

**TOWN OF SAINT ANDREWS
BY-LAW 19 06**

**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*, and amendments thereto, hereby makes and enacts this by-law as follows:

TITLE

1. This by-law may be cited as the *"Tourism Accommodation Levy By-law of the Town of Saint Andrews"*.

DEFINITIONS

2. In this By-law, unless the context otherwise requires:
 - a) **"Town"** means the Town of Saint Andrews.
 - b) **"Council"** means the Council for the Town of Saint Andrews
 - c) **"Levy"** means the tourism accommodations levy.
 - d) **"Operator"** means a person who, in the normal course of the person's business, sells, offers to sell, provides and offers to provide Tourism Accommodation in the Town of Saint Andrews.
 - e) **"Tourism Accommodation"** means the provision of lodging in any premises operated to provide, for remuneration, temporary sleeping accommodation for the travelling public or for the use of the public engaging in recreational activities and includes campgrounds and trailer camps for a continuous period not exceeding 31 days.
 - f) **"Tourism Development"** means planning and implementation of strategies, infrastructure or other projects deemed appropriate by the Council with the objective to develop the tourism sector to increase the attractiveness of a destination and thereby attract more tourists.
 - g) **"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.

3. APPLICATION OF LEVY

- a) A purchaser shall, at the time of purchasing Tourism Accommodation, pay a levy in the amount of 3.0% of the purchase price of the Tourism Accommodation.
- b) 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".

4. EXEMPTIONS

The levy imposed under *Section 3* shall not apply to:

- a) 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;
- b) a student who is accommodated in a building owned or operated by science based institution while the student is registered to attend a continuing education program;
- c) a person who is accommodated in a room for more than 31 consecutive days and;
- d) hotel or motel rooms provided by the Town, the Province or their agents for emergency shelter accommodation purposes.

5. REGISTRATION OF OPERATOR

- a) Every operator of a facility providing Tourism Accommodation shall apply annually by March 31st of each year for a registration certificate from the Town.
- b) 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.
- c) The registration certificate shall be displayed prominently on the premises.
- d) Any changes by the operator in their business including ownership, change of address, operating structure or cessation of business shall notify the Town.
- e) When an operator changes the nature of the business, the shall immediately return the registration certificate be issued a new one.
- f) In the event the operator ceases business the certificate becomes Void and it

shall be returned to the Town.

- g) All registered operators must ensure they comply with the By-laws of the Town of Saint Andrews and all applicable laws and regulations of the Province of New Brunswick. Registration and payment under this by-law does not confirm your compliance with all other by-laws.
- h) The annual fee for registration shall be \$0.00.

6. COLLECTION BY OPERATOR

Operators shall collect the levy from the purchaser at the time the Tourism Accommodation is purchased and shall remit the levy to the Town at the prescribed times and in the prescribed manner as set forth in this by-law.

7. REPORT AND REMITTANCE OF LEVY

- a) Subject to the provision of subsection (b), unless otherwise provided all operators shall make separate monthly reports to the Town, on the prescribed report form, of Tourism Accommodation sales and levy collected.
- b) The Town may at any time require an operator to provide a report of sales and levy collected, such report to cover any period or periods.
- c) A separate report shall be made for each place of business, unless a consolidated report has been approved by the Town.
- d) The reports by operators shall be made to the Town by the 20th day of the month following the collection of the levy by the operator, and the levy shall be remitted no later than 30 days from the date the report is due.
- e) If an operator during the preceding period has collected no levy, he/she shall nevertheless make a report to that effect on the prescribed report form.
- f) Where an operator ceases to carry on or disposes of his/her business, he/she shall make the report and remit the levy collected within 20 days of the date of discontinuance of disposal.

8. RECORDS

- a) Every operator shall keep books of account, records and documents sufficient to furnish the Town with the necessary particulars of:
 - i) sales of Tourism Accommodation
 - ii) amount of levy collected, and
 - iii) remittance of levy.

- b) All entries concerning the levy in such books of account, records and documents shall be separate and distinguishable from other entries made therein.
- c) Every operator shall retain any book of account, record or other document referred to in this section for a minimum period of the current year plus 6 years.
- d) 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.

9. ADMINISTRATION

- a) All collections of the levy and related disbursements shall be held and accounted for in a separate bank account.
- b) Council may charge up to a 5% operator fee to cover expenses related to the administration and enforcement of the by-law.
- c) Council will appoint a Saint Andrews *Tourism Advisory Board* to provide guidance on the administration of 66.7% of the net funds less the 5% operator fee, with terms of reference as per schedule "A" attached. Schedule "A" may be amended by Resolution of Council.
- d) Council will allocate 33.3% of the net funds less the 5% operator fee towards Tourism Development initiatives.

