



Consolidated By-law 93-2020 of The Corporation of the City of Oshawa

This consolidated by-law is made available for information and convenience purposes only. For accuracy, By-law 93-2020, along with amending By-law 84-2024 should be reviewed.

Being a by-law to establish the 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, "Transient Accommodation Tax", the Council of The Corporation of the City of Oshawa may establish a tax rate and to levy the tax on the purchase of transient accommodation within the City of Oshawa; 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 section 8(1) of the Act provides that the powers of a municipality shall be interpreted broadly as to confer broad authority on a municipality to (a) enable it to govern its affairs as it considers appropriate; and (b) enhance its ability to respond to municipal issues; and,

Whereas section 11(2) of the Act provides that a lower-tier municipality may pass By-laws respecting health, safety and well-being of Persons and protection of Persons and Property, including consumer protection; and,

Whereas section 391 of the Act provides for the municipality to impose fees or charges on Persons for services or activities provided or done by or on behalf of it;

And Whereas section 425 of the Act provides for a municipality to pass By-laws providing that a Person who contravenes a By-law of the municipality passed under the Act is guilty of an offence; and,

Whereas Council wishes to add the arrears of the interest and penalties to the tax roll for the properties in the City of Oshawa registered in the name of the Provider to be collected in a manner as property taxes and such arrears 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) (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;

Therefore, the Council of The Corporation of the City of Oshawa enacts as follows:

Definitions

1. For the purpose of this By-law:

"Accommodation" means the use or possession or the right to use or possess, for dwelling, lodging or sleeping purposes of a room or suite of rooms containing one or more beds or cots, whether in a hotel, motel, motor hotel, lodge, inn, resort, bed and breakfast, short-term rentals or other establishment providing lodging, or in all or part of a dwelling unit and whether or not additional amenities, services or the right to use additional space in the establishment or dwelling unit are provided where such rights are acquired for a Purchase Price;

"City" means the geographic area of the City of Oshawa or the municipal corporation as the context requires;

"Council" means the Council of The Corporation of the City of Oshawa;

"Establishment" means the physical location, a building(s) or part of a building(s) that provides Accommodation.

“Municipal Accommodation Tax” or “MAT” means the tax imposed under this By-law and where applicable, includes MAT assessed by the Treasurer;

“Person” includes an individual, a sole proprietorship, an unincorporated association, a partnership, a trust and a corporation;

“Provider” means a Person that sells, offers for sale, or otherwise provides Accommodation, and includes agents, hosts or others who sell, offer for sale by any means, including through an on-line platform or otherwise provide Accommodation;

“Purchaser” means a Person who, for a Purchase Price, uses, possesses or has the right to use or possess any Accommodation;

“Purchase Price” means the price for which Accommodation is purchased, and where applicable, any other consideration accepted by the Provider in return for the Accommodation and includes all fees and charges for additional occupants, for provision of additional beds or cots, and unless separately itemized on the invoice, bill or similar document, all fees and surcharges for ancillary services including food, beverages, entertainment, internet usage, telephone usage and similar charges. Purchase Price does not include the harmonized sales tax imposed by the Government of Canada or by the Province of Ontario or any replacement tax therefor;

“Treasurer” means the person appointed by Council from time to time as the Treasurer for the City and includes his or her authorized designate; and

Application

2. A Purchaser shall, at the time of purchasing Accommodation, pay the Municipal Accommodation Tax in the amount of five (5) per cent of the Purchase Price of Accommodation provided for a continuous period of 30 days or less. (84-2024)

For greater certainty, the continuous period referred above is not disrupted by the purchase of different rooms, suites, beds or other lodging in the same Establishment in the course of the continuous period.

Exemptions

3. The following are exempt from this By-law:

a. The Crown, any agency of the Crown in right of Ontario or any 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. Any board as defined in subsection 1(1) of the *Education Act*;

c. Any university in Ontario or any college of applied arts and technology and post-secondary institution in Ontario whether or not affiliated with a university, the enrollments of which are counted for purposes of calculating operating grants entitlements from the Crown;

d. Any 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. Any long-term care home as defined in subsection 2(1) of the *Long Term Care Home Act*;

f. Any retirement home as defined in the *Retirement Home Act, 2010*;

g. Any home for special care within the meaning of the *Homes for Special Care Act*;

h. Any non-profit hospice occupying land for which there is an exemption from taxation determined in accordance with section 23.1 of Ontario Regulation 282/98 made under the *Assessment Act*;

i. Any Person or entity as prescribed by regulation under the Act as exempt from payment of Municipal Accommodation Tax;

j. Any treatment centre that receives provincial aid under the *Ministry of Community and Social Services Act*; or

k. Accommodation provided:

- i. In a house of refuge or lodging for the reformation of offenders;
- ii. By charitable or not-for-profit corporations or by the City or Region of Durham or its contractors or agents for the purpose of providing or operating a shelter or emergency shelter for the relief of the poor; or for the benefit of persons who are fleeing situations of physical, financial, emotional or psychological abuse; or for other persons who are suffering from homelessness;
- iii. As a tent site or a trailer site;
- iv. By an employer to its employees in premises operated by the employer; or
- v. In premises owned or operated by the City of Oshawa.

