

## Marketing Levy By-Law

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### 1.0 Title

This By-law shall be titled and referred to as the “Marketing Levy By-Law”.

### 2.0 Background and Purpose

Section 75A(9) of the Nova Scotia *Municipal Government Act*, S.N.S. 1998, c. 18, gives Council the specific authority to establish a by-law to impose a marketing levy upon persons who, for a daily charge, fee or remuneration purchase Accommodation within the Town. The purpose of this By-law is to provide for such a levy.

### 3.0 Definitions

Accommodation – means the provision of one or more rental units or rooms as lodging in hotels and motels and in any other facility required to be registered under the *Tourist Accommodations Registration Act* and in a building owned or operated by a post-secondary educational institution.

Council – means the Council of the Town of Antigonish.

Operator – means a person who, in the normal course of the person’s business, sells, offers to sell, provides, or offers to provide Accommodation in the Town.

Purchase Price – means the price for which Accommodation is purchased, including the price in money, the value of services rendered and other consideration accepted by the Operator in return for the Accommodation provided, but does not include the goods and services tax.

Town – means the Town of Antigonish.

### 4.0 Application of Levy

- 4.1 A marketing and promotions levy is hereby imposed upon every person who, for a daily charge, fee or remuneration purchases Accommodation in the Town. The marketing levy is set at the rate of 3% of the Purchase Price of the Accommodation.
- 4.2 The marketing levy imposed under subsection 4.1 of this By-law, whether the price is stipulated to be payable in cash, on terms, by installments or otherwise, must be collected by the Operator at the time of the purchase of Accommodation on the total amount of the Purchase Price and must be remitted to the Town at the times and in the manner set out in this By-law.
- 4.3 Where an Operator charges a purchaser of Accommodation a portion of the Purchase Price as a deposit upon that purchaser booking Accommodation in advance of their stay, the Operator is not required to collect the marketing levy imposed under this By-law at the time that the deposit

is paid, but must collect the full amount of the marketing levy upon payment by the purchaser of the balance of the Purchase Price owing.

- 4.4 If a person collects an amount as if it were a levy imposed under subsection 4.1 of this By-law, that person must remit that amount to the Town at the same time and in the same manner as a levy collected under this By-law.

## **5.0 Exemption from Levy**

- 5.1 The marketing levy imposed under subsection 4.1 of this By-law shall not apply to:
- a) a person who pays for Accommodation for which the daily purchase price is not more than twenty dollars;
  - b) 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 that post-secondary educational institution;
  - c) a person who is accommodated in a room for more than thirty consecutive days; or
  - d) a person, and that person's family, accommodated while that person is receiving medical treatment at a hospital or provincial health-care centre or seeking specialist medical advice, provided the person provides to the Operator a statement from said hospital or provincial health-care centre stating that:
    - a. the person or a member of the person's family is receiving medical treatment at the hospital or center or from a physician licensed to practice medicine in the Province of Nova Scotia;
    - b. as a result thereof, the person or member of the person's family is in need of the accommodation; and
    - c. the duration that the accommodation will be required.

## **6.0 Registration of Operator**

- 6.1 Every Operator must apply for and obtain a registration certificate under this By-law.
- 6.2 An Operator applying for a registration certificate must submit an application to the Town on a form provided by the Town.
- 6.3 Where an Operator carries on business providing Accommodation at more than one place, the Operator shall obtain separate registration certificates for each individual place of business.
- 6.4 The registration certificate referred to in this section shall be displayed in a prominent place on the premises where the Accommodation is offered.

- 6.5 Where an Operator changes their address, the name of their business, or the nature of the Accommodation offered, they shall forthwith apply to the Town to amend their registration certificate accordingly.
- 6.6 Where an Operator ceases to carry on or sells a business in respect of which a registration certificate has been issued, the certificate shall immediately be void, and the Operator shall return the certificate to the Town within 15 days of the date of discontinuance or sale of the business.
- 6.7 Where an Operator's registration certificate is lost or destroyed, that Operator shall make a request to the Town for a copy of the original.
- 6.8 A registration certificate granted under this By-law is not transferable.