10. INTEREST

Interest payable under the By-law shall be payable at the rate of 1.5% compounded monthly.

11. ENFORCEMENT

- a) Every person duly appointed by Council as a by-law enforcement officer is hereby authorized to carry out any inspection that is necessary for the administration or enforcement of this by-law.
- b) Any by-law enforcement officer is hereby authorized to take 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.

12. ACTION ON ARREARS

Where a levy imposed by this By-law is in arrears, in addition to other remedies that the Town has to 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.

13. OFFENCES

- a) Any operator who violates any provision of this by-law is guilty of an offence and is liable on conviction to a fine.
- b) Any operator who does not register or circumvents registration with the Town of Saint Andrews in accordance with this By-Law is guilty of any offence and is liable on conviction to a fine.
- c) 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*.
- d) The Administrative Penalty for each applicable contravention of this by-law shall be one hundred and forty dollars (\$140.00).
- e) 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:
 - (i) In person at the Town of Saint Andrews Office, 212 Water Street, Saint Andrews, New Brunswick by cash, money order or bank draft, payable to the Town of Saint Andrews; or
 - (ii) By mail to: Town of Saint Andrews, 212 Water Street, Saint Andrews, New Brunswick, E5B 184 by money order or bank draft, payable to the Town of Saint Andrews; or
 - (iii) Electronically by Credit Card on the Town of Saint Andrews website.
- f) 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.
- g) If the Administrative Penalty is not paid in accordance with Section 13(e), the person charged with the offence is liable on summary conviction to a fine not exceeding two thousand one hundred dollars (\$2,100.00).
- h) 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 12 which may be necessary to collect an outstanding levy.

14. EFFECTIVE DATE

This by-law comes into effect on April 1, 2020.

Read the First Time this 12th day of August, 2019

Read the Second Time this day of , 2020

Read the Third Time and Enacted this day of , 2020

Doug Naish, Mayor

Paul Nopper, Clerk

Schedule A

TERMS OF REFERENCE Saint Andrews Tourism Advisory Board

PURPOSE

The purpose of the Board is to provide direction and advisement to Council on the expenditure of the funds collected under By-Law No. 19-06 Tourism Accommodation Levy allocated for Tourism Promotion.

The focus of this Board will be promotion through grants for festivals/events, activities and initiatives that promote the Town of Saint Andrews as a prime tourism destination.

TERM OF AGREEMENT

This agreement will be for 2 years

MEMBERSHIP

1. Members must be appointed by Council on an annual basis or until a vacancy is created.
2. On initiation, up to 10-member Board will comprise of the following members;
 - 1 seat for large accommodator (20+ rooms)
 - 1 seat for medium accommodator (10 – 20 rooms)
 - 1 seat or small accommodator (less than 10 rooms)
 - 1 seat for local shopkeepers
 - 1 seat for community organizations
 - 1 seat for the Saint Andrews Chamber of Commerce
 - 1 seat for the Business Improvement Area Association
 - Up to 3 seats for members at large
 - 1 seat for ex-officio member of the Town of Saint Andrews Council
 - 1 seat for ex-officio member of the Town of Saint Andrews Staff
3. Representatives who currently sit on the Chamber of Commerce Board shall not comprise more than 2 seats on the Saint Andrews Tourism Advisory Board.
4. If there is a tie during a vote of the Board, the matter will go to Council for final decision.
5. Council has the right to remove a member by simple majority vote of Council.

AUTHORITY

1. The Board will only be given the authority to spend the funds the calendar year

after they are collected.

2. By October 31 of the prior calendar year, the Board must submit a budget to Council for approval.

REPORTING

1. The Board will provide a written report on a quarterly basis, including on-going initiatives and financial reports that include a comparison to budgeting.
2. The Board will have prepared a third-party Audit to provide to Council for review on the accuracy of spending.

ADMINISTRATION FEE CAP

1. The Administration Fees collected by the Town of Saint Andrews will be reviewed after year 4. If funding collected from Administration Fees exceeds \$75,000 in reserves, then the fee may be reduced by motion from 5%.

Harmonized Sales Tax

FUNDING MANDATE

The Saint Andrews Tourism Advisory Board will be provided with 66.7% of net funds less 5% operator fee collected by the Town of Saint Andrews through the Tourism Accommodation Levy. These measures will be used as the baseline for outcomes of success to be reported back to the Town of Saint Andrews on a yearly basis. The following is the mandated funding breakdown of the 66.7% of net funds less 5% operator fee to be followed:

- 75% spent on Tourism Promotion
 - Intended Staffing
 - Intended Marketing and Promotion
- 25% spent on Community Events and Programs