (plus mandatory court costs and victim fine surcharge), as set out in Exhibit A attached to this report, and subject to the approval of the Ministry of the Attorney General. This is generally in keeping with the administrative monetary penalty amounts previously proposed and is a reduction from the set fines previously recommended in Report Number 21-238, which ranged from \$250 to \$750.

In establishing set fine amounts for regulatory offences, the primary objective is deterrence. The penalty associated with the contravention must serve as an incentive to comply. In other words, on a cost-benefit analysis, it must be more costly to risk non-compliance. On that basis, most offences under the Short-Term Rental By-Law are proposed to have a set fine of \$180 (plus mandatory court costs and victim fine surcharge). This amount is similar to, but higher than, the average nightly fee charged by short-term rental operators, as provided by LTAS (Harmari). By making the amount of the fine higher than the average amount that would be received by the short-term rental operator, compliance with the By-Law is promoted.

Similarly, staff are recommending that the fine associated with operating a short-term rental without a licence be set at \$360, plus costs. This amount is similar to, but higher than, the cost of obtaining a short-term rental licence, thereby promoting compliance with the By-Law. Finally, the fines for obstruction and failing to comply with an order are proposed to be the same as the equivalent fines in other City of Kingston by-laws.

The following table outlines the set fine amount previously proposed for each offence under Report Number 21-238, as well as the set fine amount proposed in this report:

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<b>Offence</b>	<b>Set Fine Proposed under Report 21-238 (excluding court costs)</b>	<b>Revised Set Fine Proposed (excluding court costs)</b>
Market or permit the Marketing of a Short-term Rental without holding a valid Licence	\$500	\$180
Operate or permit to be operated a Short-term Rental without holding a valid Licence	\$750	\$360
Submit an application for a Licence that contains false, misleading or deceptive information	\$500	\$180
Permit a Short-term Rental in a Dwelling Unit in combination with a Bed and Breakfast accommodation	\$250	\$180
Operator fail to adhere to parking regulations	\$250	\$180
Operator fail to require guests to comply with parking regulations	\$250	\$180
Operator fail to provide every guest with emergency contact	\$250	\$180
Operator fail to ensure that emergency contact information is prominently displayed	\$250	\$180

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Operator fail to post a copy of the Licence in a prominent place	\$500	\$180
Operator fail to include the Operator’s Licence number in any Marketing medium or material	\$500	\$180
Operator fail to keep records as required	\$500	\$180
Operator fail to provide information to the Director	\$500	\$180
Obstruct or hinder or attempt to obstruct or hinder an Officer	\$500	\$500
Fail to comply with an order	\$500	\$375

It is important to note that approval of the proposed set fine amounts could take several months to obtain, depending on available resources, and enforcement officers will not be permitted to issue Part I tickets until that approval is in place.

**Existing Policy/By-Law:**

By-Law 2021-10, “A By-Law to Licence and Regulate Short-Term Rentals in the City of Kingston”

**Notice Provisions:**

None

**Accessibility Considerations:**

None

**Financial Considerations:**

None

**Contacts:**

Jenna Morley, Director, Legal Services & City Solicitor, 613-546-4291 extension 1365

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Sarah Gareau, Municipal Prosecutor and Senior Legal Counsel, Legal Services 613-546-4291 extension 1622

**Other City of Kingston Staff Consulted:**

Kyle Compeau, Manager, Licensing & Enforcement

**Exhibits Attached:**

Exhibit A – Set Fine Schedule

**Exhibit A to Report Number 21-261**

<b>COLUMN 1</b>	<b>COLUMN 2</b>	<b>COLUMN 3</b>
<b>Offence</b>	<b>Set Fine</b>	<b>Total Payable (including court costs)</b>
Market or permit the Marketing of a Short-term Rental without holding a valid Licence	\$180.00	\$220.00
Operate or permit to be operated a Short-term Rental without holding a valid Licence	\$360.00	\$450.00
Submit an application for a Licence that contains false, misleading or deceptive information	\$180.00	\$220.00
Permit a Short-term Rental in a Dwelling Unit in combination with a Bed and Breakfast accommodation	\$180.00	\$220.00
Operator fail to adhere to parking regulations	\$180.00	\$220.00
Operator fail to require guests to comply with parking regulations	\$180.00	\$220.00
Operator fail to provide every guest with emergency contact	\$180.00	\$220.00
Operator fail to ensure that emergency contact information is prominently displayed	\$180.00	\$220.00
Operator fail to post a copy of the Licence in a prominent place	\$180.00	\$220.00
Operator fail to include the Operator's Licence number in any Marketing medium or material	\$180.00	\$220.00
Operator fail to keep records as required	\$180.00	\$220.00
Operator fail to provide information to the Director	\$180.00	\$220.00
Obstruct or hinder or attempt to obstruct or hinder an Officer	\$500.00	\$615.00
Fail to comply with an order	\$375.00	\$465.00