

THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE

By-law No. 5435-22
Municipal Accommodation Tax

WHEREAS section 400.1 of the *Municipal Act, 2001*, S.O 2001, c.25, (the “Act”) provides that the council of a local municipality may pass by-laws imposing a tax in respect of the purchase of transient accommodation within the municipality;

AND WHEREAS pursuant to section 400.1 of the Act and the Ontario Regulation 435/17, the Council of The Corporation of the Town of Niagara-on-the-Lake wishes to establish the tax rate and to levy on the purchase of transient accommodation within the Town of Niagara-on-the-Lake;

AND WHEREAS pursuant to section 400.1 (3) and 400.4 of the Act, Council can establish enforcement measures as Council considers appropriate if an amount assessed for outstanding tax, penalties or interest remains unpaid after it is due;

AND WHEREAS Council wishes to add the arrears of the interest and penalties to the tax roll for the properties in the Town of Niagara-on-the-Lake registered in the name of the Provider to be collected in like manner as property taxes and such arrear shall constitute a lien upon the lands, but pursuant to section 400.4(2) of the Act, such lien shall not be a priority lien for the purposes of subsections 1(2.1), (2.2) and (3) of the Act and such lien will not have a higher priority than it would otherwise have in law in relation to other claims, liens or encumbrances;

NOW THEREFORE the Council of The Corporation of the Town of Niagara-on-the-Lake ENACTS as follows:

DEFINITIONS

1. For the purposes of this By-law:

“**Accommodation**” means Lodging, and the right to use Lodging, that is provided for consideration, whether or not the lodging is actually used;

“**Town**” means The Corporation of the Town of Niagara-on-the-Lake;

“**Council**” means the Council of The Corporation of the Town of Niagara-on-the-Lake;

“**Eligible Tourism Entity**” has the meaning given to it in the Ontario Regulation 435/17, as amended.

“**Establishment**” means the physical location, a building or part of a building that provides Accommodation;

“**Lodging**” includes:

- (a) the use of a bedroom, a suite of rooms containing a bedroom, or the use of a bed within a bedroom;
- (b) the use of one or more additional beds or cots in a bedroom or suite.
- (c) the use of Short Term Rental Accommodation with 5 or more bedrooms

“Provider” means a person or an entity that sells, offers for sale, or otherwise provides Accommodation, and includes agents, hosts or others who sell, offers for sale or otherwise provides Accommodation;

“Purchaser” means a person who purchases Accommodation;

“Purchase Price” means the price for which Accommodation is purchased, including the price paid, and/or other consideration accepted by the Provider in return for the Accommodation provided, but does not include the goods and services tax imposed by the Government of Canada or by the Province of Ontario.

“Municipal Accommodation Tax” or **“MAT”** means the tax imposed under this By-law;

“Short-Term Rental” – All or part of a dwelling unit used to provide sleeping accommodations for any rental period that is 28 consecutive days or less in exchange for payment, and includes Bed and Breakfast Establishments, Cottage Rentals, Villas, Country Inns and Vacation Apartments.

“Short-Term Rental Accommodation” – Lodging in a short-term rental.

APPLICATION

2. A Purchaser shall, at the time of settlement of Accommodation, pay the Municipal Accommodation Tax in the amount of two percent (2%) of the Purchase Price, where the Accommodation is purchased for a period of 28 consecutive days or less, in a hotel, motel, motor hotel, lodge, inn, bed and breakfast, vacation rental, dwelling unit or any place in which Accommodation is provided, with more than five (5) bedrooms.
 - (a) For greater clarity, the number of consecutive days calculated pursuant to section 2 above:
 - (i) is not disrupted when the occupier(s) of the Accommodation changes Lodging over the course of their stay; and
 - (ii) is disrupted whenever a different individual occupies the same Lodging in relation to the purchased Accommodation.
3. The amount of the Municipal Accommodation Tax will escalate per the dates provided and to the following amounts:
 - (a) January 1, 2024, three percent (3%)
 - (b) January 1, 2025 four percent (4%)

EXEMPTIONS

4. The Municipal Accommodation Tax imposed under this By-law does not apply to:
 - (a) The Crown, every agency of the Crown in right of Ontario and every authority, board, commission, corporation, office, or organization of persons a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council;
 - (b) Every board as defined in subsection 1(1) of the *Education Act*;
 - (c) The purchase of transient Accommodation at a university or a college of applied arts and technology or post-secondary institution whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating operating grants entitlements from the Crown;
 - (d) Every hospital referred to in the list of hospitals and their grades and classifications maintained by the minister of Health and Long-Term Care

under the *Public Hospitals Act* and every private hospital operated under the authority of a license issued under the *Private Hospitals Act*;

- (e) Every long-term care home as defined in subsection 2(1) of the *Long-Term Care Homes Act, 2007* and hospices;
- (f) Accommodations provided as shelter;
- (g) Accommodations provided by treatment center that receives provincial aid under the *Ministry of Community and Social Services Act*;
- (h) Accommodations provided by house of refuge, or lodging for the reformation of offenders;
- (i) Accommodations provided by charitable, non-profit philanthropic corporation organized as shelters for the relief of the poor or for emergency;
- (j) Accommodations provided by tent or trailer sites supplied by a campground, tourist camp or trailer park;
- (k) Accommodations supplied by employers to their employees in premises operated by the employer; and
- (l) Accommodations provided by hospitality room in an establishment that may or may not contain a bed and is used for displaying merchandise, holding meetings, or entertaining.
- (m) Group Accommodation bookings with signed contracts prior to the date that this By-Law takes effect
- (n) Short Term Rental Bookings in establishments which have five (5) or more rooms with reservations made prior to July 1st, 2022

