

THE CORPORATION OF THE CITY OF SAULT STE. MARIE

By-law 2018-218

CORPORATION: (C2.13(13) A By-law of the Corporation of the City of Sault Ste. Marie to establish the Municipal Transient Accommodation Tax (MAT) for short-term rentals within the City of Sault Ste. Marie.

WHEREAS section 400.1 of the *Municipal Act*, S.O. 2001 c. 25, as amended (the "Act") provides that 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 Ontario Regulation 435/17, Council of the Corporation of the City of Sault Ste. Marie wishes to establish a tax rate and to levy the tax on the purchase of transient accommodation within the City of Sault Ste. Marie;

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 at its meeting of August 13, 2018, Council approved the establishment of the MAT to be imposed on the purchase of accommodations of short duration within the City of Sault Ste. Marie which shall be administered pursuant to Ontario Regulation 435/17, as amended, in conjunction with any Memorandum of Understanding between the Corporation of the City of Sault Ste. Marie and the Sault Ste. Marie Economic Development Corporation ("SSMEDC"), its designate, assign, or predecessor, for the purpose of promoting tourism within the City of Sault Ste. Marie;

NOW THEREFORE, Council of the City of Sault Ste. Marie enacts as follows:

1. Definitions

Wherever a term set out below appears in the text of this By-law with its first letter capitalized, the term is intended to have the meaning set out for it in this Section. Where any word appears in ordinary case, it is intended to have the meaning ordinarily attributed to it in the English language. In this By-law, a word identified in the singular has a corresponding meaning when used in the plural. Definitions of verbs apply to all tenses of the verb in the text. The captions, articles and section names appearing in this By-law are for convenience of reference only and have no effect on its interpretation. This By-law is to be read with all changes of gender required by the context.

"Accommodation" means the use or possession or the right to the use or possession, for dwelling, lodging or sleeping purposes in 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 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, whether or not the lodging is actually used;

“City” means The Corporation of the City of Sault Ste. Marie;

“Council” means the Council of The Corporation of the City of Sault Ste. Marie;

“Eligible Tourism Entity” has the meaning given to it in Ontario Regulation 435/17, as amended;

“Establishment” means a physical location, a building, or part of a building that provides Accommodation;

“Municipal Accommodation Tax” or *“MAT”* means the tax imposed under this By-law;

“Person” includes an individual, a sole proprietorship, a partnership, an unincorporated association, a trust and a corporation be it for profit or not-for-profit;

“Point of Purchase” means the time at which payment for Accommodation is made by the Purchaser;

“Provider” means a person or an entity that sells, offers for sale, or otherwise provides Accommodation, and includes agents, hosts, or others who sell, offer for sale, including through online platforms or otherwise provides Accommodation;

“Purchaser” means a person who gives money or other consideration in exchange for Accommodation;

“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, but does not include the goods and services tax imposed by the Government of Canada or by the Province of Ontario;

“Treasurer” means the person appointed by Council from time to time as the Treasurer for the City and includes their authorized designates;

“Transient Accommodation” means Accommodation for a continuous period of less than thirty (30) days; this continuous period is not disrupted by the purchase of different rooms, suites, beds or lodging in the same Establishment.

