

## **BY-LAW NO. 23-01**

### **A BY-LAW RELATING TO A TOURISM ACCOMMODATION LEVY IN THE TOWN OF SAINT ANDREWS**

BE IT ENACTED by the Council of the Town of Saint Andrews, under the authority vested in it by the *Local Governance Act*, [ch. 2017, c18, Sections 19.1 and 101.1 – 101.3](#), and amendments thereto, hereby makes and enacts this By-Law as follows:

#### **1. TITLE**

- 1.1. This By-Law may be cited as the Tourism Accommodation Levy By-Law of the Town of Saint Andrews.

#### **2. DEFINITIONS**

- 2.1. In this By-Law, unless the context otherwise requires:
  - 2.1.1. "Council" means the Council for the Town of Saint Andrews.
  - 2.1.2. "Guest" means an individual or group that acquires accommodation under this By-Law.
  - 2.1.3. "Levy" means the Tourism Accommodation Levy.
  - 2.1.4. ["Mutual Shared Services" means that projects can be combined between Tourism Development and Tourism Promotion that jointly benefit tourism initiatives in the community. For example, staffing, transit, etc.](#)
  - 2.1.5. "Operator" means any person who sells, offers to sell, provides, and offers to provide Tourism Accommodation within the municipal boundaries of the Town of Saint Andrews. Operators outside of this area are welcome to participate on a voluntary basis and follow the By-Law as presented.
  - 2.1.6. ["Service Provider" means the organization selected by the Town of Saint Andrews' Council to conduct tourism initiatives on behalf of the Town.](#)
  - 2.1.7. "Tourism Accommodation" means the provision of lodging in any premises operated to provide, for remuneration, temporary sleeping accommodation for the traveling public or for the use of the public engaging in recreational activities and includes campgrounds, glamping, and trailer parks for a continuous period not exceeding 31 days.
  - 2.1.8. "Tourism Development" means planning and implementation of strategies, infrastructure, or other projects deemed appropriate by the Council to support tourism with the objective of developing the tourism sector to increase the attractiveness of a destination and thereby attract more tourists.

2.1.9. "Tourism Promotion" means activities, operations, and expenditures designed to increase the number of visitors at a destination and to maximize the utilized capacity of a tourist business including but not limited to advertising, publicizing, or otherwise distributing information for the purposes of attracting and welcoming tourists; developing strategies to expand tourism; operating tourism promotion agencies; and funding the marketing of or the operation of special events and festivals designed to attract tourists.

2.1.10. "Town" means the Town of Saint Andrews as amalgamated on January 1, 2023.

### 3. SCHEDULE AMENDMENTS

3.1. The Council may from time to time amend by resolution Schedules "A" and "B" inclusive of this By-Law.

### 4. SCHEDULE AMENDMENTS

4.1. A Guest shall pay a Levy on the purchase price of the Tourism Accommodation in the amount specified in Schedule A on all accommodations initiated on or after April 1, 2023.

4.2. An Operator shall include on every invoice or receipt for the purchase of such accommodation a separate item for the amount of Levy imposed on the purchase and the item shall be identified as "Tourism Accommodation Levy".

### 5. EXEMPTIONS

5.1. The Levy imposed under Section 4 shall not apply to:

5.1.1. A student who is accommodated in a building owned or operated by a post-secondary educational institution while the student is registered at and attending a post-secondary educational institution.

5.1.2. A student who is accommodated in a building owned or operated by a science-based institution while the student is registered to attend a continuing education program.

5.1.3. A person who is accommodated in a room for more than 31 consecutive days.

5.1.4. Hotel or motel rooms provided by the Town, the Province, or their agents for emergency shelter accommodation purposes.

