

CITY OF NIAGARA FALLS

By-law No. 2018-104

A by-law to establish a Municipal Accommodation Tax.

WHEREAS The Corporation of the City of Niagara Falls may, by by-law, impose a tax in respect of the purchase of transient accommodation in the municipality, in accordance with Part XII.1 of the *Municipal Act*, 2001, S.O. 2001 c. 25, as amended, and the Transient Accommodation Tax Regulation O. Reg. 435/17;

AND WHEREAS at its meeting of April 24, 2018, Council approved the establishment of a Transient Accommodation Tax to be imposed on the purchase of short-term accommodations within the City of Niagara Falls;

AND WHEREAS the revenue to be generated by the Transient Accommodation Tax is to be shared with a non-profit entity for the promotion of the City of Niagara Falls as a tourism destination;

THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:

1. Application of Tax

- 1.1 A purchaser shall, at the time of purchasing transient accommodation, being accommodation for a continuous period of less than thirty (30) nights in a hotel, motel, inn or resort, pay a Municipal Accommodation Tax in the amount of Two Dollars (\$2.00) for each day, or part of a day, of the term of the license granted to the purchaser of such accommodations.
- 1.2 A provider of transient accommodation, being accommodation for a continuous period of less than thirty (30) nights in a hotel, motel, inn or resort, shall include on every invoice or receipt for the purchase of short-term accommodation, a separate item for the amount of the Municipal Accommodation Tax imposed on the purchase.
- 1.3 The amount of the tax entered pursuant to section 1.2 shall be identified as the Municipal Accommodation Tax on the invoice or receipt, as the case may be.

2. Exemptions

- 2.1 Municipal Accommodation Tax imposed by subsection 1.1 does not apply to:
 - a. the Crown, every agency of the Crown in right of Ontario, and every authority, board, commission, corporation, office, organization of persons a majority of whose directors, members or officers are appointed or chosen by or under the authority of new Lt. Gov. 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 in Ontario and every college of applied arts and technology and postsecondary institution in Ontario, whether or not affiliated with the university, the enrolments of which are counted for the purposes of calculating annual operating grant entitlements from the Crown on accommodations provided to students while a student is registered and attending the institution;
- 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 private hospital under the authority license issued 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, retirement home, and hospice;
- f. every treatment center that receives provincial aid under the *Ministry of Community and Social Services Act*, R.S.O. 1990, c. M.20;
- g. every house of refuge, or watching for the reformation of offenders;
- h. every charitable, non-profit philanthropic corporation organized as shelters for the relief of the poor or for emergency;
- i. every tent or trailer site supplied by a campground, tourist or trailer park;
- j. every accommodation supplied by employers to their employees in the premises operated by the employer; and
- k. every hospitality room in an establishment that does not contain a bed and is used for displaying merchandise, holding meetings, or entertaining.

3. Tax Collected by Service Provider

- 3.1 Providers of transient accommodation shall include on every invoice or receipt for the purchase of transient accommodation, a separate item identified as "Municipal Accommodation Tax" setting out the amount of Municipal Accommodation Tax imposed on the purchase.
- 3.2 Providers of transient accommodation shall collect the Municipal Accommodation Tax from the purchaser at the time the transient accommodations are purchased.
- 3.3 The Municipal Accommodation Tax collected by providers of transient accommodation shall be remitted to the Treasurer of the City of Niagara Falls, or their designate, on the last day of each month by electronic transfer.

- 3.4 Each provider of transient accommodation that remitted the Municipal Accommodation Tax shall forward to the Treasurer of the City of Niagara Falls, or their designate, a completed Remittance Form by e-mail addressed to finance@niagarafalls.ca.

4. Penalties and Interest

- 4.1 Penalties and interest at the rate applicable to overdue property taxes shall be payable by the providers of transient accommodation on the non-payment of the full amount of the Municipal Accommodation Tax by the due date set out in the notice, and interest may be added on the first day of default and on each month thereafter in which the default continues.

5. Liens

- 5.1 All Municipal Accommodation Tax penalties and interest that are past due shall be deemed by the City Treasurer to be in arrears, and shall be transferred to the tax collectors' roll of the City to be collected in the same manner as municipal property taxes and shall constitute a lien upon the lands.

6. Audit and Inspection

- 6.1 Every transient accommodation service provider shall keep books of account, records, and documents sufficient to furnish the City and its designated tax collectors with the necessary particulars of sales of accommodation, amount of levy collected and remittance.
- 6.2 The City's Treasurer and their designate, may inspect and audit all books, documents, transactions and accounts of transient accommodation providers and require transient accommodation providers to produce copies of any documents or records within a reasonable time required for the purposes of administering and enforcing this by-law, as required.

7. Offence and Penalties

- 7.1 Every person who contravenes any provision of this by-law is guilty of an offence as provided for in subsection 429(1) of the *Municipal Act, 2001*, and all such offences are designated as continuing offences as provided for in subsection 429(2)(a) of the *Municipal Act, 2001*.
- 7.2 A person who is convicted of an offence under this by-law is liable, to a minimum fine of \$500.00 and a maximum fine of \$100,000 as provided for in subsection 429(3), paragraph 1 of the *Municipal Act, 2001*.
- 7.3 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 of the daily fines for the offence is

not limited to \$100,000, as provided for in subsection 429(3) paragraph 2 of the *Municipal Act, 2001*.

- 7.4 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:
- a. prohibiting the continuation or repetition of the offence by the person convicted; and
 - b. requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

8. Effective Date

- 8.1 This by-law shall come into force and take effect on January 1, 2019.

Passed this fourteenth day of August, 2018.

.....
WILLIAM G. MATSON, ACTING CITY CLERK

.....
JAMES M. DIODATI, MAYOR

First Reading: August 14, 2018.
Second Reading: August 14, 2018.
Third Reading: August 14, 2018.