

STAFF REPORT: Planning & Building Services Department



REPORT TO: Council
MEETING DATE: December 17, 2012
REPORT NO.: B.12.33
SUBJECT: Draft Short Term Accommodation Licencing By-law Consultation
PREPARED BY: David Finbow, Director, Planning & Building Services

A. Recommendations

THAT Council receive Staff Report B.12.33 "Short Term Accommodation Consultation" for information purposes.

B. Background

Council at its meeting of June 11, 2012 adopted the following resolution:

Moved by: Michael Martin Seconded by: Joe Halos

THAT Council receive Staff Report B.12.13 respecting "Short Term Accommodation Licencing Program";

AND THAT Council direct Town Staff to proceed with the finalization of a Draft Short Term Accommodation Licencing By-law based on the draft attached hereto;

AND THAT Council direct Town Staff to proceed with a Public Meeting so as to receive comments with respect to a Draft Short Term Accommodation Licencing By-law;

AND THAT Council, subject to enacting a Short Term Accommodation Licencing By-law, approve the start-up funding related to a Short Term Accommodation Licencing Program as outlined in this Report,

THAT the Planning & Building Committee recommends that Council direct staff to conduct stakeholder consultations regarding the draft Short Term Accommodation Licencing By-law and the Short Term Accommodation Licencing Program in advance of the scheduled public meeting, **CARRIED**.

Stakeholder consultation commenced on October 19, 2012 and continued until November 30, 2012.

The purpose of the consultation was to receive input on a Draft STA Licencing By-law; exchange information and ideas with stakeholders; and, to receive comments.

The consultation was advertised by way of the local newspapers, posting on the Town's website and e-mail blast to subscribers.

A dedicated webpage (<http://www.thebluemountains.ca/sta-consult.cfm>) was created entitled STA Licencing Consultation with a banner/link to the page on the Town's home page (see Appendix "A").

On October 19, 2012 the Director, Planning & Building Services, presented to the Georgian Triangle Association of Realtors and encouraged the membership to share the information presented to their clients involved in rentals and to visit the Town's dedicated STA Consultation webpage.

On November 13, 2012 the Director, Planning & Building Services and the Manager, Building & By-law Services met with representatives of the Blue Mountain Ratepayers Association to discuss the draft licencing by-law and a possible licencing program.

On November 16, 2012 the Director, Planning & Building Services met with representatives of various Condominium Corporations to discuss the draft licencing by-law and how the draft would potentially impact condominiums. It is noted that invitations for this meeting were sent out to all Standard Condominium Corporations in the municipality.

Concurrent with the noted process, the Draft Licencing By-law has been circulated to the Town's solicitor (Aird & Berlis LLP) for comments related to the law.

A total of 27 comments were received during the consultation period. These comments are now being consolidated into a document entitled "Short Term Accommodation Consultation Summary: Comments and Trends". This document, along with recommendations related to the Draft Licencing By-law will be presented to Council on January 21, 2013. At this meeting, Council will be requested to authorize Town staff to proceed with the scheduling of a Public Meeting for February 11, 2012 so as to receive comments with respect to the By-law.

C. The Blue Mountains' Strategic Plan

Providing a strong, well managed municipal government.

D. Environmental Impacts

N/A

E. Financial Impact

N/A

F. In Consultation With

Nil

G. Attached

STA Licencing Consultation Webpage

Respectfully submitted,

D. Finbow
Director, Planning & Building Services



OFFICIAL SITE OF
TOWN OF THE BLUE MOUNTAINS

HOME SITE MAP CONTACT US ONE CLICK AWAY

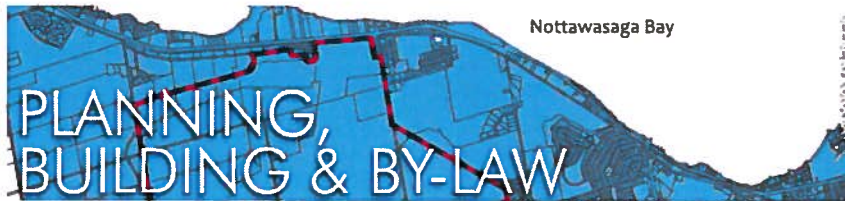
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Nottawasaga Bay



Development & Construction Projects

Frequently Asked Questions

Photo Galleries

Home ... By-law Enforcement ... Short Term Accommodation (STA) ... STA Licencing Consultation

STA LICENCING CONSULTATION

The Municipal Act, 2001, authorizes the council of every municipality to pass by-laws for licencing, regulating and governing any business carried on in the municipality. Further, the Municipal Act authorizes a municipality to require the payment of licence fees and to pass by-laws to impose fees or charges for permits and services (including administrative penalties).