## **6. REGISTRATION OF OPERATOR**

- 6.1. Every Operator of a facility providing Tourism Accommodation shall apply annually by March 31<sup>st</sup> of each year for a registration certificate from the Town.
- 6.2. If an Operator owns more than one establishment in the Town of Saint Andrews, they are required to obtain a registration for each individual property.
- 6.3. The registration certificate shall be displayed prominently on the premises.
- 6.4. Any changes in the business including ownership, change of address, operating structure, or cessation of business, the Operator shall notify the Town.
- 6.5. When an Operator changes the nature of the business, they shall immediately return the current registration certificate and be issued a new one.
- 6.6. In the event the Operator ceases business, the certificate becomes void, and it shall be returned to the Town.
- 6.7. All registered Operators must ensure they comply with the By-Laws of the Town of Saint Andrews, all applicable laws, and regulations of the Province of New Brunswick. Registration and payment under this By-Law do not confirm your compliance with all other By-Laws.
- 6.8. The annual fee for registration shall be in accordance with Schedule "A" of this By-Law.

## **7. COLLECTION BY OPERATORS**

- 7.1. Operators shall collect the levy from the purchaser at the time the Tourism Accommodation is paid for and shall remit the Levy to the Town at the prescribed times and in the prescribed manner as set forth in this By-Law.

## **8. REPORT AND REMITTANCE OF LEVY**

- 8.1. Subject to the provisions of Subsection 8.2, unless otherwise provided, all Operators shall make separate quarterly reports to the Town, on the prescribed report form of Tourism Accommodation sales and Levy collected.
- 8.2. A separate report shall be made for each place of business unless a consolidated report has been approved by the Town.
- 8.3. The Operators shall submit reports and remit the Levy to the Town of Saint Andrews on a quarterly basis. Such reports and remittances shall be made by the 30<sup>th</sup> day of the month following the end of the quarter.

- 8.4. If an Operator, during the preceding period, has collected no Levy, they shall nevertheless make a report to that effect (NIL) on the prescribed report form.
- 8.5. Where an Operator ceases to carry on or disposes of their business, they shall make the report and remit the Levy collected within 20 days of the date of discontinuance of disposal.

## 9. RECORDS

- 9.1. Every Operator shall keep books of accounts, records, and documents with the necessary particulars of:
  - 9.1.1. Sales of Tourism Accommodation.
  - 9.1.2. Amount of Levy collected.
  - 9.1.3. Remittance Levy.
- 9.2. All entries concerning the Levy in such books of accounts, records, and documents shall be separate and distinguishable from other entries made therein.
- 9.3. Every Operator shall retain any books of accounts, records, or other documents referred to in this Section for a minimum period of the current year plus six (6) years.
- 9.4. Council may appoint an independent auditor to inspect and audit all books, documents, transactions, and accounts of Operators and require Operators to produce copies of any documents or records required for the purposes of administering and enforcing this By-Law.

## 10. ADMINISTRATION

- 10.1. The Tourism Accommodation Levy funds will be allocated as set out in Schedule "A".
- 10.2. All collections of the Levy and related disbursements shall be held and accounted for in a separate bank account.
- 10.3. The Town may charge an Administration Fee to cover expenses related to the administration and enforcement of this By-Law.
- 10.4. A cap of \$20,000.00 has been established for the Administration Fee. Once collected to the cap, any funds collected through the administration fee will be split one-third (1/3) and two-thirds (2/3) between the Town and the Service Provider. If administrative fee funds fall below the established cap, funds will be recouped from the Tourism Accommodation Levy to meet the cap.
- 10.5. Council will appoint a Service Provider to administer and manage the portion of the Tourism Accommodation Levy in accordance with the Terms of Reference as per Schedule "B" of this By-Law.

- 10.6. The Town of Saint Andrews will administer and manage the portion of the Tourism Accommodation Levy in accordance with the Terms and Reference as per Schedule “B” of this By-Law.
- 10.7. The Regional Service Commission of the Province of New Brunswick has a mandate for developing and supporting tourism at a regional level. The Regional Service Commission, on a yearly basis, will tax the Town of Saint Andrews to support initiatives at the regional level. Tourism Fees charged to the Town by the Regional Service Commission will come from the Tourism Accommodation Levy before funds are provided to the Town and Service Provider as outlined in Schedule “A”

## 11. INTEREST

- 11.1. Interest payable under this By-Law shall be payable at a rate of 1.5% compounded monthly.

