

BYLAW NO. _____
A BYLAW RELATING TO A TOURISM ACCOMMODATION LEVY
IN THE MUNICIPAL DISTRICT OF ST. STEPHEN

BE IT ENACTED by the Council of the Municipal District of St. Stephen, under the authority vested in it by the *Local Governance Act*, ch. 2017, c18, Sections 19.1 and 101.1 - 101.3, and amendments thereto, hereby makes and enacts this Bylaw as follows:

1. TITLE

- 1.1. This Bylaw may be cited as the Tourism Accommodation Levy Bylaw of the Municipal District of St. Stephen.

2. DEFINITIONS

- 2.1. In this Bylaw, unless the context otherwise requires:
- 2.1.1. "**COUNCIL**" means the Council for the Municipal District of St. Stephen.
- 2.1.2. "**GUEST**" means an individual or group that acquires accommodation under this Bylaw.
- 2.1.3. "**LEVY**" means the Tourism Accommodation Levy.
- 2.1.4. "**MUNICIPALITY**" means the Municipal District of St. Stephen as amalgamated on January 1, 2023.
- 2.1.5. "**MUTUAL SHARED SERVICES**" means that projects can be combined between Tourism Development and Tourism Promotion that jointly benefit tourism initiatives in the community. For example, staffing, transit, etc.
- 2.1.6. "**OPERATOR**" means any person who sells, offers to sell, provides, and offers to provide Tourism Accommodation within the municipal boundaries of the Municipal District of St. Stephen. Operators outside of this area are welcome to participate on a voluntary basis and follow the Bylaw as presented.
- 2.1.7. "**SERVICE PROVIDER**" means the organization selected by the Municipal District of St. Stephen' Council to conduct tourism initiatives on behalf of the Municipality.
- 2.1.8. "**TOURISM ACCOMMODATION**" means the provision of lodging in any premises operated to provide, for remuneration, temporary sleeping accommodation for the travelling public or for the use of the public engaging in recreational activities and includes campgrounds, glamping, and trailer parks for a continuous period not exceeding 31 days.

2.1.9. **"TOURISM DEVELOPMENT"** means planning and implementation of strategies, infrastructure, or other projects deemed appropriate by the Council to support tourism with the objective of developing the tourism sector to increase the attractiveness of a destination and thereby attract more tourists.

2.1.10. **"TOURISM PROMOTION"** means activities, operations, and expenditures designed to increase the number of visitors at a destination and to maximize the utilized capacity of a tourist business including but not limited to advertising, publicizing, or otherwise distributing information for the purposes of attracting and welcoming tourists; developing strategies to expand tourism; operating tourism promotion agencies; and funding the marketing of or the operation of special events and festivals designed to attract tourists.

3. SCHEDULE AMENDMENTS

3.1. The Council may from time to time amend by resolution Schedules "A" and "B" inclusive of this Bylaw.

4. SCHEDULE AMENDMENTS

4.1. A Guest shall pay a Levy on the purchase price of the Tourism Accommodation in the amount specified in Schedule A on all accommodation bookings finalized on or after April 30, 2025.

4.2. An Operator shall include on every invoice or receipt for the purchase of such accommodation a separate item for the amount of Levy imposed on the purchase and the item shall be identified as 'Tourism Accommodation Levy'.

5. EXEMPTIONS

5.1. The Levy imposed under Section 4 shall not apply to:

5.1.1. 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.

5.1.2. A student who is accommodated in a building owned or operated by a science-based institution while the student is registered to attend a continuing education program.

5.1.3. A person who is accommodated in a room for more than 31 consecutive days.

5.1.4. Hotel or motel rooms provided by the Municipality, the Province, or their agents for emergency shelter accommodation purposes.

6. REGISTRATION OF OPERATOR

- 6.1. Every Operator of a facility providing Tourism Accommodation shall apply annually by March 31st of each year for a registration certificate from the Municipality.
- 6.2. If an Operator owns more than one establishment in the Municipal District of St. Stephen, they are required to obtain a registration for each individual property.
- 6.3. The registration certificate shall be displayed prominently on the premises.
- 6.4. Any changes in the business including ownership, change of address, operating structure, or cessation of business, the Operator shall notify the Municipality.
- 6.5. When an Operator changes the nature of the business, they shall immediately return the current registration certificate and be issued a new one.
- 6.6. In the event the Operator ceases business, the certificate becomes void, and it shall be returned to the Municipality.
- 6.7. All registered Operators must ensure they comply with the Bylaws of the Municipal District of St. Stephen, all applicable laws, and regulations of the Province of New Brunswick. Registration and payment under this Bylaw do not confirm your compliance with all other Bylaws.
- 6.8. The annual fee for registration shall be in accordance with Schedule "A" of this Bylaw.

