

CITY OF NIAGARA FALLS

By-law No. 2025 – 009

A by-law to establish a Municipal Accommodation Tax and repeal By-law No. 2018-104 and By-law No. 2021-58.

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, (the “Act”), and the Transient Accommodation Tax Regulation O. Reg. 435/17;

AND WHEREAS The Corporation of the City of Niagara Falls has passed by-laws for the establishment of a Municipal Accommodation Tax to be imposed on the purchase of short-term accommodations within the City of Niagara Falls;

AND WHEREAS pursuant to section 400.1 of the Act and the O. Reg. 435/17, the Council of The Corporation of the City of Niagara Falls wishes to establish the tax rate and to levy on the purchase of transient accommodation within the City of Niagara Falls;

AND WHEREAS pursuant to sections 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 after due consideration, evaluation and consultation, the Council for The Corporation of the City of Niagara Falls has decided to repeal the previous Municipal Accommodation Tax By-law, as amended, and establish a new By-law in order to better support the City of Niagara Falls as a world class destination;

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

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

1. Definitions

1.1 For the purposes of this By-law:

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

1.1.2 “Accommodation Property” includes:

- 1.1.2 (1) a hotel, motel, inn, bed and breakfast, whole home vacation rental, vacation rental unit or other such lodging; and
- 1.1.2 (2) the use of a bedroom, a suite of rooms containing a bedroom, or the use of a bed within a bedroom;

- 1.1.3 “City” means The Corporation of the City of Niagara Falls;
- 1.1.4 “Council” means the Council of The Corporation of the City of Niagara Falls;
- 1.1.5 “Eligible Tourism Entity” has the meaning given to it in O. Reg. 435/17, as amended, and may include one or more such entities;
- 1.1.6 “Establishment” means the physical location, a building or part of a building that provides Accommodation;
- 1.1.7 “Municipal Accommodation Tax” or “MAT” means the tax imposed under this By-law. This tax is applied on top of charges for tourist accommodation for each night of stay;
- 1.1.8 “Priority Destination Spending” has the meaning given to it in Section 11;and
- 1.1.9 “Transient Accommodation Provider” means the person or legal entity that operates an Accommodation Property.

2. Purpose of the Municipal Accommodation Tax

- 2.1 The purpose of the MAT is to support and grow the tourism industry in the City of Niagara Falls and to improve the livability of the City for the residents of Niagara Falls.
- 2.2 The identified goals of the MAT include, but are not limited to:
 - 2.2.1 Increase tourism visitation;
 - 2.2.2 Increase total tourism spend;
 - 2.2.3 Increase tourism asset development and tax assessment; and
 - 2.2.4 Undertake environmental sustainability initiatives in support of the tourism industry and the broader community.

- 2.3 The MAT can support a number of activities including, but not limited to:
- 2.3.1 Destination marketing;
 - 2.3.2 Special events;
 - 2.3.3 In destination activities;
 - 2.3.4 Demand generation development;
 - 2.3.5 Convention and meeting attraction support;
 - 2.3.6 Supporting Regional wide activities that will lead to economic activity in the City of Niagara Falls;
 - 2.3.7 Beautification activities;
 - 2.3.8 Infrastructure development;
 - 2.3.9 Sports tourism activities;
 - 2.3.10 Tourism studies; and
 - 2.3.11 Cost to administer the program.

3. Application of Municipal Accommodation Tax

- 3.1 A purchaser shall, at the time of purchasing or otherwise acquiring Accommodation, being Accommodation for a continuous period of less than twenty-eight (28) nights in an Accommodation Property, pay a Municipal Accommodation Tax as prescribed in this By-law. For further clarity even if the travelling public purchases or otherwise acquires Accommodation for a period exceeding twenty-eight (28) nights and a landlord tenant relationship is not established then the MAT will apply. The MAT will apply even if the Accommodation is provided to the travelling public for free or at no cost.
- 3.2 A Transient Accommodation Provider, providing Accommodation for a continuous period of less than twenty-eight (28) nights in an Accommodation Property, or for periods greater than twenty-eight (28) nights but where a landlord tenant relationship is not established, 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.

