

MARKETING LEVY BY-LAW

of the

CAPE BRETON REGIONAL MUNICIPALITY

BE IT ENACTED by Council for the Cape Breton Regional Municipality, pursuant to the *Municipal Government Act*, as amended.

Short Title

1. This By-law shall be known as **By-law M-200** and may be cited as the Cape Breton Regional Municipality 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* and in a building owned or operated by a post-secondary educational institution;
 - (b) “Marketing Levy” means a levy imposed pursuant to this By-law;
 - (c) “Municipality” means Cape Breton Regional Municipality;
 - (d) “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;
 - (e) “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.

Application of By-law

3. This By-law and the Marketing Levy imposed hereby shall be applicable to all Accommodations in the Cape Breton Regional Municipality.

Application of Marketing Levy

4. A Marketing Levy is hereby imposed upon the purchase of Accommodations in the Municipality, and the rate of the Marketing Levy shall be:
 - (a) Where the Accommodation will be provided on or before December 31, 2023, two percent (2%) of the Purchase Price of the Accommodation;
 - (b) Where the Accommodation will be provided on or after January 1, 2024, three percent (3%) of the Purchase Price of the Accommodation.
5. The Marketing 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 Municipality at the prescribed times and in the prescribed manner.
6. If a person collects an amount as if were a Marketing Levy imposed under this By-law, the person must remit the amount collected to the Municipality at the same time and in the same manner as a Marketing Levy collected under this By-law.

Exemption from the Marketing Levy

7. 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 that post-secondary educational institution;
 - (c) a person who is accommodated in a room for more than thirty (30) consecutive days;
 - (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 is seeking specialist medical advice, provided the person provides the Operator with the following:
 - i. a statement from a hospital or provincial health-care centre confirming the person or a member of the person's family is receiving medical treatment at the hospital or health-care centre and is therefore in need of Accommodation and confirming the duration of the Accommodation; or

- ii. a statement 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 is therefore in need of Accommodation and confirming the duration of the Accommodation.
- (e) a person and the person's family, accommodated while the person and the person's family have been temporarily displaced from their home due to a natural disaster, including high wind event, flood event, fire or other naturally occurring damaging event.

8. The By-law and the Marketing Levy imposed hereby shall not apply to Accommodations containing fewer than ten (10) rooms where the Accommodation is provided on or before December 31, 2023.

Registration of Operator

- 9. Every Operator of a facility providing Accommodations to which this By-law applies shall apply for and be issued a registration certificate by the Municipality.
- 10. Where an Operator carries on business at more than one place, they shall obtain a registration certificate in respect of each individual place of business.
- 11. The registration certificate shall be displayed in a prominent place on the premises.
- 12. Where an Operator changes their address, they shall forthwith return their registration certificate to the Municipality for amendment.
- 13. Where an Operator changes the name or nature of their business, they shall forthwith return their registration certificate to the Municipality and apply for a new registration certificate.
- 14. 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 they shall return the same to the Municipality within fifteen (15) days of the date of discontinuance.
- 15. Where a registration certificate is lost or destroyed, application shall be made to the Municipality for a copy of the original.
- 16. A registration certificate granted under Section 9 is not transferable.

Return and Remittance of Marketing Levy

- 17. The Municipality may at any time require a return of sales and Marketing Levy collected by any person selling Accommodation, such return to cover any period or periods.

18. Subject to the provisions of Section 17, unless otherwise provided, all Operators shall make separate monthly returns to the Municipality.
19. A separate return shall be made for each place of business, unless a consolidated return has been approved by the Municipality.
20. The returns by Operators shall be made and the Marketing Levy shall be remitted to the Municipality by the fifteenth (15th) day of the month following the collection of the Marketing Levy by the Operator.
21. If an Operator during the preceding period has collected no Marketing Levy, they shall nevertheless make a report to that effect on the prescribed return form.
22. Where an Operator ceases to carry on or disposes of their business, they shall make the return and remit the Marketing Levy collected within fifteen (15) days of the date of discontinuance or disposal.

Records

23. Every Operator shall keep books of account, records and documents sufficient to furnish the Municipality with the necessary particulars of
 - (a) Sales of Accommodations,
 - (b) Amount of Marketing Levy collected, and
 - (c) Disposal of Marketing Levy.
24. All entries concerning the Marketing Levy in such books of account, records and documents shall be separate and distinguishable from other entries made therein.
25. Every Operator shall retain any book of account, record or other document referred to in this section for a period of seven (7) years or until the Municipality authorizes its destruction.
26. Where a receipt, bill, invoice or other document is issued by a person selling Accommodation, the Marketing Levy shall be shown as a separate item thereon.

Calculation of Marketing Levy

27. 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 Marketing Levy Written Off

28. 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 Marketing Levy payable on that sale under this By-law, if
 - (a) the Operator, in accordance with this By-law, remits the Marketing 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 Marketing Levy payable on that sale; and
 - (c) the Operator writes off as unrealizable or uncollectible the amount owing by the purchaser.
29. An Operator may deduct the amount of the refund payable to the Operator under this section from the amount of Marketing Levy that the Operator is required to remit under this By-law.
30. If an Operator who has obtained a refund under Section 28 or made a deduction under Section 29 recovers some or all of the amount referred to in Section 28(c) with respect to which the refund was paid or the deduction was made, the Operator must add an amount to the Marketing 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 Marketing Levy Collected in Error

31. If the Municipality is satisfied that a Marketing Levy or a portion of a Marketing Levy have been paid in error, the Municipality shall refund the amount of the overpayment to the person entitled.
32. If the Municipality is satisfied that an Operator has remitted to the Municipality an amount as collected Marketing 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

33. In order to claim a refund under 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.

34. For the purposes of section 33(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

35. Interest payable under the By-law shall be payable at the rate of 4% above the prime rate as set by a Canadian bank located in the Municipality calculated on a daily basis.

Inspection, Audit and Assessment

36. The Chief Administrative Officer or their designate 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 have been complied with, or

(b) to inspect, audit and examine books of account, records or documents.

Offense

37. A person who contravenes any provision of the By-law is subject on summary conviction be liable to a fine as follows:

First Offence

(a) Not less than \$500.00 and not more than \$1,000.00.

Subsequent Offence

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

Administration of By-law

38. This By-law shall be administered on behalf of the Municipality by the Chief Administrative Officer or any persons designated by the Chief Administrative Officer.

Severability

39. If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

Effective Date

40. This By-law shall take effect from the 1st day of November, 2023.

41. By-law No. M-200, cited as the Cape Breton Regional Municipality Marketing Levy By-law pursuant to the *Cape Breton Island Marketing Levy Act*, and all amendments thereto, are hereby repealed.

PASSED AND ADOPTED by a majority of the whole of Council at a duly called meeting of the Cape Breton Regional Municipality held on August 22nd, 2023.

MAYOR AMANDA M. MCDOUGALL-MERRILL

DEMETRI KACHAFANAS, KC
ACTING MUNICIPAL CLERK