TAX COLLECTION AND REMITTANCE

- 5. A Provider shall collect the MAT from the Purchaser at the time of settlement and after services have been rendered. The amount of the MAT shall be identified as a separate item or charge on a bill, receipt, invoice or similar document issued by the Provider in respect of the Accommodation on which the tax is imposed and the item shall be identified as "Municipal Accommodation Tax".
- 6. A Provider shall, on or before the last day of every quarter, remit to the Town for the amount of the MAT collected for the previous quarter and submit the quarterly statements in the form required by the Town detailing the number of the Accommodation sold, the purchase price of each Accommodation, the MAT amount collected and any other information as required by the Town for the purposes of administering and enforcing this By-law.
- 7. When a due date falls on a Saturday, a Sunday, or a public holiday recognized by the Canada Revenue Agency, the payment is considered on time if received on the next business day.

DELEGATION OF AUTHORITY

- 8. The Chief Administrative Officer (CAO), or designate, is hereby delegated the authority to enter into agreements, including all necessary documents ancillary thereto, with Eligible Tourism Entity(ies) that receive(s) an amount of the MAT respecting reasonable financial accountability matters in order to ensure that amount paid to the entity is used for the exclusive purpose of promoting tourism, and the agreements may provide for other matters, all in a form satisfactory to the Town's solicitor.

9. The Director of Corporate Services, or designate, is hereby delegated the authority to enter into agreements, including all necessary documents ancillary thereto, with another person or entity as agent for the Town, providing for the implementation and collection of the Municipal Accommodation Tax, all in a form satisfactory to the Town's solicitor.
10. The Director of Corporate Services or designate, shall be responsible for the administration of this By-law, including but not limited to approvals, appeals, enforcement, collection, and for instructing the Town's legal counsel to take such legal action as may be considered appropriate.

INTEREST PENALTIES

11. That a percentage charge of 1.25 percent per month of the amount of the MAT due and unpaid be imposed as a penalty for the non-payment of taxes on the first day of default based on the full occupancy of the Establishment unless the actual amount of the MAT owing can be determined by the Town, in that case, the percentage charge of 1.25 per cent of the actual amount of the MAT will be imposed.
12. That an interest charge of 1.25 percent each month of the amount of the MAT due and unpaid, be imposed for the non-payment of taxes on the first business day of each month and subsequent months following the first day of default.
13. For the first year of implementation, a grace period of 90 days will be provided on late payments. This grace period will end July 1st, 2023 or on the one year anniversary of the by-law passing.

LIENS

14. All MAT penalties and interest that are past due shall be deemed to be in arrears, and maybe added to the tax roll for any real property in the Town of Niagara-on-the-Lake registered in the name of the Provider to be collected in like manner as property taxes and shall constitute a lien upon the lands, but such lien shall not be a priority lien for the purposes of subsections 1(2.1), (2.2) and (3) of the Municipal Act, 2001, as amended and such lien will not have a higher priority than it would otherwise have in law in relation to other claims, liens or encumbrances.

AUDIT AND INSPECTION

15. The Provider shall keep books of account, records, and documents sufficient to furnish to the Town or its agent with the necessary particulars of sales of Accommodations, amount of MAT collected and remittance.
16. The Town or its agent may inspect and audit all books, documents, transactions and accounts of the Providers and require the Providers to produce copies of any documents or records required for the purposes of administering and enforcing this by-law, as required. Records will be limited to the purposes of determining MAT.

OTHER PENALTIES

17. Every Person who contravenes any provision of this By-law is guilty of an offence and, in addition to being liable for payment of the penalty imposed by section 10-11, is liable to a fine and such other penalties as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33 and the *Municipal Act*., 2001 S.O. 2001 c. 25, each as amended:
 - (a) A person who is convicted of an offence under this by-law is liable, for each day or part of a day that the offence continues, to a minimum fine of \$500.00 and a maximum fine of \$10,000.00, and the total of all daily fines for the offence is not limited to \$100,000.00 as provided for in subsection 429(3)2 of the Municipal Act, 2001.

- (b) When a person has been convicted of an offence under this by-law, the Superior Court of Justice or any court of competent jurisdiction thereafter may, in addition to any penalty imposed on the person convicted, issue an order:
 - (i) prohibiting the continuation or repetition of the offence by the person convicted; and
 - (ii) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
- 18. Without limiting the foregoing, the Town may establish and use other dispute resolution mechanisms and enforcement measures if an amount assessed for outstanding tax, penalties or interest remains unpaid after it is due, including measures such as garnishment, the seizure and sale of property and the creation and registration of liens as it considers appropriate.
- 19. If any amount of tax payable remains owing by an Operator of a Short-Term Rental establishment, the Town Clerk may revoke the Operator's STR licence under the Town's short-term rental licensing and registration regime.

GENERAL

- 20. This By-law shall come into effect on July 1st, 2022.
- 21. If any section or portion of this By-law is found by a court of competent jurisdiction to be invalid, it is the intent of Council for the Town that all remaining sections and portions of this By-law continue in force and effect.
- 22. This By-law may be referred to as "the Municipal Accommodation Tax By-law".
- 23. Any funds generated under this By-law will be placed into a special reserve, with fund activity being reported annually to the Town's Audit & Finance Committee, and/or Council.

LORD MAYOR BETTY DISERO

TOWN CLERK RALPH WALTON