7. COLLECTION BY OPERATORS

- 7.1. Operators shall collect the Levy from the Guest at the time the Tourism Accommodation is paid for and shall remit the Levy to the Municipality at the prescribed times and in the prescribed manner as set forth in this Bylaw.

8. REPORT AND REMITTANCE OF LEVY

- 8.1. Subject to the provisions of Subsection 8.2, unless otherwise provided, all Operators shall make separate quarterly reports to the Municipality, on the prescribed report form of Tourism Accommodation Sales and Levy collected.
- 8.2. A separate report shall be made for each place of business unless a consolidated report has been approved by the Municipality.
- 8.3. The Operators shall submit reports and remit the Levy to the Municipal District of St. Stephen on a quarterly basis. Such reports and remittances shall be made by the 30th day of the month following the end of the quarter.

- 8.4. If an Operator, during the preceding period, has collected no Levy, they shall nevertheless make a report to that effect (NIL) on the prescribed report form.
- 8.5. Where an Operator ceases to carry on or disposes of their business, they shall make the report and remit the Levy collected within 20 days of the date of discontinuance of disposal.

9. RECORDS

- 9.1. Every Operator shall keep books of accounts, records, and documents with the necessary particulars of:
 - 9.1.1. Sales of Tourism Accommodation.
 - 9.1.2. Amount of Levy collected.
 - 9.1.3. Remittance Levy.
- 9.2. All entries concerning the Levy in such books of accounts, records, and documents shall be separate and distinguishable from other entries made therein.
- 9.3. Every Operator shall retain any books of accounts, records, or other documents referred to in this Section for a minimum period of the current year plus six (6) years.
- 9.4. Council may appoint an independent auditor to inspect and audit all books, documents, transactions, and accounts of Operators and require Operators to produce copies of any documents or records required for the purposes of administering and enforcing this Bylaw.

10. ADMINISTRATION

- 10.1. The Tourism Accommodation Levy funds will be allocated as set out in Schedule "A".
- 10.2. All collections of the Levy and related disbursements shall be held and accounted for in a separate bank account.
- 10.3. The Municipality may charge an Administration Fee to cover expenses related to the administration and enforcement of this Bylaw.
- 10.4. A cap of \$20,000.00 has been established for the Administration Fee. Once collected to the cap, any funds collected through the administration fee will be split one-third (1/3) and two-thirds (2/3) between the Municipality and the Service Provider. If administrative fee funds fall below the established cap, funds will be recouped from the Tourism Accommodation Levy to meet the cap.
- 10.5. Council will appoint a Service Provider to administer and manage the portion of the Tourism Accommodation Levy in accordance with the Terms of Reference as per Schedule "B" of this Bylaw.

- 10.6. The Municipal District of St. Stephen will administer and manage the portion of the Tourism Accommodation Levy in accordance with the Terms and Reference as per Schedule "B" of this Bylaw.
- 10.7. The Regional Service Commission of the Province of New Brunswick has a mandate for developing and supporting tourism at a regional level. The Regional Service Commission, on a yearly basis, will tax the Municipal District of St. Stephen to support initiatives at the regional level. Tourism Fees charged to the Municipality by the Regional Service Commission will come from the Tourism Accommodation Levy before funds are provided to the Municipality and Service Provider as outlined in Schedule "A"

11. INTEREST

- 11.1. Interest payable under this Bylaw shall be payable at a rate of 1.5% compounded monthly.

12. ENFORCEMENT

- 12.1. Any Bylaw Enforcement Officer is hereby authorized to make such actions, exercise such powers, and perform such duties, as may be set out in this Bylaw, or in the *Local Governance Act*, and as they may deem to be necessary to enforce any provision of this Bylaw.