Many municipalities in Ontario have enacted licencing by-laws to regulate and govern businesses. The types of businesses subject to licencing in Ontario include rooming houses, taxi and limousine services, residential rental units, places of amusement, bowling alleys, adult entertainment parlours and pawnbrokers.

The purpose of a Short Term Accommodation Licencing Program would be to protect the health, safety and welfare of those occupying the short term accommodation premises, minimize the impacts on residential neighbourhoods in terms of property standards, overcrowding and the related impact on neighbourhood spaces and amenities, lot maintenance and require that there be a person responsible and readily available for each short term accommodation premises so as to ensure that the premises is operated and occupied in accordance with the by-laws of the Town and Federal and Provincial Acts, Legislation and Regulations.

THE POTENTIAL BENEFITS OF A DRAFT SHORT TERM ACCOMMODATION LICENCING PROGRAM

1. Enhanced care and maintenance of short term accommodation premises;
2. ensuring that potential occupants are provided with safe accommodation in terms of the Ontario Fire Code, Electrical Code, etc.;
3. ensuring that premises are operated and maintained in a clean and appropriate standard in terms of the Town's Property Standards By-law;
4. identifying substandard short term accommodation premises;
5. ensuring that operators and occupants are apprised of their responsibilities in terms of Town By-laws, Federal and Provincial Acts, Legislation and Regulations including those related to public nuisance and the making of noises that are likely to disturb the inhabitants of the municipality;
6. providing operators with documented records of any conditions which contravene By-laws or Regulations such as the Ontario Fire Code;
7. protecting the amenities, character and quality of a neighbourhood;
8. providing the means for more effective and efficient accountability and enforcement; and
9. creating a fair playing field for all operators of short term accommodation uses.

With respect to a Short Term Accommodation Licencing Program in the Town of The Blue Mountains, Town Council at its meeting of June 11, 2012 directed that Town Staff proceed with the finalization of a Draft Short Term Accommodation Licencing By-law and that Town Staff proceed with stakeholder consultations respecting the Draft By-law in advance of future public meetings. To the right are links to the related Council Resolution and Staff Report.

CONTACTS

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DOWNLOADS

[Short Term Accommodation Staff Report B.12.13 June 2012](#) (105 KB)

[Short Term Accommodation: Council Resolution of June 2012](#) (39 KB)

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All documents found on our website can be made available in other accessible formats where practicable and upon request. [Printer Friendly Page](#)

HIGHLIGHTS OF THE DRAFT SHORT TERM ACCOMMODATION LICENCING BY-LAW

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- Required licencing for all short term accommodation premises within the Town with same being subject to conformance with Town By-laws, including Zoning By-laws and the Property Standards By-law, Ontario Fire Code, Electrical Safety Code and other legislation.
- Requiring that a responsible person be assigned to each short term accommodation premises so as to ensure that the premises are operated in accordance with Town By-laws and Federal and Provincial legislation.
- Addressing overcrowding of premises by limiting the occupant load of a bedroom to 2 persons.
- A process, including the hearing of appeals, related to suspending or revoking a licence.
- A system of administrative penalties related to operating a short term accommodation premises not in conformity with the licencing by-law.

DRAFT SHORT TERM ACCOMMODATION LICENCING BY-LAW

The consultation process for the draft short term accommodation licencing by-law took place from October to November 30, 2012. Town staff will now consolidate comments provided for Town Council's consideration on a Short term Accommodation Licencing Program. Staff will report to Council in the near future.

