

THE CORPORATION OF THE TOWN OF GANANOQUE
BY-LAW NO. 2019-123

A BY-LAW TO LICENSE, REGULATE AND GOVERN THE OPERATION OF SHORT-TERM
ACCOMMODATIONS IN THE TOWN OF GANANOQUE

WHEREAS Section 8 (1) of the *Municipal Act* 2001. S.O. c. 25 ("Municipal Act") provides the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues.

AND WHEREAS pursuant to Section 9 of the *Municipal Act* Part II, 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 pursuant to Section 10 of the *Municipal Act*, a municipality has the authority to implement business licensing in the interest of health and safety, well-being of persons, consumer protection and nuisance control;

AND WHEREAS Sections 390 to 400 of the *Municipal Act* enables a municipality to pass By-laws for imposing fees or charges for permits and services provided or done by them;

AND WHEREAS pursuant to Section 434.1 of the *Municipal Act*, a municipality has the authority to impose a system of administrative penalties and fees as an additional means of encouraging compliance with this By-law;

AND WHEREAS Section 436 of the *Municipal Act* permits a municipality to pass By-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a By-law direction, order or Licence;

AND WHEREAS Section 444 of the *Municipal Act* provides that if a municipality is satisfied that a contravention of a By-law of the municipality passed under this Act has occurred, 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 WHEREAS the Committee of the Whole reviewed Report COW-CD-2019-15, and concurs with the staff recommendation to pass a By-law to licence, regulate and govern the operation of Short-Term Accommodations;

AND WHEREAS Council has enacted its Development Permit By-law No. 2010-065 and amending By-law No. 2019-125 under the provisions of the *Planning Act*, R.S.O. 1990, c. P13, as amended, with respect to Short-Term Accommodations within the municipality and having done so desires to provide for a system of licensing to implement said policies and provisions;

AND WHEREAS pursuant to Section 151 of the *Municipal Act*, Council is exercising its authority to provide for a system of licences with respect to Short-Term Accommodation businesses;

AND WHEREAS the Council of the Corporation of the Town of Gananoque deems it appropriate to pass such a By-law.

AND WHEREAS the Council of the Corporation of the Town of Gananoque considers it advisable that such licensing, regulation and governing takes place with regard to Short-Term Accommodations as defined in this By-law.

NOW THEREFORE be it resolved that the Council of the Corporation of the Town of Gananoque enacts as follows:

1. DEFINITIONS AND INTERPRETATION:

- 1.1. **Accessory** means a use customarily incidental and subordinate to the main use or main building and located on the same lot with such principal use or principal building.
- 1.2. **Accommodation Unit** means a room or suite of rooms within a Bed and Breakfast establishment, Heritage Tourist Inn, or short-term accommodation designed to provide accommodation, which may or may not include a kitchen. An accommodation unit is not a dwelling unit.
- 1.3. **Bed & Breakfast Establishment** means an owner-occupied private single-family dwelling that is the owner's principal residence and in which the owner has control of the environment. It provides temporary accommodations for no more than three (3) guest rooms to the travelling public not exceeding twenty-eight (28) consecutive days and amenities and services auxiliary to guest accommodation and may include the preparation and service of breakfast for an all-inclusive fee.
- 1.4. **Building** means any structure used or intended for sheltering any use or occupancy. The word "building" shall include the whole of such structure or part hereof and shall include any building types as regulated by the *Ontario Building Code Act*.
- 1.5. **Business, Short-Term Accommodation** shall mean the business of making or attempting to earn revenue by engaging in or by advertising the availability of a Short-Term Accommodation for a fee charged or other good and valuable consideration.
- 1.6. **By-law Enforcement Officer** or his or her designate shall mean a person appointed for the purposes of enforcing the By-laws of the Town, including the Chief Fire Official or designate, who is duly appointed by the Council of the Corporation for the purpose of enforcing the provisions of the Corporation's By-laws.
- 1.7. **Chief of Police** shall mean the Chief of Police of the Gananoque Police Department or his/her designate as appointed by the Town.
- 1.8. **Council** means the Council of the Corporation of the Town of Gananoque.
- 1.9. **Development Permit By-law** or Designation shall mean a by-law enacted under the *Planning Act* that designates and restricts the use of the land, as amended from time-to-time.
- 1.10. **Dwelling Unit** means a building occupied or capable of being occupied as the home or residence of one or more persons, where food preparation and sanitary facilities are provided, but shall not include a boarding house, mobile home or recreational vehicle, hotel, motel, rental cottage or cabin, or similar commercial use of a private or semi-private institution. For the purposes of this By-law, a dwelling unit does not include a tent, trailer, mobile home, or a room or suite of rooms in a boarding or rooming house, a hotel, motel, or motor home.
- 1.11. **Dwelling, Principal Residence** means a dwelling that is owned or jointly with another person, where the person(s) is ordinarily a resident and has designated the dwelling as their principal place of residency on their income tax filing and in other government records.