## 12. ENFORCEMENT

- 12.1. Any By-Law Enforcement Officer is hereby authorized to make such actions, exercise such powers, and perform such duties, as may be set out in this By-Law, or in the *Local Governance Act*, and as they may deem to be necessary to enforce any provision of this By-Law.

## 13. ACTION ON ARREARS

- 13.1. Where a Levy imposed by this By-Law is in arrears, in addition to other remedies, including interest as per Section 11, that the Town must enforce payment, the Town may commence legal proceedings to collect arrears, register liens against the subject property, or disconnect the service of a water system, sewage system, or water and sewage system provided to the person who owes the Levy to the Town.

## 14. OFFENCES

- 14.1. Enforcement of this By-Law shall be subject to the provisions of Part 14 of the *Local Governance Act*.
- 14.2. Any Operator who violates any provision of this By-Law is guilty of an offence and is liable on conviction to a fine.
- 14.3. Any Operator who does not register or circumvent registration with the Town of Saint Andrews, in accordance with this By-Law, is guilty of an offence and is liable on conviction to a fine.
- 14.4. All contraventions of this By-Law are designated By-Law contraventions that may be dealt with by a Notice of Penalty pursuant to the provisions of the *Local Governance Act*.

- 14.5. The Administrative Penalty for each applicable contravention of this By-Law shall be in accordance with Schedule "A".
- 14.6. A Person to whom a penalty notice is delivered may pay the Administrative Penalty on or before a charge pertaining to the offence has been laid in Provincial Court as follows:
  - 14.6.1. In person at the Town of Saint Andrews Office, 212 Water Street, Saint Andrews, New Brunswick by cash, debit, credit card, money order, or bank draft, payable to the Town of Saint Andrews; or
  - 14.6.2. By mail to: Town of Saint Andrews, 212 Water Street, Saint Andrews, New Brunswick, E5B 1B4 by money order or bank draft, payable to the Town of Saint Andrews; or
  - 14.6.3. Electronically by credit card on the Town of Saint Andrews website [www.townofsaintandrews.ca](http://www.townofsaintandrews.ca); or
  - 14.6.4. Over the phone with a credit card to the Town of Saint Andrews Office at 506-529-5120; or
  - 14.6.5. Electronically by e-transfer to the Town of Saint Andrews at [payments@townofstandrews.ca](mailto:payments@townofstandrews.ca).
- 14.7. A person who pays the Administrative Penalty shall be deemed to have contravened the provision of the By-Law in respect of which the payment was made and shall not be charged with an offence in respect of the same incident that gave rise to the Administrative Penalty.
- 14.8. If the Administrative Penalty is not paid in accordance with Section 14.6, the person charged with the offence is liable on summary conviction to a fine not exceeding two thousand one hundred dollars (\$2,100.00).
- 14.9. Conviction of a person for an offence under this By-Law or the payment of an Administrative Penalty does not relieve the person from compliance with this By-Law and the Town may take further actions as set out in Section 13, which may be necessary to collect any outstanding Levy.

## **15. BY-LAW REPEALED**

- 15.1. The Town of Saint Andrew By-Law No. 19-06, A By-Law Relating to a Tourism Accommodation Levy in the Town of Saint Andrews is hereby repealed on the same day coming into force of this By-Law.
- 15.2. The repeal of said By-Law No. 19-06 shall not affect any penalty, forfeiture, or liability incurred before such appeal or any proceeding or enforcing the same completed or pending at the same time of repeal, nor shall it repeal or disturb,



## SCHEDULE "A" TOURISM ACCOMMODATION LEVY

### 1. TOURISM ACCOMMODATION LEVY PERCENTAGE COLLECTED

- 1.1. The amount of the Tourism Accommodation Levy shall be set at 3.5% of the purchase price of the Tourism Accommodation excluding the Harmonized Sales Tax on all Tourism Accommodation as described in this By-Law on or after April 1, 2023.

### 2. ANNUAL REGISTRATION FEE

- 2.1. The annual fee for the registration of a Tourism Accommodation is \$0.00.