13. ACTION ON ARREARS

- 13.1. Where a Levy imposed by this Bylaw is in arrears, in addition to other remedies including interest as per Section 11, that the Municipality must enforce payment, the Municipality may commence legal proceedings to collect arrears, register liens against the subject property, or disconnect the service of a water system, sewage system, or water and sewage system provided to the person who owes the Levy to the Municipality.

14. OFFENCES

- 14.1. Enforcement of this Bylaw shall be subject to the provisions of Part 14 of the *Local Governance Act*.
- 14.2. Any Operator who violates any provision of this Bylaw is guilty of an offence and is liable on conviction to a fine.
- 14.3. Any Operator who does not register or circumvent registration with the Municipal District of St. Stephen, in accordance with this Bylaw, is guilty of an offence and is liable on conviction to a fine.
- 14.4. All contraventions of this Bylaw are designated Bylaw contraventions that may be dealt with by a Notice of Penalty pursuant to the provisions of the *Local Governance Act*.

- 14.5. The Administrative Penalty for each applicable contravention of this Bylaw shall be in accordance with Schedule "A".
- 14.6. A Person to whom a penalty notice is delivered may pay the Administrative Penalty on or before a charge pertaining to the offence has been laid in Provincial Court as follows:
- 14.6.1. In person at the Municipal District of St. Stephen Office, 22 Budd Ave., St. Stephen, New Brunswick by cash, debit, credit card, money order, or bank draft, payable to the Municipal District of St. Stephen; or
 - 14.6.2. By mail to: Municipal District of St. Stephen, 22 Budd Ave., St. Stephen, New Brunswick, E3L 1E9 by money order or bank draft, payable to the Municipal District of St. Stephen.
- 14.7. A person who pays the Administrative Penalty shall be deemed to have contravened the provision of the Bylaw in respect of which the payment was made and shall not be charged with an offence in respect of the same incident that gave rise to the Administrative Penalty.
- 14.8. If the Administrative Penalty is not paid in accordance with Section 14.6, the person charged with the offence, under the *Provincial Offences and Procedures Act, Section 56(4) Category D Offence*, in the Court of King's Bench, is liable on summary conviction to a minimum fine of one hundred and forty dollars (\$140.00) to a maximum fine of two thousand one hundred dollars (\$2,100.00). All penalties issues as per Schedule "A" are still in effect if the penalties are charged in the Court of King's Bench.
- 14.9. Conviction of a person for an offence under this Bylaw or the payment of an Administrative Penalty does not relieve the person from compliance with this Bylaw and the Municipality may take further actions as set out in Section 13, which may be necessary to collect any outstanding Levy.

15. EFFECTIVE DATE

Read for the First Time this _____ day of _____, 2025

Public Hearing of Objections this _____ day of _____, 2025

Read for the Second Time this _____ day of _____, 2025

Read for the Third and Final Time this _____ day of _____, 2025

Mayor

Clerk

DRAFT

SCHEDULE "A"

TOURISM ACCOMMODATION LEVY

1. TOURISM ACCOMMODATION LEVY PERCENTAGE COLLECTED

1.1. The amount of the Tourism Accommodation Levy shall be set at 3.5% of the purchase price of the Tourism Accommodation excluding the Harmonized Sales Tax on all Tourism Accommodation as described in this Bylaw on or after April 20, 2025.

1.1.1. Calculation Example: (Accommodation cost and associated fees x 3.5% Levy x HST = Total Accommodation Costs)

2. ANNUAL REGISTRATION FEE

2.1. The annual fee for the registration of a Tourism Accommodation is \$0.00.

3. ALLOCATION OF FUNDS

3.1. The Tourism Accommodation Levy funds shall be allocated as follows:

3.1.1. The Administration Fee of five percent (5.0%) is to be withheld by the Municipal District of St. Stephen based on Section 10.4 of this Bylaw. If the cap established for the Administration Fee is reached, the 5.0% funds are distributed at a one-third (1/3) or thirty-three point three, three percent (33.33%) rate to the Municipality and two-thirds (2/3) or sixty-six point six, six percent (66.66%) rate to the Service Provider.

3.1.2. The Regional Service Commission Fee for Tourism, for the Municipal District of St. Stephen based on taxation, will be drawn from the Tourism Accommodation Levy funds annually. These funds will be drawn from the whole fund before the remaining funds are divided between the Municipality and the Service Provider.