- 1.12. **Guest Room** means a room or suite of rooms used or maintained for the accommodation of individuals to whom hospitality is extended for compensation.
- 1.13. **Heritage Tourist Inn** means an owner-occupied building with historic and architectural merit on a large property in which no more than six (6) guest rooms are made available for the temporary (no more than twenty-eight (28) days) accommodation of the travelling public. Such an establishment may offer meals to guests staying at the Inn, but shall not offer services to non-guests.
- 1.14. **Licence** means the certificate or other similar document issued pursuant to this By-law as proof of licensing under this By-law.
- 1.15. **License Fee** means the fee set out in the General Fees and Rates By-law that is required to be paid to the Town for a new license or a licence renewal.
- 1.16. **Licensed** means to have in one's possession a valid and current Licence issued under this By-law and unlicensed has the contrary meaning.
- 1.17. **Licensee** means a person issued a Licence under this By-law to operate a Short-Term Accommodation.
- 1.18. **Licence Issuer** means any person or persons provided the authority by the Town to issue a Licence under this By-law.
- 1.19. **Manager of Planning and Development** shall mean the person appointed for the purposes of enforcing the Short-Term Accommodations By-law or their designate as appointed by the Town.
- 1.20. **Owner** means any person(s) or corporation who is a registered owner, has a legal or equitable interest, has a legal right to obtain possession, and who has control or management of any Property, land, building or structure. In the case of a Corporation, the Corporation's authorized signing officer is considered the Owner for the purposes of this By-law.
- 1.21. **Parking Area** means an area provided for the parking of motor vehicles and may include aisles, parking spaces, pedestrian walkways, and related ingress and egress lanes, but shall not include any part of a public street.
- 1.22. **Property** means any lot, block or other area in which land is held or into which it is subdivided, including the buildings and structures thereon.
- 1.23. **Renter** means the person, who has obtained entitlement to exclusive use of the Short-Term Accommodation from the Licensee.
- 1.24. **Responsible Person** means the owner or an agent assigned by the owner or Licensee of the Short-Term Accommodation to ensure the Short-Term Accommodation is operated in accordance with the provisions of this By-law, the license and applicable laws.
- 1.25. **Secondary Suite** means a dwelling unit within a single-detached house, semi-detached house, or townhouse; or within a detached structure accessory to a primary dwelling.
- 1.26. **Short-Term Accommodation or STA** means a portion of a dwelling or dwelling unit, that is owner-occupied and rented for a period of less than twenty-eight (28) days and includes a Bed and Breakfast, Heritage Tourist Inn, but does not include a motel, hotel or accommodations where there is no payment exchanged.

1.27. **Town** means the Corporation of the Town of Gananoque.

1.28. **Town Clerk** means the person or his/her designate as appointed by the Council of the Town.

2. GENERAL PROVISIONS APPLICABLE TO ALL SHORT-TERM ACCOMMODATION(S) (STAs)

2.1. No person shall use or operate any Short-Term Accommodation unless he or she holds a current Licence issued pursuant to this By-law.

2.2. No person shall advertise a Short-Term Accommodation without a Licence.

2.3. No Licensee shall rent any guest room in an STA other than a guest room that was identified and approved as such on the floor plans submitted with the Application for the Short-Term Accommodation Licence.