Residents and stakeholders wishing to comment on the draft were asked to comment on the following questions:

- Does the Draft By-law provide sufficient direction in terms of the expectations of the owners, operators and occupants of short term accommodation premises?
- Are there additional prerequisites to holding a licence that should be considered?
- Do you foresee any implementation challenges with the Draft By-law?
- What type of supporting material should the Town consider developing in support of the Short Term Licencing Program?
- A Town Council Public Meeting is typically held on a weekday evening. To gain the greatest input from all, should a Public Meeting related to the Draft By-law occur on a weekday evening or a weekend afternoon?
- Should the Town consider utilizing a Hearings Officer to address possible suspensions or revocations or a Licencing Committee?
- If a Licencing Committee is constituted, what are your thoughts in terms of the composition of the Licencing Committee? Should it be comprised of members of Town Council, members of the public or a broad cross section of stakeholders including short term accommodation owners/operators?

COMPONENTS OF THE DRAFT BY-LAW

1.0 DEFINITIONS

Action means a proceeding under Part I or Part III of the Provincial Offences Act;

Applicant includes a person seeking a licence or renewal of a licence or a person whose licence is being considered for revocation or suspension;

Building & By-law Services Division and Division mean the Building & By-law Services Division or, in the event of organizational changes, another unit designated by Council to carry out the Division's responsibilities for the administration and enforcement of this by-law;

Chief of Police means the local Ontario Provincial Police Detachment Commander;

Committee means the Committee to which Council has delegated the responsibility of handling licencing matters, including appeals, suspensions and revocations;

Council and Town Council mean the Council of the Town of The Blue Mountains;

Disturbance means an event where an action has commenced with respect to nuisance, noise or other disturbance;

Fire Chief means the individual appointed to this position by Council or his/her designate;

Health Unit means the Grey Bruce Health Unit;

Licence means a licence issued under this by-law;

Licencee means a person who holds a license under this by-law, and licenced and licenced business has a corresponding meaning;

Licensing Officer means the Manager, Building & By-law Services, or their designate;

Manager means the Manager, Building & By-law Services, or his/her designate;

Medical Officer of Health means the Medical Officer of Health of the Grey Bruce Health Unit;

Officer means the person, or persons, who have been appointed to enforce the provisions of this By-law and includes a provincial offences officer as defined by the Provincial Offences Act;

Person means a person as defined in the Interpretation Act; and includes a corporation;

Premises means any place, premises or location, or part thereof, in which a trade, business or occupation of short-term accommodation is carried on;

Property Standards By-law means the Property Standards By-Law of the Town enacted under section 15.1 of the Building Code Act that prescribes standards for the maintenance and occupancy of property;

Resident means a person who resides or has a regular place of business in the Town;

Responsible Person means the person assigned by the owner or operator of a short-term accommodation premises to ensure the premises are operated in accordance with the provisions of this By-law and the relevant provisions of the Fire Code and is also responsible for the conduct of the inhabitants of the short-term accommodation premises;

Short-term Accommodation means a building or structure or any part thereof that operates or offers a place of temporary residence, lodging or occupancy by way of concession, permit, lease, licence, rental agreement or similar commercial arrangement for any period less than thirty (30) consecutive calendar days, throughout all or any part of a calendar year. Short-term Accommodation uses shall not mean or include a motel, hotel, bed and breakfast establishment, tourist cabin or cottage, hospital, commercial resort unit, village commercial resort unit or similar commercial or institutional use;

Standard Condominium Corporation has the same meaning as set out in the Condominium Act and/or its related Regulations;

Town and Town of The Blue Mountains mean The Corporation of the Town of The Blue Mountains;

Zoning By-law means a by-law enacted under section 34 of the Planning Act that restricts the use of land.

Words or phrases contained herein and which are not defined by this by-law, are firstly to be assigned the definition or meaning attributable to them in the applicable zoning by-law and, failing such a definition or meaning, the everyday meaning of such word or phrase.

2.0 APPLICATION

2.1 The requirements of this by-law apply to the trade, business or occupation of providing short-term accommodation within the geographic limits of the Town.

2.2 For greater certainty, the requirements of this by-law do not apply to a hotel, motel, bed and breakfast establishment, tourist cabin or cottage, hospital, commercial resort unit, village commercial resort unit or similar commercial or institutional use.

3.0 LICENCING REQUIREMENTS

3.1 No person shall carry on any trade, business or occupation of short-term accommodation within the Town for which a license is required under this by-law unless that person has first obtained a license.