Administration / Delegation

4. The Treasurer is delegated the authority to implement and administer this By-law, to collect the MAT and to take all actions, including any and all enforcement measures, and make all decisions required of the Treasurer under this By-law. Without limiting the generality of the foregoing, the Treasurer is delegated the authority to:

- a. Establish, amend and sign from time to time, such interpretation guidelines, protocols, procedures, forms, documents and agreements, as the Treasurer may determine are required to implement and administer this By-law and to collect the MAT;
- b. Perform all administrative functions and conduct all enquiries, audits, assessments, approvals, referred to herein and those incidental to and necessary for the due administration and enforcement of this By-law and collection of monies owing hereunder;
- c. Authorize, establish terms and sign any repayment agreements provided for herein and any ancillary or related documents, and to amend, extend or terminate or otherwise administer or enforce such agreements; and
- d. Carry out all duties as assigned to the Treasurer under this By-law.

5. The Treasurer may delegate the performance of any one or more functions under this By-law to one or more persons from time to time as the occasion requires and may impose conditions upon such delegation and may revoke any such delegation.

6. Ontario Regulation 435/17 (5) allows municipalities to collect a fee for the costs associated with administering the tax. The City will collect an administration fee of 5% of the total MAT revenue, payable to offset costs related to administration.

Tax Collections and Reporting

7. A Provider shall collect the MAT from the Purchaser at the time the Accommodation is purchased.

8. 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".

9.1 A Provider shall, on or before the last day of every month, remit to the Treasurer for the amount of the MAT collected for the previous month and submit the monthly statements in the form required by the City Treasurer 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 City for the purposes of administering and enforcing this By-law.

9.2 A Provider identified as a bed and breakfast or short-term rental shall remit the amount of the M.A.T. collected for the previous three months and submit the quarterly statements on or before the last day every calendar quarter end; and, in the form required by the City Treasurer detailing the number of the Accommodation sold, the purchase price of each Accommodation, the M.A.T. amount collected and any other information as required by the City for the purposes of administering and enforcing the By-law. (84-2024)

Interest and Penalties

10. A percentage charge of 1.25 per cent of the amount of the MAT due and unpaid will 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 Treasurer, in that case, the percentage charge of 1.25 per cent of the actual amount of the MAT will be imposed.

11. An interest charge of 1.25 per cent each month of the amount of the MAT due and unpaid shall be imposed for the non-payment of taxes on the first day of each month and subsequent months following the first day of default.

Audit and Inspection

12. Every Provider shall keep books of account, records and documents sufficient to furnish the City Treasurer with the necessary particulars as of point in time, to verify the accuracy and completeness of the amount of MAT collected and paid to the City.

13. The Treasurer 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.

14. Every Provider shall retain such books of account, records and documents for a period of time of not less than 7 years.

Collection of Arrears

15. All MAT and related penalties and interest that are past due shall be deemed to be in arrears and a debt owing to the City. The Treasurer is authorized to take any one or more steps available to the City to collect any such amount including without limitation:

- a. Adding the amount to the tax roll for any real property in the City registered in the name of the Provider or Owner of the Establishment to be collected in a manner as property taxes and constituting a lien upon the lands;
- b. Bringing an action in the name of the City for the recovery of the amount in the court of appropriate jurisdiction;
- c. Referring the collection of the amount to a collection agency; and
- d. Exercising any other remedy available pursuant to the *Municipal Act, 2001* or otherwise available at law.

16. The remedies provided for the recovery and enforcement of the payment of any amount required under this By-law are in addition to any other remedies existing at law.

Other Penalties

17. Every Provider who contravenes any of the provisions of this By-law and any director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*.

18. A Provider 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 in subsection 429(3)2 of the *Municipal Act, 2001*.

19. The levying and payment of any fines as provided for under the *Provincial Offences Act* and not relieve a person from the necessity of compliance with the obligations under the By-law or from the obligation for payment of the MAT or any interest or penalty imposed by the By-law or such other penalties as may be provided for under the *Municipal Act, 2001* as amended or replaced.

The use of any of the remedies provided by this section does not bar or affect any of the other remedies herein provided, and the remedies provided by this By-law for the recovery and enforcement of the payment of any amount required under this By-law are in addition to any other remedies existing at law, and no action or other proceeding in any way prejudices, limits or affects any Lien or priority existing under this By-law or at law in favour of the City

20. Without limiting the foregoing, the City 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.

General

21. For the purpose of Section 23.2(4) of the *Municipal Act, 2001*, it is the opinion of Council that the powers delegated to the Director pursuant to this By-law are of a minor nature.

22. All references to legislation in this By-law are references to legislation of the Province of Ontario as amended from time to time, including successor legislation, whether enacted prior to or subsequent to the enactment of this By-law.

23. Should any section of this By-law be declared invalid by a court of competent jurisdiction, such section shall be construed as being severed from this By-law and the remainder of this By-law shall continue in full force and effect.

24. Notwithstanding the repeal of this By-law, any enforcement, legal, or collection actions arising from this By-law while this By-law was in effect shall survive its repeal.

25. This By-law shall be administered by the Treasurer, including his or her designate.

26. The provisions of this By-law shall come into force and effect on April 1, 2021 subject to the City of Oshawa being awarded the 2021 Memorial Cup Tournament, otherwise the effective date of implementation to be January 1, 2022.

27. If there is a conflict between a provision of this By-law and a provision of any other City by-law, the provision that establishes the higher standard shall prevail.

By-law passed this twenty-sixth day of October, 2020.

Mayor

City Clerk