



## **Digby Marketing and Promotions Levy**

### **By-law # 2022-01**

#### **BYLAW RESPECTING MARKETING AND PROMOTIONS LEVY**

BE IT ENACTED by the Council of the Town of Digby under the authority of the Digby Marketing and Promotions Levy Act as follows:

#### **Short Title**

1. This By-law shall be known as By-law 2022-01 and may be cited as the Digby Marketing and Promotions Levy By-law.

#### **Definitions**

2. In this By-law,

(a) “accommodation” means the provision of lodging in hotels and motels and in any other facilities required to be licensed under the Tourist Accommodations Registration Act and in a building owned or operated by a post-secondary educational institution where the hotel, motel, facility or building consists of one or more

(i) rental units or

(ii) rooms,

that are offered as lodgings;

(b) “appointee” means the citizen or operator member of the Marketing and Promotions Levy Advisory Committee (MPLAC) appointed by Council.

(c) “council” means the Council of the Town of Digby;

(d) “Town” means the Town of Digby;

(e) “District” means the Municipality of the District of Digby;

(f) “operator” means a person who, in the normal course of the person’s business, sells, offers to sell, provides and offers to provide accommodation in the Town of Digby;

(g) "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.

### **Application of Levy**

3. (1) A marketing and promotions levy is hereby imposed in the Town of Digby, the rate of which shall be \$2.00 per night, per room.  
  
(2) The levy imposed under this By-law, whether the purchase price is stipulated to be payable in cash, on terms, by installments or otherwise, must be collected at the time of the sale on the total amount of the purchase price and must be remitted to the Town pursuant to Section 6.  
  
(3) If a person collects an amount as if it were a levy imposed under this By-law, the person must remit the amount collected to the Town at the same time and in the same manner as the levy collected under this By-law.

### **Exemption from Levy**

4. (1) The Digby marketing and promotions levy shall not apply to
  - a) a person who pays for accommodation for which the daily purchase price is no 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 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 health-care centre or seeking specialist medical advice, provided the person provides to the operator a statement from a hospital or provincial health-care centre that the person or a member of the person's family is receiving medical treatment at the hospital or centre or from a physician licensed to practice medicine in the Province of Nova Scotia, that the person or a member of the person's family is seeking specialist medical advice and as a result thereof, the person or a member of the person's family is in need of, and the duration of the accommodation.

### **Registration of Operator**

5. (1) Every operator of a facility providing accommodations to which this By-law applies shall apply for and be issued a registration certificate by the Town of Digby.  
  
(2) Where an operator carries on business at more than one place, the operator shall obtain a registration certificate in respect of each individual place of business.  
  
(3) The registration certificate shall be displayed in a prominent place on the premises.

(4) Where an operator changes their address, they shall forthwith return their registration certificate to the Town for amendment.

(5) Where an operator changes the name or nature of their business, the operator shall forthwith return their registration certificate to the Town for a new one.

(6) Where an operator ceases to carry on business in respect of which a registration certificate has been issued, the certificate shall thereupon be void, and the operator shall return the same to the Town within 15 days of the date of discontinuance.

(7) Where a registration certificate is lost or destroyed, application shall be made to the Town for a copy of the original.

(8) A registration certificate granted under subsection (1) is not transferable.

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

6. (1) The Town may at any time require a return of sales and levy collected by any person selling accommodation; such return to cover any period or periods.

(2) Subject to the provisions of subsection (1), unless otherwise provided, all operators shall make separate monthly returns to the Town.

(3) A separate return shall be made for each place of business, unless a consolidated return has been approved by the Town.

(4) The returns by operators shall be made and the levy shall be remitted to the Town by the 15th day of the month following the collection of the levy by the operator.

(5) If an operator during the preceding period has collected no levy, the operator shall nevertheless make a report to that effect on the prescribed return form.

(6) Where an operator ceases to carry on or disposes of their business, the operator shall make the return and remit the levy collected within 15 days of the date of discontinuance or disposal.

### **Records**

7. (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 levy collected, and

(c) disposal of levy.

(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 until the Town authorizes its destruction.

(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**

8. 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 purchase price of the accommodation when such accommodations are offered for sale in the same facility without such specialized services.

### **Refund of Levy Written Off**

9. (1) The Town may refund to an operator who sells accommodation a portion of the amount sent by the operator to the Town in respect of levy payable on that sale under this By-law, if

(a) the operator, in accordance with this By-law, remits the levy required under this Act to be levied and collected for the sale,

(b) the purchaser subsequently fails to pay the operator the full amount of the consideration and levy payable on that sale, and

(c) the operator writes off as unrealizable or uncollectible the amount owing by the purchaser.