3.2 A person who obtains a licence shall comply with the regulations set out in this By-law for such licence. Failure to comply with the regulations constitutes an offence.

3.3 An agent, trustee or representative of persons who own, operate or offer a premise for short-term accommodation purposes without a licence shall also be personally liable for the compliance of his principal, beneficiary or persons he represents. Failure by such a person to comply with this By-law constitutes an offence.

3.4 Licences issued pursuant to this By-law are conditional on compliance by the licensee with all municipal by-laws, including, but not limited to, the Zoning By-laws and Property Standards By-law, and compliance with all Provincial and Federal Laws and Regulations.

3.5 Notwithstanding 3.1, a short-term accommodation premise contained within a standard condominium corporation is not subject to the requirements of this By-law unless the Board of Directors of the standard condominium corporation has advised the Manager, by way of the provision of a certified copy of the resolution of the Board, of its desire for all short term accommodation premises within the standard condominium corporation to be subject to the requirements of this By-law.

4.0 ADMINISTRATION

4.1 The Building & By-law Division is responsible for the administration and enforcement of this by-law.

4.2 Every application for a new license or a renewal or extension of an existing license shall be submitted to the Division on the forms prescribed.

4.3 Every application for a new licence or a renewal or extension of an existing licence shall include:

- (1) each owner, applicant and/or agent's name, address, telephone number, facsimile transmission number and e-mail address;
- (2) a copy of the transfer/deed evidencing the ownership of the premises;
- (3) the name, address, telephone number and e-mail address of a person who has been assigned by the owner or operator to be the responsible person for the operation and conduct of the inhabitants of the licenced short-term accommodation premises;
- (4) Proof of placement of insurance that includes a limit of liability of not less than \$2 million per occurrence for property damage and bodily injury;
- (5) floor plans and a site plan, drawn to scale and fully dimensioned, of the short-term accommodation premises depicting the use of the premises, including the proposed occupant per room, and the related site amenities including parking, landscaping and other buildings or structures on the land;
- (6) a statement from the Fire Chief, or his delegate, that the premises conforms to the Fire Protection and Prevention Act and its regulations; and,
- (7) a certificate issued by the Electrical Safety Authority that the premises conform to the Ontario Electrical Safety Code.

4.4 A licensee shall inform the Division promptly of any changes to the information provided in 4.3.

4.5 Every application for a new license or a renewal or extension of a license shall be accompanied by the full license fee as prescribed.

4.6 A license is valid for one calendar year and every licensee shall renew the license by December 31st of each year.

4.7 The license fee shall be reduced by 25 per cent if an application for a new license or renewal is submitted between July 1st and October 31st of the year preceding the licence year.

4.8 Despite sections to the contrary, the full license fee shall be paid, regardless of the date of application, if a person begins to carry on the business before submitting an application for a new license.

4.9 Adjustments in the fees prescribed shall automatically be effected each year based on the percentage change in the Consumer Price Index of Statistics Canada.

4.10 A licensee is not eligible for the renewal or extension of an existing license unless the licensee has paid the full license fee.

4.11 A licensee is not eligible for the renewal or extension of an existing license unless the licensee has provided an application form annually.

4.12 A license is not transferable.

4.13 No person shall enjoy a vested right in the continuance of a licence and upon issuance, renewal, cancellation or suspension; a licence shall remain the property of the Town.

4.14 An applicant shall provide, if requested, evidence that the use of the short-term accommodation premises is protected by virtue of Section 34(9) (b) of the Planning Act with such evidence including, but not be limited to, a duly sworn Statutory Declaration confirming the continued use of the premises for short-term accommodation purposes from prior to the enactment through to the present, rental receipts, advertisements and any other records that may be relevant.

4.15 Every application for a license will be reviewed to determine whether it meets all of the general regulations set out in Part 5, General Regulations.

4.16 As part of the review referenced at 4.15, the application will be circulated to a department or agency including the Chief of Police, Fire Chief, Medical Officer of Health, Building & By-law Services Division and the Planning Services Division.

4.17 Where an application is circulated to a Department or Agency, the Department or Agency may require an inspection of the proposed place of business. In the instance of the requirement of the payment of fees by a Department or Agency for such inspection, the applicant shall pay such fees as required.

4.18 If it is determined that an application meets the requirements of this by-law and all circulated agencies, the Manager shall issue the license if the license fee has been paid.