- 3.3 The Municipal Accommodation Tax shall be applied based on the rating of the Accommodation Property in the following amounts:
- 3.3.1 Five (5) Star - Seven Dollars (\$7.00);
 - 3.3.2 Four (4) Star - Six Dollars (\$6.00);
 - 3.3.3 Three (3) Star - Five Dollars (\$5.00);
 - 3.3.4 Two (2) Star - Four (\$4.00); and
 - 3.3.5 Unrated properties - Five (\$5.00).
 - 3.3.6 That the Municipal Accommodation Tax move to 4% of the Room Rate effective April 1, 2026.
 - 3.3.7 That the Municipal Accommodation Tax move to 5% of the Room Rate effective April 1, 2027.
- 3.4 The amount of the tax entered pursuant to section 3.3 above, shall be identified as the Municipal Accommodation Tax on the invoice or receipt, as the case may be.

4. Exemptions

- 4.1 Municipal Accommodation Tax imposed by subsection 3 above, 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.

5. Change in Municipal Accommodation Tax Rates

- 5.1 In the event an expansion to the Niagara District Airport is approved by the Niagara District Airport Commission and the municipal owners of the airport, there shall be a minimum One Percent (1%) increase to the MAT set out in section 3.3 above, for all Accommodation Properties. This additional tax increase will be used to support the capital cost of such expansion and/or marketing support for airport activities.
- 5.2 In the event a visitor transportation system is developed and implemented within the City of Niagara Falls, there shall be a minimum One Percent (1%) increase to the MAT set out in section 3.3 above, for all Accommodation Properties.
- 5.3 In the event the Province of Ontario or the Government of Canada provides a materially significant funding source that requires matching contributions from the City, the MAT may be increased for such purpose.
- 5.4 Other MAT rate increases (in addition to the automatic minimum \$1.00 increase under each of Sections 5.1 and 5.2 and any increase under Section 5.3) can be undertaken by Council with a minimum ninety (90) days' notice period to the tourism industry. Prior to a MAT increase pursuant to this subsection, Council requires formal industry consultation, adequate study and review including, but not limited to, a third-party review of the performance of the current activities, a competitive analysis of other North American destinations, and a formal plan with articulated goals of the additional or incremental MAT increase.
- 5.5 In the event of a request from the Eligible Tourism Entity to Council for a change in the MAT rate, Council shall evaluate this request.

6. Tax Collected by Transient Accommodation Provider

- 6.1 A Transient Accommodation Provider shall include on every invoice or receipt for the purchase of Accommodation, a separate item identified as "Municipal Accommodation Tax" setting out the amount of Municipal Accommodation Tax imposed on the purchase.
- 6.2 A Transient Accommodation Provider shall collect the Municipal Accommodation Tax from the purchaser at the time the Accommodation is purchased or otherwise acquired.
- 6.3 The Municipal Accommodation Tax collected by Transient Accommodation Providers 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.
- 6.4 Each Transient Accommodation Provider that remits 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.
- 6.5 The City may assess an assumed amount of MAT tax owing if the Transient Accommodation Provider fails to provide payment and/or reporting as required in accordance with the provisions of this By-law.

7. Penalties and Interest

- 7.1 Penalties and interest at the rate applicable to overdue property taxes shall be payable by a Transient Accommodation Provider 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.

8. Liens

- 8.1 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 Transient Accommodation Provider's property tax roll to be collected by the City in the same manner as municipal property taxes and shall constitute a lien upon the Accommodation Property.

9. Audit and Inspection

- 9.1 Every Transient Accommodation 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 MAT collected and remittance.
- 9.2 The City's Treasurer or 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.
- 9.3 The cost of audits for the Transient Accommodation Providers, pursuant to this section 9, will be shared equally by the Eligible Tourism Entity and the City.

10. Eligible Tourism Entity

- 10.1 The City will enter into an agreement with an Eligible Tourism Entity effective January 1, 2026.
- 10.2 The members of an Eligible Tourism Entity must represent a broad cross-section of the local tourism industry.
- 10.3 The Eligible Tourism Entity will be required to develop a five (5) year strategy document for the promotion of Niagara Falls as a world class tourism destination, as well as an annual plan. The strategy document and annual plans will be presented to Council along with progress updates in relation to the plan and the goals of the MAT.
- 10.4 The Eligible Tourism Entity will be responsible for the prudent spending of allocated MAT resources and for all necessary financial reporting and record keeping.
- 10.5 The Chief Administrative Officer (CAO) for the City of Niagara Falls, or designate, is hereby delegated the authority to enter into agreements, including all necessary documents ancillary thereto, with any Eligible Tourism Entity that will receive a share of the MAT revenue, respecting reasonable financial accountability matters, among other things, in order to ensure that amounts paid to the Eligible Tourism Entity are used for the exclusive purpose of promoting Niagara Falls tourism. All such agreements shall be in a form satisfactory to the City's solicitor.

