
The Corporation of the City of Peterborough

By-Law Number 19-063

Being a By-law to Establish a Municipal Accommodation Tax (MAT)

Whereas

- a) Section 400.1 of the **Municipal Act, 2001** provides that a municipality may pass a by-law imposing a Transient Accommodation Tax;
- b) Ontario Regulation 435/17 provides regulations in respect of the imposition of a Transient Accommodation Tax;
- c) Section 23.2 of the **Municipal Act, 2001** permits a municipality to delegate certain legislative and quasi-judicial powers;
- d) At its meeting on April 23, 2019, Council approved the establishment of the Transient Accommodation Tax to be imposed on the purchase of accommodations of short duration within the City of Peterborough, which will generate revenue to be shared with designated non-profit entities to promote local tourism;

Now Therefore, The Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

Definitions

- 1. In this By-law:
 - a) “Ancillary Charges” means charges related to the purchase of Transient Accommodation including for food, room service, mini bar products, internet, movie rentals, and phone charges.
 - b) “By-law” means this by-law including, as applicable, its schedules and any amending by-laws.
 - c) “City” means The Corporation of the City of Peterborough.
 - d) “Council” means the Council of the City.
 - e) “Municipal Accommodation Tax” or “MAT” means the tax imposed under this By-law.
 - f) “Provider” means each owner of Transient Accommodation and includes a person who receives payment in consideration for Transient Accommodation and includes agents, hosts or others who sell, offer for sale or otherwise provide Transient Accommodation.
 - g) “Purchaser” means the person who makes payment in consideration for Transient Accommodation.
 - h) “Tax Collection Agent” means the person or persons from time to time appointed by Council or by the City’s Chief Administrative Officer pursuant to section 15 to collect from Providers the Municipal Accommodation Tax.
 - i) “Transient Accommodation” means accommodation for one or more individuals for a continuous period of less than thirty (30) nights in each place or part or unit of a place in which such accommodation is provided including a hotel, motel, inn, resort or hostel.

Application of MAT

2. A Purchaser must pay, at the time of purchase, a Municipal Accommodation Tax in the amount of four percent (4%) of the purchase price for the Transient Accommodation.
3. Subject to section 4, the Municipal Accommodation Tax does not apply to Ancillary Charges that are itemized separately on the Purchaser's receipt.
4. Where the Provider of Transient Accommodation fails to separately itemize Ancillary Charges, the Municipal Accommodation Tax will apply to the total amount of the purchase price.

Exemptions

5. The Municipal Accommodation Tax 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) Every university in Ontario and every college of applied arts and technology and post-secondary institution in Ontario whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating annual operating grants entitlements from the Crown;
 - d) The purchase of Transient Accommodation at an institution described in paragraph c);
 - e) 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 licence issued under the **Private Hospitals Act**;
 - f) Every long-term care home as defined in subsection 2(1) of the **Long-Term Care Homes Act, 2007**;
 - g) Every treatment centre that receives provincial aid under the **Ministry of Community and Social Services Act**;
 - h) Every house of refuge, or lodging lawfully used for the reformation of offenders;
 - i) Every charitable, non-profit philanthropic corporation organized as shelters for the relief of the poor or for emergency;
 - j) Every hotel or motel room used by the City or its agents for shelter accommodation purposes;
 - k) Every tent or trailer site lawfully supplied by a campground, tourist camp, or trailer park;
 - l) Every accommodation lawfully supplied by employers to their employees in premises operated by the employer;
 - m) Every hospitality room in an establishment that does not contain a bed and is used exclusively for displaying merchandise, holding meetings, holding hearings, or entertaining;
 - n) Every Bed and Breakfast Establishment lawfully used in accordance with the City's Zoning By-law 97-123, as amended;
 - o) Transient Accommodation advertised on the internet platforms known as Airbnb and Vacation Rentals by Owner (VRBO) and lawfully used in accordance with applicable law including the City's Zoning By-law 97-123, as amended.