2.4. A Short-Term Accommodation shall only be permitted in areas where it is a permitted use as set out in the Town's Development Permit By-law.

2.5. All Short-Term Accommodations, Bed and Breakfast, Heritage Tourist Inns shall apply and be approved for a Development Permit.

2.6. Permitted Renter occupancy shall be the sum of all guest rooms in the Short-Term Accommodation, and shall not exceed two (2) persons per guest room for a maximum of twelve (12) persons per Short-Term Accommodation, on any one (1) property.

2.7. Short-Term Accommodations shall comply with all applicable Municipal By-laws including, but not exclusive to, the Development Permit By-law, Noise By-law, Open Air Burning By-law, Ontario Building Code and other provincial legislation.

2.8. The following shall be made available to guests:

2.8.1. A copy of the current Licence shall be visibly displayed within the Short-Term Accommodation and available for inspection by Town staff;

2.8.2. A copy of the current Town Noise By-law 2010-046, as amended;

2.8.3. A copy of the current parking provisions for Short-Term Accommodations as described in the Town's Development Permit By-law 2010-065, and;

2.8.4. A copy of the approved floor plans identifying the rooms and also showing exits and fire escape routes.

2.9. A Short-Term Accommodation may display one (1) sign issued in accordance with the Town Sign By-law.

2.10. A Short-Term Accommodation shall have a civic address installed clearly and conveniently read from the street.

2.11. The Licensee shall be responsible for maintaining the amenity and parking areas and ensuring that guests use only the areas designated within the approved Licence.

2.12. Building and Fire Code requirements:

2.12.1. All STA's shall comply with the Ontario Fire Code.

2.12.2. Fire safety plans are required for all STA's with sleeping accommodations for 10 or more people.

2.12.3. The Licensee shall obtain a burn permit if an outdoor fireplace is to be allowed on the Property, in accordance with requirements of the Town's Open-Air By-law.

- 2.12.4. A minimum 2lb ABC Fire Extinguisher shall be installed on every level of the STA and a 5BC extinguisher installed in every kitchen.
- 2.12.5. Smoke alarms shall be installed in every sleeping room, in every corridor serving a sleeping area and every level of the building.
- 2.12.6. Carbon monoxide alarms shall be installed outside of each sleeping area in an STA with any fuel fired appliances or the STA includes an attached garage. One also shall be installed in the room that contains the fuel fired appliance.
- 2.12.7. All life safety equipment shall be inspected and tested in accordance with the Ontario Fire Code and applicable standards. Documentation and related records shall be kept on-site for a minimum of two (2) years.
- 2.12.8. All STA's shall be available for fire inspection as per Gananoque Fire Service POL-0016, Schedule 'A'.

3. LICENCE APPLICATION AND ISSUANCE:

- 3.1. A prescribed application for a Licence for a Short-Term Accommodation shall be submitted to the Town and shall include a clear and legible floor plan and site drawing or sketch showing:
 - 3.1.1. Civic address and legal description of the Property;
 - 3.1.2. A photograph of the front of the dwelling;
 - 3.1.3. A floor plan with accurate dimensions showing an emergency evacuation plan inclusive of each bedroom, sleeping area, smoke alarm, extinguisher and existing egress door or window;
 - 3.1.4. The location of the building on the Property with setbacks indicated from all Property lines;
 - 3.1.5. The location and dimension of the parking area and the required parking spaces;
 - 3.1.6. The location of the driveway access to the required parking spaces;
 - 3.1.7. The location and dimensions of the outdoor amenity area(s) and;
 - 3.1.8. Fencing, landscaping or other buffering, if required.
- 3.2. The Application shall identify:
 - 3.2.1. The number of guest rooms.
 - 3.2.2. The maximum number of guests to be accommodated.
 - 3.2.3. The registered owner and contact information.
 - 3.2.4. The Owner and, if applicable, Agent (alternative) person and related contact information.
 - 3.2.5. The Licence Number of any previous Short-Term Accommodation Licence.
- 3.3. The Application information shall include proof satisfactory to the Town, such as an insurance certificate from the Applicant's insurer, that:
 - 3.3.1. The Applicant has sufficient general liability insurance in the amount of no less than \$2 million;
 - 3.3.2. The Applicant's insurance policy contains coverage for damage from fire and does not prevent the applicant from using the subject Property as a Short-Term Accommodation, and;
 - 3.3.3. The Applicant's insurance is cancellable by the Applicant's insurer on no more than thirty (30) days' prior notice.
- 3.4. The Applicant shall pay the required licensing fee as per the Town's General Fees and Rates By-law.
- 3.5. Upon receipt of a complete Application and the payment of the Licensing fees, the Licence Issuer shall, in the case of both new and renewal Applications review the Application and if in compliance with this By-law, will issue the Licence. The Licence Issuer may request comments from other departments or agencies and attach conditions to the Licence.