11. Allocation of Municipal Accommodation Tax Revenue

- 11.1 The MAT revenue will be allocated into three envelopes of funding, in accordance with Part XII.1 of the *Municipal Act*, 2001, S.O. 2001 c. 25, as amended, (the “Act”), and the Transient Accommodation Tax Regulation O. Reg. 435/17.
- 11.2 The first envelope is for Priority Destination Spending. This spending will be determined by the Eligible Tourism Entity and the City through the strategic plan. This funding will be in priority to other spending allocations, save and except for the administrative costs incurred by the City to administer the MAT.
- 11.3 Priority Destination Spending will be the largest funding envelope and will be for the exclusive purpose of promoting tourism for items such as but not limited to:
 - 11.3.1 Destination marketing;
 - 11.3.2 Convention and meeting support;
 - 11.3.3 In-destination marketing and activation;
 - 11.3.4 Premiere special events; and
 - 11.3.5 Airport and visitor transportation system spending.
- 11.4 The Eligible Tourism Entity will be responsible for the spending and reporting of the Priority Destination Spending.
- 11.5 The remaining MAT funding will be divided into two equal envelopes. One envelope will be allocated to the City and the other to the Eligible Tourism Entity.
- 11.6 The funding allocated to the City will be used for items such as, but not limited to:
 - 11.6.1 The administration of the MAT;
 - 11.6.2 Infrastructure projects in tourism areas;
 - 11.6.3 Sports tourism;
 - 11.6.4 Cultural events;
 - 11.6.5 Beautification of the City;
 - 11.6.6 Research and studies;
 - 11.6.7 Wayfinding; and
 - 11.6.8 By-law enforcement activities.

11.7 The Eligible Tourism Entity will utilize its allocated funds for the exclusive purpose of promoting tourism for items such as but not limited to:

11.7.1 Administration of the program;

11.7.2 Other marketing or demand generating activities as developed by the Eligible Tourism Entity; and

11.7.3 Development of strategic plans and studies.

12. Budget Development and Reporting

12.1 Both the City and the Eligible Tourism Entity will annually create and present a budget and operating plan to the board of the Eligible Tourism Entity and Council.

12.2 Both the City and the Eligible Tourism Entity will, on an annual basis, present a report on the spending and performance to the stated goals of the MAT.

12.3 The Eligible Tourism Entity will provide audited statements to Council on an annual basis.

12.4 The City and Eligible Tourism Entity will develop a strategic plan on a five (5) year or lesser basis which will guide the activities of the MAT.

13. Offence and Penalties

13.1 Every person who contravenes any provision of this By-law is guilty of an offence as provided for in subsection 429(1) of the Act, and all such offences are designated as continuing offences as provided for in subsection 429(2)(a) of the Act.

13.2 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 \$100,000.00 as provided for in subsection 429(3), paragraph 1 of the Act.

13.3 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 \$100,000.00, as provided for in subsection 429(3) paragraph 2 of the Act.

13.4 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:

13.4.1 prohibiting the continuation or repetition of the offence by the person convicted; and

13.4.2 requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

14. Effective Date and Transition

- 14.1 This By-law will become effective on May 1st, 2025 (the “Effective Date”).
- 14.2 Prior to the Effective Date, By-law No. 2018-104, as amended, shall remain in effect. After the Effective Date, By-law No. 2018-14, as amended, shall hereby be repealed.
- 14.3 The Niagara Falls Hotel Association shall remain the Eligible Tourism Entity until the City enters into an agreement with a new Eligible Tourism Entity effective January 1, 2026.
- 14.4 By-law No. 2021-58 is hereby repealed.

Read a First, Second and Third time; passed, signed and sealed in open Council this 14 day of January, 2025

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

.....
JAMES M. DIODATI, MAYOR