3.1.3. Sixty-six point six, six percent (66.66%) of the Tourism Accommodation Levy funds are to be administered and managed by the Service Provider.

- 3.1.4. One-third (1/3) or thirty-three point three, three percent (33.33%) of the Tourism Accommodation Levy funds are to be administered and managed by the Municipal District of St. Stephen.
- 3.1.5. Mutually Shared Services between the Service Provider and the Municipality can be jointly funded from the Tourism Accommodation Levy funds if both parties agree on the project or service.

4. ADMINISTRATIVE PENALTIES

- 4.1. The Administrative Penalties for contravention of this Bylaw are as follows:
 - 4.1.1. First Offence - verbal or written warning.
 - 4.1.2. Second Offence - minimum of one hundred and forty dollars (\$140.00) per day for each day the offence has occurred.
 - 4.1.3. Third Offence - minimum of five hundred dollars (\$500.00) per day for each day that the offence has occurred plus a one-month suspension of registration.
 - 4.1.4. More than Three Offences - minimum of one thousand dollars (\$1,000.00) per day for each day that the offence occurs plus a one-year suspension from registration.
 - 4.1.5. Failure to follow the Administrative Penalties will result in charges being laid, based under the *Provincial Offences and Procedures Act, Section 56(4) Category D Offence*, to the Provincial Courts of New Brunswick as per Section 14.6 with a minimum fine of one hundred and forty dollars (\$140.00) to a maximum of two thousand one hundred dollars (\$2,100.00), not including the penalties listed in Section 4.1.2 - 4.1.4.

SCHEDULE "B"
TERMS OF REFERENCE
MUNICIPAL DISTRICT OF ST. STEPHEN TOURISM ACCOMMODATION LEVY

1. PURPOSE

- 1.1. The purpose of the Terms of Reference is to provide direction on the management and administration of funds collected under the Tourism Accommodation Levy.

2. SERVICE PROVIDER

- 2.1. The Municipal District of St. Stephen is hereby appointed as the Service Provider to manage and administer the Service Provider portion of the Tourism Accommodation Levy until [insert name of service provider] has completed its business corporation documents submitted to the Municipal District of St. Stephen. Upon receipt of the final business documents, [insert name of service provider] will become the Service Provider.
- 2.2. The Municipal District of St. Stephen reserves the right to appoint a different Service Provider by a simple majority vote of the Council.

3. AUTHORITY

- 3.1. The Service Provider will only be given the authority to spend the funds in the calendar year after they are collected.
- 3.2. By October 31st of the prior calendar year, the Service Provider must submit a budget to Council for approval.
- 3.3. Council may approve, amend, or reject the budget submitted by the Service Provider.
- 3.4. The Municipal District of St. Stephen will have staff representation on the Service Provider Board as a non-voting member to provide feedback and information.

4. REPORTING

- 4.1. The Service Provider will provide a written report, every quarter, including ongoing initiatives, and financial reports that include a comparison to budgeting to the Municipal District of St. Stephen.
- 4.2. The Service Provider may be required to provide a third-party audit when requested by the Municipal District of St. Stephen for Council to review the accuracy of spending. The Cost of such an audit will be paid by the Municipal District of St. Stephen.

5. FUNDING MANDATE

- 5.1. The Service Provider will be provided the portion of the funds collected through the Tourism Accommodation Levy by February 1st of each year to begin funding Tourism elements for the upcoming year if a budget has been approved by the Council of the Municipal District of St. Stephen.
- 5.2. From the Service Provider portion of the Tourism Accommodation Levy collected, a minimum of 20% of the funds must be allocated to Community events, programs, and festivals. This funding may not be used for any event sponsored by the Service Provider. All events, programs, and festivals funded by the Tourism Accommodation Levy must promote tourism in the Municipal District of St. Stephen.
- 5.3. Tourism Accommodation Levy funds can be used to fund initiatives including Visitor Information Centres, tourism-related staff, consultant studies, advertising, marketing, transit, infrastructure, and other initiatives to increase tourism in the Municipal District of St. Stephen. Activities must produce measurable benefits for tourism in the Municipal District of St. Stephen.