- 3.6. A Licence for a Short-Term Accommodation may not be renewed or extended unless the Licensee has submitted a completed Application form and the applicable fee.
- 3.7. A Short-Term Accommodation Licence that has been issued pursuant to this By-law shall expire upon the earliest of the following events:
- 3.7.1. Midnight on December 31 of each year; or
 - 3.7.2. Upon the sale or transfer of the Short-Term Accommodation to a person other than a Licensee;
 - 3.7.3. A Short-Term Accommodation Licence cannot be assigned or transferred from the Licensee to another party.
 - 3.7.4. Notwithstanding Section 3.7.1 new licenses issued in a calendar year may be pro-rated accordingly.
- 3.8. Any person applying for a Licence is responsible for coordinating and arranging with the Town an inspection of the property, if required, as a condition to and prior to receiving a Licence to ensure compliance with the following:
- 3.8.1. Provisions of this By-law;
 - 3.8.2. Ontario Fire Code;
 - 3.8.3. Ontario Building Code;
 - 3.8.4. Property Standards By-law, and;
 - 3.8.5. Development Permit By-law.
- 3.9. The Licensee shall be responsible for informing the Town in writing of any changes to the approved information contained within the Licence Application or any deviation to the approved plans within seven (7) days of such change or deviation. Nothing herein allows a Licensee to rent rooms other than those identified and approved on the floor plans submitted with the Application for a Licence unless the Town has approved same.
- 3.10. Upon determination by the Manager of Planning and Development that information requirements and all regulatory and By-law requirements of the Town are met, a Licence shall be issued and remain valid for one (1) year, unless revoked. A Licence may be renewed without inspection if an affidavit from the Owner is received indicating that no changes to the building, Property or operations have occurred. An inspection is mandatory every four (4) years for a Short-Term Accommodation.
- 3.11. Licences are not transferable and shall remain the property of the Town.
- 4. LICENCE DENIAL, SUSPENSION OR REVOCATION:**
- 4.1. The Licence Issuer may refuse to issue or revoke a Licence if one or more of the following circumstances are met:
- 4.1.1. If the information submitted on the Application is incomplete, incorrect, false or misleading, or;
 - 4.1.2. Where all the required taxes, fees, administrative monetary penalties or municipal charges have not been paid;
 - 4.1.3. Fire Code deficiencies are not repaired;
 - 4.1.4. where a Licence has been previously revoked, suspended, made subject to special condition(s) or has presented a history of contravention with this or other Town By-laws;
 - 4.1.5. Where the Applicant is in breach of any provisions of the By-law or the Short-Term Accommodation does not comply with any provision of this By-law any breach of the provisions of any other Town By-law or regulations, or;
 - 4.1.6. Refusal to comply with any notice of violation within seventy-two (72) hours.

