

CITY OF ST. CATHARINES

BY-LAW NO. 2023-014

A By-law to amend By-law No. 2022-145 entitled "A By-law to establish a Municipal Accommodation Tax in the City of St. Catharines."

WHEREAS Council of the City of St. Catharines, at its meeting held on August 8, 2022, passed a by-law to implement a municipal accommodation tax within the City of St. Catharines, under the short title "Municipal Accommodation Tax By-law";

AND WHEREAS Council of the City of St. Catharines, at its meeting held on January 16, 2023, resolved to amend the Municipal Accommodation Tax By-law so as to restructure the municipal accommodation tax rate throughout 2023, 2024, 2025 and beyond.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ST. CATHARINES enacts as follows:

1. That By-law No. 2022-145 be and the same is hereby amended by deleting the contents of the by-law in its entirety and replacing same with APPENDIX 1 attached hereto and forming a part of this amending by-law.

Read and passed this 30<sup>th</sup> day of January 2023.

  
CLERK

  
MAYOR

CITY OF ST. CATHARINES

BY-LAW NO. 22-145

A By-law to establish a Municipal Accommodation Tax in the City of St. Catharines.

WHEREAS section 400.1 (1) of the *Municipal Act*, 2001, S.O 2001, c.25 (the "Act"), provides that a local municipality may, by by-law, impose a direct tax in respect of the purchase of transient accommodation within the municipality;

AND WHEREAS pursuant to section 400.1 of the Act and Ontario Regulation 435/17, the Council of the Corporation of the City of St. Catharines desires to establish a municipal transient accommodation tax rate to levy on the purchase of transient accommodation within the City of Catharines;

AND WHEREAS pursuant to sections 401.1(3) of the Act, Council may establish certain enforcement measures as Council considers appropriate if an amount assessed for outstanding tax, penalties or interest remains unpaid after it is due.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ST. CATHARINES enacts as follows:

1. This by-law may be referred to as the "Municipal Accommodation Tax By-law or MAT By-law".
2. In this By-law:
  - a. "accommodation" means lodging, and the right to use lodging, that is provided for consideration, whether or not the lodging is actually used;
  - b. "by-law" means this by-law and any amendments made thereto;
  - c. "City" means The Corporation of the City of St. Catharines;

- d. "Council" means the Council of The Corporation of the City of St. Catharines;
- e. "eligible tourism entity" has the same meaning given to it in Ontario Regulation 435/17;
- f. "establishment" means the physical location, a building or part of a building that provides accommodation;
- g. "lodging" includes:
  - i. the use of a bedroom, a suite of rooms containing a bedroom, or the use of a bed within a bedroom, domicile or other physical location;
  - ii. the use of one or more additional beds or cots in a bedroom or suite.
- h. "Municipal Accommodation Tax" or "MAT" means the tax imposed under this by-law;
- i. "provider" means a person or an entity that sells, offers for sale, or otherwise provides accommodation, and includes agents, hosts or any other who sell offers for sale or otherwise provides accommodation;
- j. "purchaser" means a person who purchases accommodation;
- k. "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, including all fees and surcharges for additional occupants and beds, but does not include the goods and services tax imposed by the Government of Canada or by the Province of Ontario;
- l. "Treasurer" means the City's Director of Financial Management Services, or their designate.

3. A purchaser shall, at the time of purchasing accommodation, pay the Municipal Accommodation Tax in the amount in accordance with the table attached to this By-law as APPENDIX 1 (the "Prescribed Tax Rate") of the purchase price of the accommodation provided for any continuous period of 28 days or less provided in a hotel, motel, condo hotel, club, portion of a multi-use complex used as a hotel, motor hotel, hostel, lodge, inn, bed and breakfast, dwelling unit, domicile or any place in which accommodation is

provided. For greater certainty, a continuous period is not disrupted by the purchase of different rooms, suites, beds or other lodging in the same establishment during the course of the continuous period, and the purchaser of different rooms, suites, beds or other lodging in the same establishment shall, without exception, pay the Municipal Accommodation Tax in the amount of the Prescribed Tax Rate of the purchase price of each different accommodations provided, whatever the case may be, for any continuous period of 28 days or less provided in a hotel, motel, condo hotel, club, portion of a multi-use complex used as a hotel, motor hotel, hostel, lodge, inn, bed and breakfast, dwelling unit, domicile or any place in which accommodation is provided

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*, R.S.O. 1990, c.E.2;
  - c. Every 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 grant entitled 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*, R.S.O. 1990, c.P.40, and every community health facility within the meaning of the *Oversight of Health Facilities and Devices Act*, 2017, c.25, Sched. 9, that was formerly licensed under the *Private Hospitals Act*, R.S.O. 1990, c.P.24;
  - e. Every long-term care home as defined in subsection 2(1) of the *Long-Term Care Homes Act*, 2007, S.O. 2007, c. 8 and hospices;

- f. Accommodations provided by the City or its agents for shelter purposes;
- g. Accommodations provided by treatment centres that received Provincial aid under the *Ministry of Community and Social Services Act*, R.S.O. 1990, c.M.20;
- h. Accommodations provided by a house of refuge, or lodging for the reformation of offenders;
- i. Accommodations provided by a charitable, non-profit philanthropic Corporation organized a shelter for the relief of the poor or for emergency purposes;
- j. Accommodations supplied by employers to their employees in premises operated by the employer; and
- k. Accommodations provided by hospitality rooms in an establishment that may or may not contain a bed and is used for displaying merchandise, holding meetings, or entertaining.

5. A provider shall collect the MAT from the purchaser at the time the accommodation is purchased.

6. 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".

