

Town of Stewiacke
By-Law Number 2023-01
Marketing Levy Bylaw

Title

1. This Bylaw may be cited as the “Marketing Levy Bylaw”.

Definitions

2. In this Bylaw:
 - (1) “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.
 - (2) “inspector” means a person appointed by the Town to investigate whether this Bylaw is being complied with.
 - (3) “marketing levy” means a levy imposed pursuant to this Bylaw.
 - (4) “operator” means a person who, in the normal course of the person’s business, sells, offers to sell, provided, and offers to provide accommodation in the Town.
 - (5) “purchase price” means the price for which accommodation is purchased including the price in money, the value of the services rendered, and other consideration accepted by the operator in return for the accommodation provided but does not include the goods and services tax.
 - (6) “remittance” means the remittance of levies collected by an operator to the Town.
 - (7) “remittance period” means each of a quarterly period ending March 31, June 30, September 30 and December 31,
 - (8) “Town” means Town of Stewiacke.

Notice Effective

3. A person shall be deemed to have received written notice when the notice is personally delivered to the person, sent to the person by email or other electronic communication at the address and/or number registered with the Town for electronic communication, or

posted on the person's place of business. A person shall be deemed to have received written notice 5 days after the notice is sent to the person by regular mail.

Application of Levy

4. (1) A marketing 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.
- (2) The marketing levy, whether the price is stipulated to be payable in cash, on terms, by installments or otherwise, must be collected at the time of the purchase 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 Bylaw.

Exemption From Levy

5. (1) The marketing levy shall not apply to:
 - (a) a person who pays for accommodation for which the daily purchase price is no more than twenty dollars (\$20.00);
 - (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 a post-secondary educational institution;
 - (c) a person who is accommodated in a room for more than thirty consecutive days; or
 - (d) a person and the person's family accommodated while the person or a member of the person's family is receiving medical treatment at a hospital or provincial healthcare center or seeking specialist medical advice, provided the person provides to the operator a statement from a hospital or provincial healthcare center stating that:
 - (i) 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;
 - (ii) as a result thereof the person or member of the person's family is in need of the accommodation; and
 - (iii) the duration that the accommodation will be required.

Registration of Operator

6. (1) Every operator must apply for and obtain a certificate of registration under this Bylaw for each place of business providing accommodations.
- (2) An operator applying for a certificate of registration must submit an application to the Town on a form provided by the Town.
- (3) The registration certificate shall be displayed in a prominent place at the facility.
- (4) 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 certificate of registration accordingly.
- (5) 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) Where a registration certificate is lost or destroyed, the operator shall apply to the Town for a copy of the original.
- (7) A registration certificate granted under this Bylaw is not transferable.

Remittance of Levy

7. (1) All operators shall make remittances to the Town or its delegate within thirty days following the end of each remittance period.
- (2) Each remittance shall be accompanied by a completed remittance return in the form provided by the Town.
- (3) If an operator during the preceding period has collected no levy, they shall nevertheless make a report to that effect on the prescribed remittance form.
- (4) Where an operator ceases to carry on or disposes of their business, they shall make the return and remit the levy collected with 15 days of the date of discontinuance or disposal.

Records

8. (1) Every operator shall keep books of account, 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.
- (2) All entries concerning the levy in such books of account, records, and documents shall be separate and distinguishable from other entries made therein.
- (3) Every operator shall retain any book of account, record, or other document referred to in this section for a period of five years, unless under audit.
- (4) Where a receipt, bill, invoice, or other document is issued by a person selling accommodation, the levy shall be shown as a separate item thereon.

Calculation of Levy

- 9. Where an operator sells accommodation in combination with meals and other specialized services for an all-inclusive package price, the purchase price of the accommodations within the all-inclusive package shall be deemed to be the purchase price of the accommodations when offered for sale in the same facility without the addition of meals and other specialized services.

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 person entitled, which shall not include interest.
- (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 Bylaw, the Town shall refund the amount to the operator, which shall not include interest.

Claim for Refund

- 11. (1) In order to claim a refund under this Bylaw, a person must:
 - (a) submit to the Town an application in writing signed by the person who paid the amount claimed; and
 - (b) provide sufficient evidence to satisfy the Town that the person who paid the amount is entitled to the refund.
- (2) For the purposes of subsection (1)(a), if the person who paid the amount claimed is a corporation, the application must be signed by a director or authorized employee of the corporation.

Interest

12. Interest on overdue levies shall be paid at the rate of 15% per annum.

Inspection, Audit, and Assessment

13. An inspector appointed by the Town may enter at any reasonable time the business premises occupied by a person, or the premises where the person's records are kept:
 - (1) to determine whether:
 - (a) the person is an operator or the premises are accommodations are within the meaning of this Bylaw;
 - (b) this Bylaw is being and has been complied with;
 - (2) to inspect, audit, and examine books of account, records, or documents.
14. The person shall provide all reasonable assistance to the inspector to enable the inspector to confirm whether the person has been collecting and remitting the levy in accordance with this Bylaw and shall furnish the inspector with such information as the inspector may reasonably require to carry out their inspection.
15. Where the inspection, audit or examination reveals that an operator has not complied with this Bylaw, a person appointed by the Town shall calculate the amount of levy and any interest due in such a manner and form as the Town deems adequate.
16. When an operator fails to provide reasonable assistance in accordance with section 14, a person appointed by the Town may estimate the levy amount that should have been collected and remitted to the Town by the operator.
17. Upon calculating or estimating that a levy amount is due, the Town shall provide written notice to the operator that a levy amount is payable.
18. Regardless of whether the operator submits an application under section 19 objecting to the amount payable, the operator shall remit the levy amount plus applicable interest to the Town within 30days of receiving notice that the levy amount is due.
19. If an operator objects to the amount payable to the Town, the operator must, within 15days of receiving written notice of the amount due:
 - (a) submit to the Town an application in writing signed by the operator or a representative of the operator; and
 - (b) provide sufficient evidence to satisfy the Town that the operator has complied with this Bylaw.

20. Upon receiving an application by the operator, or from time to time, the Town may assess or reassess any amounts payable under this Bylaw and may vacate or vary any assessment or reassessment and thereupon, the amount so determined shall be payable to the Town by the operator.

Offence

21. A person who contravenes any provision of the Bylaw is guilty of offence punishable by summary conviction and on conviction is liable:
- (1) for a first conviction, to a fine of not less than \$500 and not more than \$1,000;
 - (2) for a subsequent conviction, to a fine of not less than \$1,500 and not more than \$5,000.

Administration of Bylaw

22. This Bylaw shall be administered on behalf of the Town by the Chief Administrative Officer and any persons designated by the Chief Administrative Officer.

Effective Date

23. This Bylaw shall take effect on the xxxxxx, 2023.