

BY-LAW NO. 1-23

A BY-LAW OF THE MUNICIPALITY OF ROTHESAY FOR THE IMPOSITION OF A LEVY ON SHORT TERM ACCOMMODATIONS

The Council of Rothesay, under authority vested in it by the Local Governance Act (S.N.B. 2017, Chapter 18), Section 101.1 and amendments thereto enacts as follows:

TITLE

1. This by-law may be cited as the "Rothesay Accommodations Levy By-law".

DEFINITIONS

2. In this By-law:

- (a) "Act" means the Local Governance Act (S.N.B. 2017, Chapter 18), amendments thereto and regulations adopted thereunder;
- (b) "business day" means a day other than a Saturday, Sunday or statutory holiday in New Brunswick;
- (c) "By-law Enforcement Officer" means a By-law enforcement officer, a consultant or any other person or entity appointed under this By-law and designated by resolution of Council;
- (d) "Council" means the elected Mayor and Councillors of Rothesay;
- (e) "Councillor" means a Member of Council other than the Mayor;
- (f) "Levy" means the tourism accommodation levy collected pursuant to this By-law;
- (g) "Member" or "Members of Council" means any person elected to the Council;
- (h) "Operator" means a person, partnership or corporation who, in the normal course of its business, sells, offers to sell, provides or offers to provide tourism accommodation in Rothesay;
- (i) "Rothesay" means the town of Rothesay, as established by *New Brunswick Regulation 85-6*, under the Act (Section 196),
- (j) "Tourism Accommodation" means any premises operated to provide, for remuneration, temporary sleeping accommodation for the public for a continuous period not exceeding 31 days, and includes hotels, motels, inns, bed and breakfasts, resorts, hostels, campgrounds consisting of tents, yurts, cabins and trailer sites, buildings owned or operated by a post-secondary institution, any other facility or building which contains rooms offered as accommodations or rental units and dwelling units that are offered as lodgings;
- (k) "Town" means the town of Rothesay, as established by *New Brunswick Regulation 85-6*, under the Act (Section 196),

INTERPRETATION

3. Rules for interpretation of the language in this By-law are as follows.
 - (a) Captions, article and section names and numbers appearing in this By-law are for convenience of reference only and have no effect on its interpretation,
 - (b) Where the context requires, the singular shall be taken to also mean the plural and references to the male or female gender shall be taken to include the other,
 - (c) Each reference to legislation in this By-law is printed in *Italic font*; the reference is intended to include all applicable amendments to the legislation, including successor legislation. Where this By-law references other By-laws of Rothesay, the term is intended to include all applicable amendments to those By-laws, including successor By-laws.
 - (d) The requirements of this By-law are in addition to any requirements contained in any other applicable By-laws of Rothesay or applicable provincial or federal statutes or regulations.
 - (e) If any section, subsection, part or parts or provision of this By-law, is for any reason declared by a court or tribunal of competent jurisdiction to be invalid, the ruling shall not affect the validity of the By-law as a whole, nor any other part of it.

APPOINTMENT OF BY-LAW ENFORCEMENT OFFICERS

4. Council may, for the purposes of the administration and enforcement of this By-law, appoint By-law enforcement officers who may exercise such powers and perform such duties as may be set out in this By-law or the Local Governance Act.

APPLICATION OF LEVY

5. A levy of 3.5% of the purchase price of tourism accommodation shall be imposed by Operators in Rothesay.

COLLECTION OF LEVY

6. Operators shall collect the levy from the purchaser at the time the tourism accommodation is purchased and shall remit the levy to the By-Law Enforcement Officer at the times and in the manner set forth in this By-law.

SEPARATE LINE ITEM FOR LEVY

7. An operator shall include on every invoice and receipt for the purchase of tourism accommodation a separate line item for the amount of the Levy imposed pursuant to section 5.

EXEMPTIONS

8. The Levy shall not apply to:

- (a) 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; and
- (b) a person who is accommodated in a room for more than 31 consecutive days.