4.19 If it is determined that an application does not meet the requirements of this by-law, or is objected to by a circulated agency, the Manager shall refuse the issuance of the licence.

4.20 If, at any time, the Manager determines, as a result of evidence that is provided, that the operation of a licensed short-term accommodation premises does not conform to the requirements of this by-law, the Manager may suspend or revoke the license.

4.21 A person whose application for a new license or a renewal of a license has been refused or a person whose license has been suspended or revoked may, within fifteen days of being notified of the Manager's decision, apply to the Committee for a review of the decision.

Note: The creation of a Committee or the utilization of a Hearing Officer is to be specifically reviewed as part of the stakeholder consultation.

4.22 A person who wishes to appeal the Manager's decision to the Committee shall file an application for a hearing and pay the fee as prescribed.

4.23 A person who has applied for a review of the Manager's decision will be given an opportunity to make written representations to or to appear before the Committee when it reviews the matter.

4.24 The Committee will review the matter and may affirm the decision of the Manager or direct him to issue, renew or reinstate the license.

4.25 Decisions of the Committee are final.

5.0 GENERAL REGULATIONS

5.1 No person shall carry on any trade, business or occupation of short-term accommodation within the Town for which a license is required under this by-law unless that person has first obtained a license.

5.2 No person shall carry on any trade, business or occupation of short-term accommodation for which a license is required under this by-law:

- (i) if the license has expired or been revoked; or,
- (ii) while the license is under suspension.

5.3 If work that requires a building permit under the Building Code Act is to be undertaken on the short term accommodation building or structure to be used for carrying on such a business, a person shall not submit an application for a license until the work has been completed in accordance with the requirements of that Act and the Building Code.

5.4 A person is not eligible to hold a license if the proposed use of the land, building or structure is not permitted by the zoning by-law that applies to the property.

5.5 A person is not eligible to hold a license if the person is indebted to the Town in respect of fines, penalties, judgments or any other amounts owing, including awarding of legal costs and disbursements and including outstanding property taxes and late payment charges against all properties owned by the license applicant under the terms of this By-law.

5.6 A person is not eligible to hold a license if the property to be used for carrying on the trade, business or occupation does not conform with applicable Federal and Provincial Law and Regulations or municipal by-laws, including, but not limited to, the Property Standards By-law; the Building Code Act; the Building Code; the Fire Protection and Prevention Act; the Fire Code; the Ontario Electrical Safety Code; or, an order of the Medical Officer of Health.

5.7 Despite Section 5.6 a conditional license may be issued to the applicant if it is determined by the Committee that the deficiencies found can be remedied within a specified time frame in order to come into compliance, and if the deficiencies are not likely to be a danger to the public. For greater certainty, a conditional license shall not be issued in the instance where the Fire Chief has determined that the use of the premises for short term accommodation purposes is non-compliant with the Ontario Fire Code.

5.8 Any conditional licenses shall clearly state the duration of the temporary license and if the applicant fails to come into compliance with any Act, Code, Regulation or By-law within the time specified then the license shall become null and void.

5.9 The maximum number of occupants per bedroom shall be two persons.

5.10 No beds or bunks shall be placed one above another.

5.11 The license holder shall at all times keep a record of the renter with such record containing the date of entry, the length of stay and home address of the renter and such record shall be open for inspection at all times by an Officer.

5.12 A licensee shall display the license permanently in a prominent place in the short-term accommodation premises to which it applies.

5.13 Every licensee shall produce the license for inspection on the request of an authorized employee or agent of the Town.

5.14 The owner or operator of a short-term accommodation premise shall ensure that there is a responsible person available to attend to the short-term accommodation premises at all times within a period of no greater than one hour from the time of contact by way of telephone or e-mail.

5.15 Every owner or operator of a short-term accommodation premise for which a license is required under this by-law shall allow, at any reasonable time, an employee or agent of the Town to inspect the premises used for the purposes of short-term accommodation so as to determine compliance with the requirements of this by-law.

5.18 No person shall obstruct, hinder or otherwise interfere with an authorized employee or agent of the Town while carrying out an investigation, making inquiries, or performing an inspection for the purposes of enforcing this by-law.