Tax Collected by Provider

6. A Provider must provide to a Purchaser a written receipt or invoice on which the Provider specifies the amount of the Municipal Accommodation Tax as a separate item and identifies the amount as “Municipal Accommodation Tax”.
7. A Provider must collect the Municipal Accommodation Tax from the Purchaser at the time of purchase of Transient Accommodation.
8. A Provider holds in trust for the City the Municipal Accommodation Tax collected by the Provider.
9. A Provider must forthwith provide to the City all information that the City’s Treasurer may from time to time request in relation to the administration or enforcement of this By-law.
10. A Provider must, by the fifteenth (15th) day following the end of each calendar month, remit to the Tax Collection Agent all Municipal Accommodation Tax collected by the Provider as at the end of the said calendar month. Each such remittance must be made in the manner prescribed by the Tax Collection Agent and, without limiting section 9, must be accompanied by a statement in a form prescribed by the Tax Collection Agent that includes the following information
 - a) Total number of nights for which each unit of Transient Accommodation was provided;
 - b) Total Municipal Accommodation Tax collected;
 - c) Total Municipal Accommodation Tax collected for each unit of Transient Accommodation;
 - d) For each unit of Transient Accommodation, particulars of each exemption from the payment of Municipal Accommodation Tax including the paragraph(s) under section 5 and the proof upon which the Provider relied in applying the exemption.

Refunds

11. Where, within twenty-four (24) hours of paying an amount on account of Municipal Accommodation Tax, a Purchaser submits to the Tax Collection Agent or to the City’s Treasurer a written complaint that the amount or part was not payable pursuant to this By-law (“Disputed MAT”), the City’s Treasurer or the Tax Collection Agent may make a determination as to whether the Disputed MAT was correctly or wrongly paid. If the determination is that the Disputed MAT was wrongly paid, the City’s Treasurer or the Tax Collection Agent may direct the Provider to refund or credit to the Purchaser an amount equal to the Disputed MAT. The Provider must forthwith comply with the direction.
12. Where, within twenty-four (24) hours of a remittance of Municipal Accommodation Tax pursuant to section 10, a Provider submits to the Tax Collection Agent or to the City’s Treasurer a written complaint that the amount or part of the remittance was in error (“Disputed Remittance”), the City’s Treasurer or the Tax Collection Agent may make a determination as to whether the Disputed Remittance was or was not made in error. If the determination is that the Disputed Remittance was made in error, the City’s Treasurer or the Tax Collection Agent may cause to be refunded or credited to the Provider and amount equal to the Disputed Remittance.
13. The determinations and, as applicable, direction of the Treasurer or the Tax Collection Agent pursuant to sections 11 and 12 are final and not subject to review including review by any Court.

Tax Collection Agent

14. The Tax Collection Agent is the Ontario Restaurant Hotel & Motel Association.
15. The City’s Chief Administrative Officer, in consultation with the City Solicitor, may designate additional tax collection agents for the City and enter into agreements with Tax Collection Agents in forms acceptable to the City’s Treasurer and the City Solicitor.

16. The Tax Collection Agent will collect and administer the Municipal Accommodation Tax as an agent for the City in accordance with the agreement between the City and the Tax Collection Agent and this By-law.

Interest, Fees and Liens

17. Penalties and interest at a monthly rate of interest applicable to overdue property taxes apply to any outstanding Municipal Accommodation Tax and are payable monthly by the Providers of Transient Accommodation on the amount of any Municipal Accommodation Tax payable or remittable from the business day following the date on which the Municipal Accommodation Tax was payable or its remittance was due up to and including the date on which such Municipal Accommodation Tax is paid or remitted in full.
18. All Municipal Accommodation Tax penalties and interest that are past due may be deemed by the City Treasurer to be in arrears, and may, at the Treasurer's discretion, be transferred to the City's tax collector's roll for any real property in the City to be collected in the same manner as municipal property taxes and constitutes a lien upon the said real property.

Audit and Inspections

19. Every Provider must keep, for a period of no less than three (3) years, books of account, records, and documents sufficient to furnish the City or its Tax Collection Agent with the information set out in sections 9 and 10.
20. The City's Treasurer or the Tax Collection Agent may inspect and audit all books, documents, transactions, and accounts of Providers and require Providers to produce copies of any document or records required for the purpose of administering and enforcing this By-law.
21. Every Provider must furnish upon the demand of the City Treasurer or the Tax Collection Agent for inspection, copies of any books, documents, transactions, accounts or records required for the purposes of the administration and enforcement of this By-law.

Offences and Penalties

22. Every person who contravenes any provision of this By-law is guilty of an offence.
23. Every director or officer of a corporation who knowingly concurs in the contravention by the corporation of any provision of this By-law is guilty of an offence.
24. Every person convicted of an offence under this By-law is liable to a minimum fine of \$500 and a maximum fine of \$100,000 for each day on which offence occurs or continues.

Effective Date

25. This By-law comes into force and effect on October 1, 2019.

By-law read a first, second and third time this 24th day of June, 2019.

(Sgd.) Diane Therrien, Mayor

(Sgd.) John Kennedy, City Clerk