REPORT ON LEVY

9. Reports related to the collection of the Levy shall be submitted as follows.

- (a) Subject to subsection (b), unless otherwise provided, all Operators shall submit to the By-Law Enforcement Officer, in a form acceptable to Rothesay, a monthly report detailing the tourism accommodation sales and Levy collected.
- (b) The By-Law Enforcement Officer may at any time require an Operator to provide a report of sales and levy collected for any period.
- (c) The report referred to in subsection (a) shall be submitted by an Operator for each place of business of that Operator, unless the By-Law Enforcement Officer has agreed that the operator may submit a single consolidated report for all its places of business.
- (d) The report referred to in subsection (a) shall be submitted to the By-Law Enforcement Officer no later than the 20th day of the month following the month in which the levy was collected by the operator.

REMITTANCE OF LEVY

10. The Levy collected by an Operator shall be remitted to the By-Law Enforcement Officer in accordance with the following.

- (a) The Levy collected by an Operator shall be remitted to the By-Law Enforcement Officer no later than the last day of the month following the month in which the Levy was collected.
- (b) If an Operator did not collect any Levy during a given month, that Operator shall nevertheless submit a report to the By-Law Enforcement Officer to that effect in a form acceptable to the By-Law Enforcement Officer.
- (c) Where an Operator ceases to carry on or disposes of its business, said Operator shall submit the monthly report contemplated at section 9 and remit the levy to the By-Law Enforcement Officer within 20 business days of the date this Operator ceases to carry on or disposes of its business.

RECORDS

11.(1) An Operator shall keep books of account, records and documents sufficient to furnish the By-Law Enforcement Officer with the necessary particulars of:

- (a) sales of tourism accommodation,
 - (b) amounts of levy collected, and
 - (c) remittance of levy
- 11.(2) All entries concerning the Levy in such books of account, records and documents shall be separate and distinguishable from other entries made therein.
- 11.(3) Every operator shall retain any book of account, record or other document referred to in this section for a minimum of 6 years following the date on which said documents were created.
- 11.(4) The By-Law Enforcement Officer may, at any time, inspect and audit all books, records, accounts, transactions and other documents of an Operator and require an Operator to produce copies of any document or record it deems necessary for the purposes of administering and enforcing this By-law.

CALCULATION OF LEVY

12. Where an operator sells tourism accommodation in combination with meals and other specialized services in the form of an all-inclusive package, the purchase price of the all-inclusive package shall be deemed to be the purchase price of the tourism accommodation for the purpose of calculating the levy pursuant to section 5 hereof.

REFUND OF LEVY COLLECTED IN ERROR

13. If the By-Law Enforcement Officer is satisfied that an operator has remitted to the By-Law Enforcement Officer an amount as collected Levy that the operator neither collected nor was required to collect under this By-law, the By-Law Enforcement Officer shall refund this amount to the operator.

INTEREST

14. Interest is payable to the By-Law Enforcement Officer on the levy to be collected and remitted under this By-law at the rate of 1.5% per month on all levies not paid on the prescribed date.

LIEN

15. Any levy payable under this By-law and interest thereon owed to Rothesay shall, until they are fully paid, form a lien and charge against the operator's lands, and Rothesay may file with the Land Registry Office a notice to that effect.

ENFORCEMENT

16. (1) By-law Enforcement Officers are hereby authorized to carry out any inspection necessary for the administration or enforcement of this By-law.
- 16 (2) By-law Enforcement Officers are hereby authorized to take such actions, exercise such powers and perform such duties as may be set out in this By-law or in the Local Governance Act and as they may deem to be necessary to enforce any provision of this By-law.

OFFENCES

- 17. (1) A person who violates any of the provisions of this By-law is guilty of an offence and liable on conviction to a fine of \$500.00.
- 17 (2) If an offence continues for more than one day, the fine established at subsection (1) shall be multiplied by the number of days during which the offence continues.

ADMINISTRATIVE PENALTIES

- 18. (1) A By-law Enforcement Officer may require an administrative penalty to be paid with respect to a violation of any provision of this By-law as set out in subsection 18(2).
- 18 (2) A person who violates any provision of this By-law may pay to a By-law Enforcement Officer within 30 business days from the date of such violation an administrative penalty of \$250.00, and upon such payment, the person who committed the violation is not liable to be prosecuted therefor.

EFFECTIVE DATE

- 19. This By-law comes into effect on the date of final enactment thereof.

FIRST READING BY TITLE

SECOND READING BY TITLE

READ IN ITS ENTIRETY

THIRD READING BY TITLE AND ENACTMENT

Nancy Grant, Mayor

Mary Jane Banks, Clerk

