

**HALIFAX REGIONAL MUNICIPALITY
BY-LAW NUMBER M-400
RESPECTING MARKETING LEVY**

BE IT ENACTED by the Council of the Halifax Regional Municipality under the authority of the *Halifax Regional Municipality Charter*, SNS 2008, c. 39 as follows:

Short Title

1. This By-law shall be known as By-law M-400 and may be cited as the *Marketing Levy By-law*.

Definitions

2. In this By-law,

(a) “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*, S.N.S. 2022, c. 29 and in a building owned or operated by a post-secondary educational institution;

(b) “Municipality” means Halifax Regional Municipality;

(c) “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 Municipality;

(d) “platform operator” means a person who facilitates or brokers reservations for the short-term rental of roofed accommodations via the Internet and who receives payment, compensation or any other financial benefit in connection with a person making or completing reservations of such short-term rentals;

(e) “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 levy is hereby imposed in the Municipality upon a person who, for a daily charge, fee or remuneration purchases accommodation in the Municipality, the rate of which shall be three per cent of the purchase price of the accommodation.

(2) An operator is deemed to be an agent of the Municipality for the purpose of collecting the marketing levy and remitting it to the Municipality and as such shall collect the levy from the purchaser and remit it to the Municipality.

(3) The levy imposed under this By-law, 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 Municipality at the prescribed times and in the prescribed manner.

(4) 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 Municipality at the same time in the same manner as levy collected under this By-law.

Exemption From Levy

4. 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;

(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 or 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. Every operator of a facility providing an accommodation to which this By-law applies shall register their accommodation with the Province of Nova Scotia in accordance with the *Tourist Accommodations Registration Act*, S.N.S. 2022, c. 29.

Return and Remittance of Levy

6. (1) The Municipality 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 directed by the Treasurer, all operators shall make separate monthly returns to the Municipality.

(3) A separate return shall be made for each accommodation, unless a consolidated return has been approved by the Municipality.

(4) The returns by operators shall be made and the levy shall be remitted to the Municipality 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, they 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 they shall make the return and remit the levy collected within 15 days of the date of discontinuance or disposal.

(7) An operator may agree with a platform operator to have the platform operator make the return and remittance of the levy to the Municipality on their behalf. If the platform operator fails to discharge their duties on behalf of the operator, both the operator and the platform operator are jointly and severally liable for any levy, penalty, interest or other amount related to, arising from, or connected with the failure to discharge the duty.

(8) No platform operator shall make an agreement with operators using its platform to make the monthly return and remittance of the levy on their behalf without having first entered into an agreement with the Municipality to do so.

Records

7. (1) Every operator shall keep books of account, records and documents sufficient to furnish the Municipality 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 for 7 years after the end of the calendar year in which the levy was collected.

(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.

(5) The Treasurer may waive the requirement in subsection (4) in writing where the Treasurer is satisfied that it is impractical to show the levy as a separate item on the receipt, bill, invoice or other document.

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 accommodations shall be deemed to be the purchase price of the accommodations when such accommodations are offered for sale in the same facility without such specialized services.

Refund of Levy Written Off

9. (1) The Municipality may refund to an operator who sells accommodation a portion of the amount sent by the operator to the Municipality 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 to 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 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 Municipality is satisfied that a levy or a portion of a levy have been paid in error, the Municipality shall refund the amount of the overpayment to the person entitled.

(2) If the Municipality is satisfied that an operator has remitted to the Municipality an amount as collected levy that the operator neither collected nor was required to collect under this By-law, the Municipality must refund the amount to the operator.

Claim For Refund

11. (1) In order to claim a refund under sections 9 or 10 of this By-law, a person must

(a) submit to the Municipality an application in writing signed by the person who paid the amount claimed, and

(b) provide sufficient evidence to satisfy the Municipality 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 and Penalty

12. An interest charge is imposed on an operator in respect of an amount of marketing levy that the operator fails to remit in accordance with this By-law from the date on which the remittance of the levy was due.

13. Interest payable under this By-law shall be payable at the rate as set out in clause 1(ab) of Administrative Order #14, *Respecting the Application of Interest Charges to Outstanding Accounts*.

14. Twenty-five dollars per day per accommodation is imposed on an operator as a penalty for failure to submit a return of sales beginning on the day on which the return of sales was due.

14A. The Treasurer, or designate, may waive, reduce or cancel an interest charge or penalty charge imposed on an operator under this By-law, provided the operator has no outstanding levy or return of sales due to the Municipality.

14B. The Treasurer, or designate, shall cancel any charges imposed on an operator under section 14 of this by-law for the period October 1, 2023 to March 31, 2024, provided the charges accrued on a remittance value of \$0.00.

Inspection, Audit and Assessment

15. A person appointed by the Municipality may enter at a reasonable time the premises where the operator'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

16. A person who contravenes any provision of the By-law is guilty of offence punishable by summary conviction and on conviction is liable

(a) on a first conviction, to a fine of not less than \$500.00 and not more than \$1,000.00; and

(b) for a subsequent conviction for the same or another provision of this By-law, to a fine of not less than \$1,500.00 and not more than \$5,000.00.

Administration of By-law

17. This By-law shall be administered on behalf of the Municipality by the Treasurer and any persons designated by the Treasurer.

Transition and Repeal

18. By-law H-400, *Respecting Marketing Levy*, is repealed.

19. (1) This By-law comes into force on October 1, 2023.

(2) For greater certainty, for reservations for accommodations made and paid for in full prior to October 1, 2023 for accommodations that occur on or after October 1, 2023, the calculation of the marketing levy shall be in accordance with By-law H-400, which was in force at the time of purchase of the accommodations.

Done and passed this 22nd day of August, 2023.

MAYOR MIKE SAVAGE

IAIN MACLEAN, MUNICIPAL CLERK

I, Iain MacLean, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above noted by-law was passed at a meeting of the Halifax Regional Council held on August 22, 2023.

Iain MacLean, Municipal Clerk

Notice of Motion:	June 20, 2023
First Reading:	July 11, 2023
Notice of Public Hearing Publication:	July 29, 2023
Second Reading:	August 22, 2023
Approval by Municipal Affairs and Housing:	N/A
Effective Date:	October 1, 2023

Amendment #1 By-law M-401

Amendment to Section 14; addition of Sections 14A & 14B

Notice of Motion:	March 19, 2024
First Reading:	March 26, 2024
Notice of Second Reading Publication:	April 6, 2024
Second Reading:	April 23, 2024
Approved by Minister of Municipal Affairs & Housing:	N/A
Effective Date:	April 27, 2024