### **7.0 Return and Remittance of Levy**

- 7.1 All Operators shall make remittances of all levies collected pursuant to this By-law to the Town or its delegate on the 15th day of each month.
- 7.2 Each remittance shall be accompanied by a completed remittance return in the form provided by the Town.
- 7.3 Unless otherwise provided, all Operators shall submit separate monthly remittance return forms to the Town.
- 7.3 Operators that operate more than one business providing Accommodation must submit a separate remittance return form for each place of business providing Accommodation unless a consolidated return has been approved by the Town.
- 7.4 Notwithstanding subsection 7.1 of this By-law, the Town may, at any time, require an Operator to submit a remittance return reporting all sales and levies collected by that Operator over the course of any period or periods.
- 7.5 If an Operator, during the preceding period, has collected no levy, the Operator shall prepare and submit a report to the Town to that effect on the prescribed remittance return form.
- 7.6 Where an Operator ceases to carry on or disposes of their business, that Operator shall make the return to that effect on the prescribed return form and remit the levy collected within 15 days of the date of discontinuance or disposal.

### **8.0 Records**

- 8.1 Every Operator shall keep books of accounts, records, and documents sufficient to furnish the Town with the necessary particulars of:

- a) sales of Accommodation;
- b) amount of levies collected; and
- c) payment of levies to the Town.

8.2 All entries concerning the levy collected pursuant to this By-law in such books of account, records and documents shall be separate and distinguishable from other entries made therein.

8.3 Where a receipt, bill, invoice, or other document evidencing a sale of Accommodation is issued by an Operator, the levy shall be shown as a separate item thereon.

## **9.0 Calculation of Levy**

9.1 Where an Operator sells Accommodation in combination with meals and other specialized services for an all-inclusive package price, the Purchase Price of the Accommodation shall be deemed to be the price of Accommodation at that same facility without such specialized services.

## **10.0 Refund of Levy Collected in Error**

10.1 If the Town is satisfied that a levy or a portion of a levy has been paid in error, the Town shall refund the amount of the overpayment to the Operator entitled.

10.2 If the Town is satisfied that an Operator has remitted to the Town an amount as collected levy that the Operator neither collected nor was required to collect under this By-law, the Town shall refund the amount to the Operator.

## **11.0 Claim for Refund**

11.1 To claim a refund under this By-law, an Operator must

- a) submit to the Town an application in writing signed by the Operator who paid the amount claimed, and
- b) provide sufficient evidence to satisfy the Town that the Operator who paid the amount is entitled to the refund.

11.2 For the purposes of subsection 10.1(a), if the Operator who paid the amount claimed is a corporation, the application must be signed by a director or authorized employee of the corporation.

11.3 Purchasers of Accommodation are not eligible to receive refunds directly from the Town of any amount paid to an Operator as a marketing levy under this By-law.

## 12.0 Offence

- 12.1 A person who contravenes a provision of this By-law is guilty of an offence punishable by summary conviction, and on conviction is liable:
- a) on a first conviction, to a fine of not less than \$500 and not more than \$1,000; and
  - b) for a subsequent conviction for the same or another provision of this By-law, to a fine of not less than \$1,500 and not more than \$5,000.

## 13.0 Administration of By-law

- 13.1 This By-law shall be administered on behalf of the Town by the Chief Administrative Officer and by any persons designated by the Chief Administrator Officer.

## 14.0 Effective Date and Transition

- 14.1 This By-law shall take effect from January 1, 2024.
- 14.2 There will be no marketing levy imposed under this By-law for reservations for Accommodation that are made and paid for in full prior to January 1, 2024 for Accommodation that is scheduled to occur on or after January 1, 2024.
- 14.3 There will be no marketing levy imposed under this By-law for reservations for Accommodation that are made and paid for in full after January 1, 2024 for Accommodation that is scheduled to occur prior to April 1, 2024.
- 14.4 Operators are required to collect the marketing levy imposed under this By-law for any reservations for Accommodation that are made and paid for in full after January 1, 2024 for Accommodation that is scheduled to occur after April 1, 2024.
- 14.5 Operators are required to begin the registration process pursuant to section 6 of this By-law as of January 1, 2024.
- 14.6 The date of the first remittance of the marketing levy to the Town will be April 15, 2024.

Date of First Reading:

Date of Advertisement for Intent to Consider:

Date of Second Reading:

Date of Advertisement & Approval:

Date of Mailing Certified Copy to SNS & MR:

I certify that this Marketing Levy By-Law was adopted by Council  
and published as indicated above:

\_\_\_\_\_  
Chief Administrative Officer

\_\_\_\_\_  
Date

DRAFT