

**TOWN OF YARMOUTH
BYLAW # 45
RESPECTING MARKETING AND PROMOTIONS LEVY**

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

Short Title

1. This By-law shall be known as By-law 45 and may be cited as the Yarmouth 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 Tourists Accommodations Act and in a building owned or operated by a post-secondary educational institution where the hotel, motel, facility or building consists of twenty or more
 - (i) rental units or
 - (ii) rooms,that are offered as lodgings;
 - (b) “Town” means the Town of Yarmouth;
 - (c) “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;
 - (d) “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, the rate of which shall be \$2.00 per night, per room.
 - (2) 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 sale on the total amount of the purchase price and must be remitted to the Town at the prescribed times and in the prescribed manner.

- (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 Yarmouth 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.
 - (2) Where an operator carries on business at more than one place, he 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 his address, he shall forthwith return his registration certificate to the Town for amendment.

- (5) Where an operator changes the name or nature of his business, he shall forthwith return his 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 he 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, he shall nevertheless make a report to that effect on the prescribed return form.
- (6) Where an operator ceases to carry on or disposes of his business, he 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 write 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 of Yarmouth'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 an 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

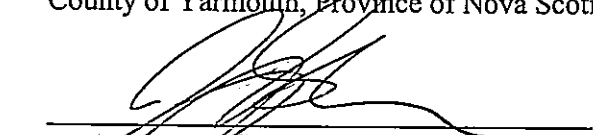
- 15. This By-law shall be administered on behalf of the Town by the Chief Administrative Officer and any persons designated by the Chief Administrative Officer.
- 16. This By-law shall take effect on January 1, 2007.

This By-Law is in effect for the 2005/2006 taxation year.

- a) Date of first reading March 9, 2006
- b) Date of publication of notice of intent April 11, 2006
- c) Date of second reading April 20, 2006
- c) Date of publication May 9, 2006
- d) Date Copied to SNSMR June 15, 2006

I, JEFF GUSHUE, Clerk of the Town of Yarmouth, certify this is a true copy of a resolution of the Town Council, as approved by Council on April 20, 2006.

Dated this 15th day of June, A.D., 2006 at Yarmouth, in the County of Yarmouth, Province of Nova Scotia.



CLERK