(2) An operator may deduct the amount of the refund payable to the operator under this section from the amount of the levy that the operator is required to remit under this By-law.

(3) If an operator who has obtained a refund under subsection (1) or made a deduction under subsection (2) recovers some or all of the amount referred to in subsection (1) (c) with respect to which the refund was paid or the deduction was made, the operator must add an amount to the levy to be paid or remitted by the operator under this By-law with respect to the reporting period in which the recovery was made.

### **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.

(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 must refund the amount to the operator.

### **Claim for Refund**

11. (1) In order to claim a refund under this By-law, 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 payable under the By-law shall be payable at the rate of 4% above the prime rate as set by the Town's banker calculated on a daily basis.

#### **Inspection, Audit and Assessment**

13. A person appointed by the Town may enter at a reasonable time the business premises occupied by a person, or the premises where the person's records are kept,
- (a) to determine whether or not
    - (i) the person is an operator, or the premises are accommodations within the meaning of this By-law, or
    - (ii) this By-law is being and has been complied with, or
  - (b) to inspect, audit and examine books of account, records or documents.

#### **Offence**

14. A person who contravenes a provision of the 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 regulation, to a fine of not less than \$1,500 and not more than \$5,000.

#### **Administration of By-law**

15. This By-law shall be administered on behalf of the Town by the Chief Administrative Officer and any persons designated by the Chief Administrative Officer.
16. The Town and the District shall establish the Marketing and Promotions Levy Advisory Committee (MPLAC) as a standing committee. The mandate of the MPLAC is:
- a) to direct the use of funds collected through the Marketing and Promotions Levy By-Law of the Town and District so as to increase the number of room nights sold in the Town and the District;
  - b) to advise the Councils of the Town and the District on policy and by-law matters pertaining to the Marketing and Promotions Levy By-law and funds;
  - c) such authority shall be exercised in a manner consistent with the By-Laws and Policies of the Town and the District and applicable legislation;
  - d) there shall be no allocation of the funds to cover administration costs associated with collecting or disbursing the funds.

17. The membership of MPLAC shall be comprised of six (6) voting Members: one Citizen and one operator collecting funds under the Marketing and Promotions Levy By-law, each from the Town and the District, appointed by each Council respectively, in addition to the Mayor of the Town and Warden of the District. All members of MPLAC shall be voting members. The Chief Administrative Officers of the Town and the District shall be non-voting Ex-Officio Members. The Appointee(s) term of office shall be Operator appointee three (3) years and the Citizen appointee two (2) years. Upon completion of their term of office, the appointee may reapply to Council for an additional term. However, following the completion of the appointee's second term of office the appointee will not be able to reapply, for a minimum of one (1) term of office. Council reserves the right to reappoint an appointee who has completed their second term of office in the event that any suitable applications for the vacancy had been received.
18. The MPLAC shall pick a Chairperson from its voting members whom shall not be either the Warden or the Mayor; and the Chairperson may, at his/her discretion allow any person, who is not a member, to speak on any matter on the agenda, but may be over-ruled by a majority vote of the members of the Committee.
19. The MPLAC must hold a meeting at least 4 times per year. A quorum of the MPLAC consists of a majority of the members of the Committee from time to time.
20. The Town hereby delegates to the MPLAC the full authority to authorize and spend the funds collected pursuant to this By-Law and such decisions are not subject to ratification by the Town, except for the approval of policies related to the expenditure of funds.
21. The MPLAC shall report to the Council for the Town annually on the disbursements, collections and activities of the MPLAC.
22. The MPLAC may enter into agreements binding the Town in order to leverage the funds collected by the levy, to further the purposes of the levy. Such agreements shall either be limited to the funds already collected at the time of signing, or contain specific limitations on liability of the Town for financial contributions not to exceed proceeds of the levy.
23. The Town shall not authorize or use any funds collected from the levy for a purpose not approved by the MPLAC.
24. The MPLAC may establish, by policy, a process to receive and review grant applications from not for profit organizations in order to further the interests of the MPLAC.
25. This By-law shall take effect on April 1, 2022

**Clerk's Annotation for Official By-Law Book**

**Date of first reading: January 4, 2022**

**Date of advertisement of Notice of Intent to Consider: January 12, 2022**

**Date of second reading: February 7, 2022**

**\*Date of advertisement of Passage of By-Law: February 16, 2022**

**Date of mailing to Minister a certified copy of By-Law: February 18, 2022**

**I certify that this Digby Marketing and Promotion Levy By-law was adopted by Council and published as indicated above.**

**CAO** 

**E. Thomas Ossinger**

**February 18, 2022**  
**Date**

**\* Effective Date of the By-Law unless otherwise specified in the text of the By-Law**