

By-law No. 19-06
A BY-LAW RELATING TO A TOURISM ACCCOMODATION 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:

1. TITLE

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

2. DEFINITIONS

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 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 bylaw as presented.
- (e) "Guest" means an individual or group that acquires accommodation under this bylaw.
- (f) "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.
- (g) "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.
- (h) "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. SCHEDULE AMENDMENTS

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

4. APPLICATION OF LEVY

(a) 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 May 1, 2020.

(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".

5. 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 postsecondary 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.

6. 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, they shall immediately return the current registration certificate to 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 in accordance with Schedule A of this bylaw.

7. COLLECTION BY OPERATOR

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

- (a) Subject to the provision of subsection (b), 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.
- (b) A separate report shall be made for each place of business, unless a consolidated report has been approved by the Town.
- (c) 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 30th day of the month following the end of the quarter.
- (d) If an **operator** during the preceding period has collected no levy, he/she shall nevertheless make a report to that effect (NIL) on the prescribed report form.
- (e) 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.

9. RECORDS

- (a) Every **operator** shall keep books of account, records and documents with the necessary particulars of:
 - (a) Sales of Tourism Accommodation;
 - (b) Amount of levy collected; and
 - (c) 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.

10. ADMINISTRATION

- (a) The **Tourism Accommodation Levy** funds will be allocated as set out in Schedule "A"
- (b) All collections of the levy and related disbursements shall be held and accounted for in a separate bank account.
- (c) The Town will charge an administration fee to cover expenses related to the administration and enforcement of the by-law.

- (d) Council will appoint a Service Provider to administer and manage the **Tourism Promotion** portion of the **Tourism Accommodations Levy** in accordance with the Terms of Reference as per Schedule "B" of this bylaw
- (e) The Town of Saint Andrews will administer and manage the **Tourism Development** portion of the **Tourism Accommodations Levy**.

11. INTEREST

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

12. ENFORCEMENT

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.

13. 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.

14. OFFENCES

- (a) Enforcement of this bylaw shall be subject to the provisions of Part 14 of the Local Governance Act.
- (b) Any operator who violates any provision of this by-law is guilty of an offence and is liable on conviction to a fine.
- (c) 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.
- (d) 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.
- (e) The Administrative Penalty for each applicable contravention of this by-law shall be in accordance with Schedule "A"
- (f) 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.

- (g) 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.
- (h) If the Administrative Penalty is not paid in accordance with Section 14(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).
- (i) 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 Bylaw and the Town may take further actions as set out in Section 13 which may be necessary to collect an outstanding levy.

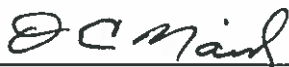
15. EFFECTIVE DATE

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 9th day of March 2020

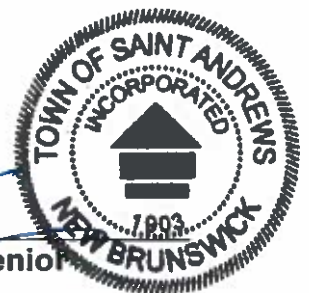
Read the Third Time and Enacted this 27th day of March 2020



Doug Naish, Mayor



Paul Nopper, Clerk - Senior
Administrator



**SCHEDULE A
TOURISM ACCOMMODATION LEVY**

- (a) The amount of the Tourism Accommodation Levy shall be set at 3.0% of the purchase price of the **Tourism Accommodation** excluding the Harmonized Sales Tax on all **Tourism Accommodation** as described in this bylaw on or after April 1, 2020.
- (b) The annual fee for registration of **Tourism Accommodation** is \$0.00
- (c) The Tourism Accommodations Levy funds shall be allocated as follows:
 - (i) Administration Fee 5.0% to be withheld by the Town of Saint Andrews
 - (ii) Tourism Promotion 63.0% to be administered and managed by the Tourism Promotion Service Provider
 - (iii) Tourism Development 32% to be administered and managed by the Town of Saint Andrews
- (d) The administrative penalties for contravention of this bylaw are as follows:
 - (i) First offence – warning;
 - (ii) Second offence - \$140 per day for each day the offence has occurred;
 - (iii) Third offence - \$500 per day for each day that the offence has occurred plus a one-month suspension of registration; and
 - (iv) More than three offences - \$1,000 per day for each day that the offence occurred plus a one-year suspension from registration
- (e) There will be a grace period for filing until September 1, 2020 for any late filing without incurring any penalties.

**SCHEDULE B
TERMS OF REFERENCE
SAINT ANDREWS TOURISM ACCOMMODATION LEVY
TOURISM PROMOTION**

PURPOSE

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

SERVICE PROVIDER

The St Andrews Chamber of Commerce is hereby appointed as the Tourism Promotion Service Provider hereafter called Service Provider to manage and administer the tourism promotion portion of the Tourism Accommodation Levy.

The Town of Saint Andrews reserves the right to appoint a different Service Provider by a simple majority vote of Council.

AUTHORITY

The Service Provider will only be given the authority to spend the funds the calendar year after they are collected.

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

Council may approve, amend or reject the budget submitted by the Service Provider.

REPORTING

The Service Provider will provide a written report on a quarterly basis, including on-going initiatives and financial reports that include a comparison to budgeting.

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.

FUNDING MANDATE

The Service Provider will be provided the **Tourism Promotion** portion of the funds collected through the Tourism Accommodations levy by 1 February of each year to begin funding Tourism elements for the upcoming year.

A minimum of 20% of Tourism Accommodations Levy 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 Accommodations Levy must promote tourism in the Town of Saint Andrews.

Tourism promotion can include Visitor Information Centres, tourism related staff, consultant studies, advertising, marketing and other initiatives to promote tourism.

All tourism promotion funds must directly promote tourism in the Town of Saint Andrews and may not be used for other activities unless it can be

shown that these activities produce measurable benefits for tourism in the Town of Saint Andrews