- 4.2. Notwithstanding the above, if satisfied that the continuation of the Licence poses an immediate danger to the health or safety of any person, the Licence issuer may, for the time and such conditions as are considered appropriate and without a hearing, suspend a Licence for not more than fourteen (14) days, and, prior to suspending the Licence, shall provide the Licensee with the reasons for the suspension, either orally or in writing, with an opportunity to respond to them.
- 4.3. Where the Municipal By-law Enforcement Officer has issued three (3) or more notices to comply with this By-law within a six (6) month period, the license may be revoked.
- 4.4. The Licensee shall provide the Town with five (5) days prior written notice of its intent to cancel and not replace any insurance policy noted or submitted in the completed Licence Application. Failure to retain insurance as required under this By-law will result in automatic revocation of the Licence.
- 5. INSPECTION:**
- 5.1. A Municipal By-law Enforcement Officer may at any reasonable time inspect any premises or place where a Licence has been issued under this By-law to determine compliance to this By-law.
- 5.2. To obstruct or permit the obstruction of an inspection is deemed an offence.
- 6. LICENCE FEES NON-REFUNDABLE AND PENALTIES:**
- 6.1. The application fee is non-refundable regardless of the ultimate disposition of the Licence Application.
- 7. ADMINISTRATION AND ENFORCEMENT:**
- 7.1. The By-law Enforcement Officer shall be responsible for the enforcement of this By-law.
- 7.2. Every person who contravenes any provision of this By-law is guilty of an offence and all contraventions of this By-law are designated as continuing offences pursuant to section 429 of the *Municipal Act*.
- 7.3. When, in the opinion of the Municipal By-law Enforcement Officer, a violation of this By-law has occurred or exists, the Municipal By-law Enforcement Officer may issue a written compliance notice to the alleged violator. The notice shall specify those sections of the By-law which are in violation and shall state that the violator has seventy-two (72) hours from the delivery of the notice in which to correct the alleged violation, failing which the Town may correct the alleged violation at the expense of the Owner/Licensee.
- 7.4. Notwithstanding Subsection 2.12. above, Fire Code compliance is the responsibility of the Owner, and infractions shall be remedied forthwith.
- 7.5. Service of any notice under this Section shall be carried out by personal service or Registered Mail addressed to the Licensee at the address shown as the Licensee's address on the Application.
- 7.6. Every person who contravenes any of the provisions of this By-law, including those contained in any of the Schedules and every director of a corporation who concurs in such contravention by the corporation is guilty of an offence and may be subject to an administrative penalty or as an offence and conviction liable to a fine in keeping with the provisions of the *Provincial Offences Act*.
- 7.7. Pursuant to Section 447 of the *Municipal Act*, where an owner is convicted of knowingly carrying on or engaging in the business of operating a Short-Term Accommodation in respect of any Property or any part of any Property without a Licence required by this By-law, or a person is convicted of any other contravention of this By-law a court determines that the owner or occupant of the

Property or part of the Property in respect of which the conviction was made knew or ought to have known of the conduct which formed the subject-matter of the conviction or of any pattern of similar conduct, the court may order that the Property or part of the Property be closed to any use for a period not exceeding two (2) years.

8. ADMINISTRATIVE PENALTY:

- 8.1. A Municipal Law Enforcement Officer who finds that a responsible person has contravened any provision of this By-law may issue a notice addressed to that person advising that person that he or she has failed to comply with a provision to this By-law and that he or she is subject to paying an administrative penalty as a consequence of that non-compliance.
- 8.2. Any person who is issued a penalty notice pursuant to Section 8.1 above shall be liable to pay the Town the administrative fee as outlined in the Town General Rates and Fees By-law, as approved by Council from time-to-time.

9. APPEAL:

- 9.1. An Applicant, whose Application has been refused, or a Licensee, whose Licence has been revoked, and is not satisfied with the terms or conditions as to why this action was taken, may apply for an appeal of this decision to Town Council.
- 9.2. Every person who initiates an appeal of a decision shall submit a notice of appeal;
 - 9.2.1. Within fourteen (14) days of a refusal or revocation;
 - 9.2.2. With the non-refundable required appeal fee as detailed in the Town's General Fees and Rates By-law, and;
 - 9.2.3. By written correspondence to the Clerk.

10. APPEAL HEARING:

- 10.1. Council shall hear and render a decision on an appeal under Section 10 of this By-law in an expeditious manner.
- 10.2. In considering an appeal, Council has the same powers as the municipal official who may issue or revoke a Licence and may:
 - 10.2.1. Rescind the refusal or revocation action, or;
 - 10.2.2. Confirm the refusal or revocation action, or;
 - 10.2.3. Modify the action and create requirements of compliance.
- 10.3. The decision of Council on any appeal is final.

