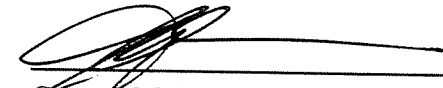


Halifax Regional Council  
22 January 2002

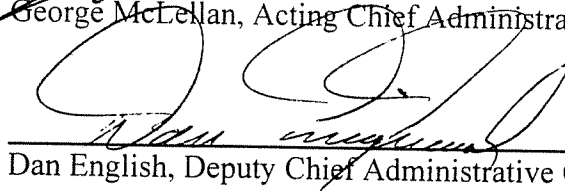
*February 12, 2002*

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**



George McLellan, Acting Chief Administrative Officer



Dan English, Deputy Chief Administrative Officer

**DATE:** 16 January 2002

**SUBJECT:** Bylaw H-400 Marketing Levy - 1<sup>st</sup> Reading

**ORIGIN**

- 1) October 10, 2000 HRM Council approval to seek enabling legislation for a Hotel Room Tax to fund incremental tourism marketing.
- 2) July 8, 2001 Council approval to draft a bylaw to collect a tax based on hotel room sales and approval of a Memorandum of Understanding which set out the distribution of the revenues.
- 3) On January 15, 2002 Council approved in principle Bylaw H-400 attached as Appendix "A" and directed staff to arrange for the formal introduction of the Bylaw for First Reading.

**RECOMMENDATION**

It is recommended that Council approve First Reading of Bylaw H-400 Marketing Levy (Attachment #1), and direct the Municipal Clerk to advertise for a Public Hearing and Second Reading on February 12, 2002.

## **BACKGROUND**

On 22 November 2001, the provincial legislature approved enabling legislation for the introduction of a “Marketing Levy” within HRM . Staff is bringing Bylaw H-400 forward at this time for consideration and approval by Council. This report is for First Reading and setting a date for the Public Hearing and Second Reading.

## **DISCUSSION**

At Council on January 15, 2002 staff introduced the Marketing Levy Bylaw H-400. This report addresses the Council question raised by Councillor Johns.

### **Council Question:**

*Councillor Johns asked if it would be possible to take into consideration the addition of an exemption for people displaced from their homes due to “acts of God” such as a fire and flood.*

Staff share the spirit of the intent of the suggested exemption, and approached the issue from a perspective of inclusion. However, the practicality of the exemption creates a number of problems.

- 1) The verification that an individual fits this category of exemption, would become the responsibility of the accommodation property. Given the nature of the exclusion, the property would have to make this judgement without the benefit of documentation or second party verification.
- 2) Given the issue raised in (1) above, HRM would have no method or tool to audit this exclusion.

Staff also considered the following:

- 1) While there is no data available on the history of numbers of citizens displaced from their homes by an “act of God”, it is assumed that it is low. This number would be further reduced when exclusion is made for those citizens who would be reimbursed through insurance, stay with friends or family or would choose a small accommodation property (under 20 rooms) which is already exempt from the tax.
- 2) The option of refunding direct from HRM after paying the tax also creates problems. Estimating that an individual would stay in a property for three nights for a total cost of \$225., the tax refund would amount to \$3.38. The cost of administering the refund would be well beyond the value of the refund.

For these reasons, staff have not included this exception in the proposed Bylaw H- 400.

### **BUDGET IMPLICATIONS**

As per the Memorandum of Understanding with the Hotel Association of Nova Scotia, it is intended that 66% of the funds collected will be used to fund a Destination Marketing Organization (DMO) that will plan, coordinate and deliver sales and marketing strategies necessary to drive leisure and business tourism into HRM; and, 33% will be used to fund HRM's Special Event Reserve to pay HRM hosting costs for Special Events.

Collection costs incurred by HRM will be funded from the levy. Actual projections, based on latest information, will form part of Tourism, Culture & Heritage business plan and budget for approval by Council.

### **FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

### **ALTERNATIVES**

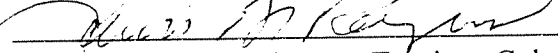
Council could choose not to adopt the by-law as presented. This will preclude the development of a Destination Marketing Organization. The under funding of marketing for HRM will continue and this municipality will not support the cooperative approach preferred by the Hotel Industry.

### **ATTACHMENTS:**

- 1) Attachment #1 - Proposed Bylaw H-400 - Respecting Marketing Levy

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Lewis M. Rogers, Director, Tourism, Culture & Heritage

Report Approved by:   
Lewis M. Rogers, Director, Tourism, Culture & Heritage 490-5978

## Appendix "A"

### HALIFAX REGIONAL MUNICIPALITY

#### BYLAW NUMBER H-400

#### RESPECTING MARKETING LEVY

**BE IT ENACTED** by the Council of the Halifax Regional Municipality under the authority of the *Halifax Regional Municipality Marketing Levy Act* as follows:

#### **Short Title**

1. This By-law shall be known as By-law H-400 and may be cited as the Marketing 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) "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 and offers to provide accommodation in the Municipality;
- (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 levy is hereby imposed in the Municipality, the rate of which shall be 1.5 per cent of the purchase price of the accommodation.

(2) The levy imposed under this Bylaw, 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 Municipality 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 Bylaw, the person must remit the amount collected to the Municipal at the same time and in the same manner as levy collected under this Bylaw.

### **Exemption From Levy**

4. (1) 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 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 Municipality.

(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 Municipality for amendment.

(5) Where an operator changes the name or nature of his business, he shall forthwith return his registration certificate to the Municipality 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 Municipality within 15 days of the date of discontinuance.

(7) Where a registration certificate is lost or destroyed, application shall be made to the Municipality 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 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 provided, all operators shall make separate monthly returns to the Municipality.

(3) A separate return shall be made for each place of business, 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 15<sup>th</sup> 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 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 until the Municipality 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 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 Bylaw, if

- (a) the operator, in accordance with this Bylaw, 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 Bylaw.

(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 Bylaw 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 Bylaw, the Municipality must refund the amount to the operator.

**Claim For Refund**

11. (1) In order to claim a refund under this Bylaw, 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**

12. Interest payable under the By-law shall be payable at the rate of 4% above the prime rate as set by HRM banker calculated on a daily basis

**Inspection, Audit and Assessment**

13. A person appointed by the Municipality 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 Bylaw, or
  - (ii) this Bylaw is being and have been complied with, or
- (b) to inspect, audit and examine books of account, records or documents.

**Offense**

14. 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 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 Bylaw**

15. This Bylaw shall be administered on behalf of the Municipality by the Treasurer and any persons designated by the Treasurer.

**Effective Date**

16. This By-law shall take effect from the 1<sup>st</sup> day of April, 2002.