5.19 No licensee shall construct or equip a place of business or premises used for the business so as to hinder the enforcement of this By-law.

5.19 Every licensee shall maintain the short-term accommodation premises in a clean and sanitary condition, with adequate measures for the storage and disposal of garbage and waste and sufficient levels of illumination to permit the safe use of the premises. For the purposes of this subsection, adequate measures for the storage and disposal of waste shall mean a self enclosed building, structure or container, located outside of the short-term accommodation premises, which is of a sufficient size that will store the garbage and waste generated by the premises until such garbage and waste is disposed of.

5.20 Every licensee shall ensure that the short-term accommodation premises is operated and used in a fashion such that the operation or use will not cause a disturbance.

5.21 Every licensee shall provide an undertaking to operate the short-term accommodation premises in accordance with all Town By-laws including, but not limited to, the Town's Noise Control By-law, Property Standards By-law and Garbage Collection By-laws, and any applicable Provincial or Federal laws or statutes including the Ontario Fire Code and laws related to the making of a disturbance. Further, every licensee shall include in such undertaking a confirmation that they will require that each renter comply with all Town By-laws and any applicable Federal and Provincial laws or statutes.

5.22 No licensee or employee of a licensee shall discriminate in the carrying on of the trade, business or occupation of short-term accommodation against any member of the public on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability.

5.23 No licensee or employee of a licensee shall refuse to permit a person to enter and remain in a place of business or premises to which the public are customarily admitted for the reason that he or she is a blind person accompanied by a guide dog.

6.0 LICENCING COMMITTEE

6.1 Council shall appoint a Licencing Committee.

6.2 The term of the Committee shall coincide with the term of Council.

6.3 The Committee shall be comprised of a minimum of three members with three members constituting a quorum.

6.4 The Committee shall hear all matters of dispute under the terms of this By-law save and except for determinations related to conformity with applicable Federal and Provincial Law and Regulations or municipal by-laws, including, but not limited to, the Property Standards By-law; the Building Code Act; the Building Code; the Fire Protection and Prevention Act; the Fire Code; or, an order of the Medical Officer of Health.

6.5 A fee as prescribed shall be payable by the applicant for each matter referred to the Committee.

Note: The creation of a Committee or the utilization of a Hearing Officer is to be specifically reviewed as part of the stakeholder consultation.

7.0 REVOCATION AND SUSPENSION

7.1 In accordance with 4.20, the Manager may suspend or revoke a licence.

7.2 The Committee may revoke, suspend, impose any condition upon, or refuse to issue or renew any licence to any person under this By-law.

7.3 The Committee, in exercising the discretion mentioned in 7.2, may consider any matter raised in this By-law.

7.4 The Committee may review, confirm, modify or rescind any administrative penalty issued.

7.5 Should a short-term accommodation premise be used or operated in a fashion that has caused a disturbance, the Chief of Police, or the Manager shall refer the matter to the Committee and the Committee may suspend or revoke the licence.

7.6 Regard to the nature, severity and frequency of the disturbances shall be considered by the Committee in considering the suspensions and/or revocations referenced in 7.5.

7.7 Should a short-term accommodation premise be determined by the Fire Chief to be in non-compliance with the Ontario Fire Code, the Committee shall suspend or revoke the licence.

7.8 Decisions of the Committee are final.

8.0 OFFENCE AND PENALTY PROVISIONS

8.1 Any person who contravenes any provision of this by-law is guilty of an offence and, upon conviction, is subject to a fine as provided in the Municipal Act, 2001 or the Provincial Offences Act and to any other applicable penalties.

8.2 If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

8.3 If this by-law is contravened and a conviction entered, the court may also order that the premises or part of the premises be closed to any use as short-term accommodation.

9.0 ADMINISTRATIVE PENALTIES

9.1 Any person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Section 7.2 of this By-law, be liable to pay to the Town an administrative penalty in the amount of \$250.00.

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

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

- (i) Particulars of the contravention;
- (ii) The amount of the administrative penalty;
- (iii) Information respecting the process by which the person may exercise the person's right to request a review of the administrative penalty; and,
- (iv) A statement advising that an administrative penalty will, unless modified or rescinded pursuant to the review process, constitute a debt to the Town.

9.4 A person may appeal an administrative penalty to the Committee.