11. CONFLICT AND SEVERABILITY:

- 11.1. If any portion of this By-law of the Town is found to be in conflict with any other provision of any Development Permit, Building, Fire, safety or other By-law of the Town or regulations, the *Ontario Building Code Act*, the Ontario Fire Code or other provincial legislation, the provision which establishes the higher standard shall prevail.
- 11.2. If any provision or requirement of this By-law or the Application thereof to any person shall to any extent be held to be invalid or unenforceable, Council intends the remainder of this By-law or the Application of such provision or requirement to all persons other than those to whom it is held to be invalid or unenforceable to not be affected hereby and each provision and requirement of this By-law shall be separately valid and enforceable to the fullest extent permitted by By-law.

12. EFFECTIVE DATE AND TRANSITION PROVISIONS:

- 12.1. This By-law shall come into full force and effect upon enactment of the By-law at which time all By-laws that are consistent with the provisions of this By-law and the same are hereby repealed insofar as it is necessary to give effect to the provisions of this By-law.

12.2. Development Permit By-law Conformity:

12.2.1. A Property that is subject to a use that is not in conformity to the permitted uses of the Development Permit By-law No. 2010-065, as amended, shall not be issued a Licence.

13. SHORT TITLE

13.1. This By-law shall be known as the "Short Term Accommodation (STA) Licencing By-law".

Read a first, second and third time and finally passed this 17th day of December, 2019.



Ted Lojko, Mayor



Penny Kelly

(Seal)

Town of Gananoque
Part I Provincial Offences Act
By-law No. 2019-123: Short-Term Accommodations Licensing
Schedule 'A'

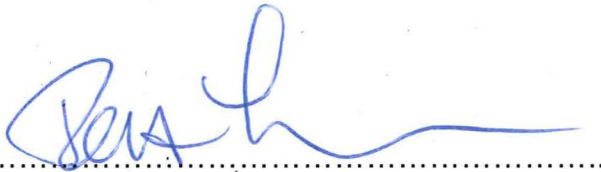
ITEM #	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Did fail to obtain a License	2.1	\$ 1,000.00
2	Did advertise without obtaining a license	2.2	\$ 250.00
3	Did rent a room that was not approved	2.3	\$ 250.00
4	Did operate without complying with Municipal Bylaw and/or provincial legislation	2.6	\$ 750.00
5	Did fail to display their licence	2.7.1	\$ 250.00
6	Did not inform the Town of any changes	5.9	\$ 250.00

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2019-123, of the Town of Gananoque, Leeds and Grenville Counties, attached hereto is the set fine for that offence. This Order is to take effect on March 12th, 2020.

Dated at Ottawa this 12th day of March 2020.



.....
Jean G. Legault, Regional Senior Justice
Ontario Court of Justice
East Region

Town of Gananoque
Part I Provincial Offences Act
By-law No. 2019-123: Short-Term Accommodations Licensing
Schedule 'A'

ITEM #	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Operate Short-Term Accommodation without licence	2.1	\$ 1,000.00
2	Did advertise without obtaining a license	2.2	\$ 250.00
3	Did rent a room that was not approved	2.3	\$ 250.00
4	Exceed number of permitted guests	2.6	\$ 750.00
5	Did fail to display their licence	2.8.1	\$ 250.00
6	Did not inform the Town of any changes	3.9	\$ 250.00

Note: The general penalty provision for the offences listed above is section 7.6 of By-law No. 2019-123, a certified copy of which has been filed.

Approved
Bert Arn
RST
March 14/20.

Town of Gananoque
Part I Provincial Offences Act
By-law No. 2019-123: Short-Term Accommodations Licensing
Schedule 'A'

ITEM #	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Operate Short-Term Accommodation without licence	2.1	
2	Did advertise without obtaining a license	2.2	
3	Did rent a room that was not approved	2.3	
4	Exceed number of permitted guests	2.6	
5	Did fail to display their licence	2.8.1	
6	Did not inform the Town of any changes	3.9	

Note: The general penalty provision for the offences listed above is section 7.6 of By-law No. 2019-123, a certified copy of which has been filed.