7. A provider shall, on or before the last day of every month, remit to the City, or its designate as the case may be, the amount of the MAT collected for the previous month and submit monthly statements in the form required by the City detailing the number of accommodations 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.

8. The Treasurer is hereby delegated the authority to enter into agreements, including all necessary documents ancillary thereto, with another person or entity as agent for the City, providing for the implementation and collection of the MAT, all in a form satisfactory to the Director of Legal and Clerks Services.

9. The Treasurer is hereby delegated the authority to enter into agreements, including all necessary documents ancillary thereto, with an eligible tourism entity, that receives an amount of the MAT respecting reasonable financial accountability matters in order to ensure that amounts paid to the eligible tourism entity are used for the exclusive purpose of promoting tourism, and the agreements may provide for other matters, all in a form satisfactory to the City's Director of Legal and Clerks Services.

10. The Treasurer shall be responsible for the administration of this by-law, including but not limited to approvals, appeals, enforcement, collection, and for instructing the City's Director of Legal and Clerks Services to take such legal action as may be considered appropriate.

11. That a percentage charge of 1.25% 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, and for each day thereafter. Such penalty charge shall be calculated based on the full occupancy of the establishment, or the actual occupancy of the establishment for each day on which the default occurred if said occupancy is proven to the satisfaction of the City.

12. A fee shall be charged in respect of all payment remittances that are not honoured by the financial institution upon which it is drawn in an amount as set out in the City of St. Catharines Rates and Fees By-law applicable in that year.

13. All MAT penalties and interest that are past due shall be deemed to be in arrears, and may be added to the tax roll for any real property in the city of St. Catharines 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 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.

14. The provider shall keep all books, accounts, invoices, financial statements, records, electronic and such other documents sufficient to furnish the City or its agent with the necessary particulars of sales of Accommodations, amount of MAT collected, payable and remitted, for no less than seven years in a form and manner acceptable to the City.

15. The City or an agent of the City may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or where anything is done in connection with any business or where any books or records are or should be kept and inspect and audit all books, records, documents, transactions and accounts of transient accommodation providers and require providers to produce copies of any documents or records required for the purposes of administering and enforcing this by-law, as required.

16. The City or its agent may require a provider to:

- i. Provide the City all reasonable assistance with its audit or inspection;
- ii. Answer all questions relating to the audit or inspection either orally or, if the City requires, in writing, on oath or by statutory declaration;  
or
- iii. Attend at the premises or place with the City representative or agent for the purposes of giving reasonable assistance and answering questions relating to the audit or inspection.

17. The City or its agent may serve on a provider a written demand for information or for the production on oath or otherwise of books, accounts, records, letters, invoices, financial statements, electronic and such other documents as the City or its agent

considers necessary to determine compliance with this by-law. A provider in receipt of such a demand shall comply with the demand within the time specified in the demand.

18. The City may make a determination of an amount of tax required to be remitted, together with any interest imposed upon any tax outstanding, if a provider responsible for the payment or remittance of tax fails to pay, as required.

19. The City may assess or reassess for any tax payable by the provider within three years from the day the tax was remittable, except that where the City establishes that a provider has made any misrepresentation that is attributable to neglect, carelessness or willful default, or has committed any fraud in supplying any information under this by-law, or in omitting to disclose any information, then the City may assess or reassess, for any time the City considers reasonable, the tax payable.

20. The City may send either by mail, registered mail, e-mail, or deliver by hand, a notice of the remittance calculation made under the provisions of this by-law herein to the provider at the providers' last known address, and that the amount determined is payable within thirty (30) days from the date of mailing of the notice.

21. Liability to pay an amount is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

22. The City is not bound by any information delivered by or on behalf of a provider responsible for the payment of tax and may, notwithstanding any information that has been delivered or if no information has been delivered, assess the tax payable.

23. The remittance calculation, subject to being varied or adjusted due to an objection or appeal and subject to a recalculation, shall be deemed to be valid and binding despite any error, defect or omission in the assessment or in any proceeding related to it.

24. Every person is guilty of an offence under this By-law who:



- a. makes, participates in, assents to or contributes in the making of false or deceptive statements in a report, statement, form or other document prepared, submitted or filed under or for the purposes of this by-law;
- b. destroys, alters, mutilates, hides or otherwise disposes of any records or books of account, in order to evade payment or remittance of tax;
- c. makes, assents to or contributes in the making of false or deceptive entries, or assents to or contributes in the omission to enter a material, in any records or books of account;
- d. hinders, obstructs or interferes with any audit or inspection conducted by the City or its agent pursuant to the provisions of this by-law;
- e. fails to, refuses, evades, or attempts to evade:
  - i. paying tax;
  - ii. remitting tax; or
  - iii. otherwise complying with this by-law; or
- f. Conspires with any person to commit an offence described under this section.

25. Every Person who contravenes any provision of this By-law, upon conviction, is liable to such penalties as provided for in the Municipal Act, or the Provincial Offences Act.

26. A person who has contravened a provision of this By-law may be subject to a penalty notice issued pursuant to the City's Non-Parking AMPS By-law 2021-68.

27. If any or part of a provision of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative on particular circumstances, the balance of this By-Law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.



SCHEDULE 1

Prescribed Tax Rate Table

<b>Column</b>	<b>Period</b>	<b>Tax Rate Percentage</b>
<b>1.</b>	January 1 – January 31, 2023	4%
<b>2.</b>	February 1 - December 31, 2023	2%
<b>3.</b>	2024	3%
<b>4.</b>	2025+	4%