### 3. ALLOCATION OF FUNDS

- 3.1. The Tourism Accommodation Levy funds shall be allocated as follows:

3.1.1. The Administration Fee of five percent (5.0%) is to be withheld by the Town of Saint Andrews based on Section 10.4 of this By-Law. If the cap established for the Administration Fee is reached, the 5.0% funds are distributed at a one-third (1/3) rate to the Town and two-thirds (2/3) rate to the Service Provider.

3.1.2. The Regional Service Commission Fee for Tourism, for the Town of Saint Andrews based on taxation, will be drawn from the Tourism Accommodation Levy funds annually. These funds will be drawn from the whole fund before the remaining funds are divided between the Town and the Service Provider.

3.1.3. Sixty-three percent (63.0%) of the Tourism Accommodation Levy funds are to be administered and managed by the Service Provider.

3.1.4. Thirty-two percent (32.0%) of the Tourism Accommodation Levy funds are to be administered and managed by the Town of Saint Andrews.

3.1.5. Mutually Shared Services between the Service Provider and the Town can be jointly funded from the Tourism Accommodation Levy funds if both parties agree on the project or service.

### 4. ADMINISTRATIVE PENALTIES

- 4.1. The Administrative Penalties for contravention of this By-Law are as follows:



- 4.1.1. First Offence – verbal or written warning.
- 4.1.2. Second Offence – One hundred and forty dollars (\$140.00) per day for each day the offence has occurred.
- 4.1.3. Third Offence – Five hundred dollars (\$500.00) per day for each day that the offence has occurred plus a one-month suspension of registration.
- 4.1.4. More than Three Offences - One thousand dollars (\$1,000.00) per day for each day that the offence occurs plus a one-year suspension from registration.
- 4.1.5. Failure to follow the Administrative Penalties will result in the charges being laid to the Province Courts of New Brunswick as per Section 14.6.

**SCHEDULE “B”  
TERMS OF REFERENCE  
SAINT ANDREWS TOURISM ACCOMMODATION LEVY**

**1. PURPOSE**

- 1.1. The purpose of the Terms of Reference is to provide direction on the management and administration of funds collected under the Tourism Accommodation Levy.

**2. SERVICE PROVIDER**

- 2.1. ExploreStAndrews is hereby appointed as the Service Provider to manage and administer the Service Provider portion of the Tourism Accommodation Levy.
- 2.2. The Town of Saint Andrews reserves the right to appoint a different Service Provider by a simple majority vote of the Council.

**3. AUTHORITY**

- 3.1. The Service Provider will only be given the authority to spend the funds the calendar year after they are collected.
- 3.2. By October 31<sup>st</sup> of the prior calendar year, the Service Provider must submit a budget to Council for approval.
- 3.3. Council may approve, amend, or reject the budget submitted by the Service Provider.
- 3.4. The Town of Saint Andrews will have Town staff representation on the Service Provider Board as a non-voting member to provide feedback and information.

**4. REPORTING**

- 4.1. The Service Provider will provide a written report, every quarter, including ongoing initiatives, and financial reports that include a comparison to budgeting to the Town of Saint Andrews.
- 4.2. The Service Provider may be required to provide a third-party audit when requested by the Town of Saint Andrews for Council to review the accuracy of spending. The Cost of such an audit will be paid by the Town of Saint Andrews.

**5. FUNDING MANDATE**

- 5.1. The Service Provider will be provided the portion of the funds collected through the Tourism Accommodation Levy by February 1<sup>st</sup> of each year to begin funding Tourism elements for the upcoming year if a budget has been approved by the Council of the Town of Saint Andrews.
- 5.2. From the Service Provider portion of the Tourism Accommodation Levy collected, a minimum of 20% of the

funds must be allocated to Community events, programs, and festivals. This funding may not be used for any event sponsored by the Service Provider. All events, programs, and festivals funded by the Tourism Accommodation Levy must promote tourism in the Town of Saint Andrews.

- 5.3. Tourism Accommodation Levy funds can be used to fund initiatives including Visitor Information Centres, tourism-related staff, consultant studies, advertising, marketing, transit, infrastructure, and other initiatives to increase tourism in Saint Andrews. Activities must produce measurable benefits for tourism in the Town of Saint Andrews.