2. Application of the Tax

- (1) The amount of six per cent (6%) **[Amended by By-law 2025-86]** shall be established as the tax rate for the MAT to be imposed on the Purchase Price of any Transient Accommodation.
- (2) Purchaser shall pay the Provider the total amount of the MAT at the Point of Purchase of the Accommodation.
- (3) A Provider who collects an amount as or on account of tax under this By-law is deemed, for all purposes and despite any security interest in the amount, to hold the amount in trust for the City, separate and apart from the property of the Provider and from property held by any secured creditor of the Provider that, but for a security interest, would be property of the Provider, until the amount is remitted to the City.
- (4) A Provider shall clearly indicate as a separate item on every invoice and receipt the value of the MAT that was imposed and collected for the purchase of Transient Accommodation and shall identify such amount as the "Municipal Accommodation Tax".
- (5) The Provider shall remit to the City monthly the amount of the MAT collected as outlined below through the Municipal Accommodation Tax Return Form (Schedule B); the Provider shall remit the MAT that is collectible for the previous month on or before the last day of every month, and shall submit the Municipal Accommodation Tax Return Form (Schedule B) as required for the purposes of administering and enforcing this By-law; and,
- (6) Where a Provider fails to submit a Municipal Accommodation Tax Return Form (Schedule B) on or before the due date prescribed at subsection 2(5), the amount that is determined on the basis of the following calculation: (amount of revenue that would have been generated had the Establishment experienced full occupancy for the period) x (6%) **[Amended by By-law 2025-86]** = (the amount MAT that is due and unremitted), this amount shall be assessed on the first day of default;
- (7) A Provider who fails to collect any amounts owing for the MAT from the Purchaser at the Point of Purchase, or otherwise fails to remit such amounts to the City on or before the due date prescribed at subsection 2(5), shall be personally liable for such amounts as should have been collected and remitted.
- (8) At the Treasurer's sole discretion, and based on the type of Accommodation and number of Accommodations being provided annually, may modify the remittance period set out in subsection 2(5).

3. Administration

- (1) The Treasurer is delegated the authority to implement and administer this By-law, to collect the MAT and to take all actions 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 and amend from time to time, such interpretation guidelines, protocols, procedures, forms, documents, agreements and schedules to this By-law, 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, implementation and enforcement of this By-law and collection of monies owing hereunder and authorize refunds in accordance with this By-law;
 - (c) authorize, establish terms of 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 assigned to the Treasurer under this By-law.
- (2) The Treasurer may delegate the performance of any one or more of his or her 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. The Treasurer may continue to exercise any function delegated during the delegation.

4. Exemptions

- (1) The MAT does not apply to the following types of Accommodations:
 - (a) accommodations provided by 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) accommodations provided by any board as defined in subsection 1 (1) of the *Education Act*, R.S.O 1990 c E.2, as amended;
 - (c) accommodations provided by any university in Ontario or any college of applied arts and technology and postsecondary institution in Ontario whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating operating grants entitlements from the Crown;
 - (d) accommodations provided by 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*, R.S.O. 1990, c. P40, as amended, as amended and every private hospital operated under the authority of a license issued under the *Private Hospitals Act*, R.S.O. 1990, c. P.24, as amended, and upon proclamation of the Lieutenant Governor of the amendment to paragraph 4 of subsection 400.2 of the *Act*, to any community health facility within the meaning of the *Oversight of Health Facilities and Devices Act*, S.O. 2017, c.25, as amended, that was formerly licensed under the *Private Hospitals Act*;

- (e) accommodations provided by any long-term care home as defined in subsection 2(1) of the *Long Term Care Home Act*, S.O. 2007, c.8, as amended;
- (f) accommodations provided by any retirement home as defined in the *Retirement Home Act*, S.O. 2010, c.11, as amended;
- (g) accommodations provided by any home for special care within the meaning of the *Homes for Special Care Act*, R.S.O. 1990, c. H.12, as amended;
- (h) accommodations provided by 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*, R.S.O. 1990, c. A.31, as amended;
- (i) accommodations provided by any Person or entity as prescribed by regulation under the *Act*, as exempt from payment of MAT;
- (j) accommodations provided by any treatment centre that receives provincial aid under the *Ministry of Community and Social Services Act*, R.S.O. 1990, c. M.20, as amended; 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 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.

5. Registration of Accommodation Establishment

- (1) Providers who operate an Establishment prior to the enactment of this By-law shall register their Establishment with the City by submitting a completed Accommodation Establishment Information Form (Schedule A) with the City before January 1, 2019.
- (2) Providers who begin to operate an Establishment shall register their Establishment with the City by submitting a completed Accommodation Establishment Information Form (Schedule A) within thirty (30) days of the date of commencement for their operation.
- (3) Where there are any changes to the information provided, Providers shall update and submit the Accommodation Information Form (Schedule A) to the City within thirty (30) days of the change.

6. Penalties and Interest

- (1) Where a Provider has submitted a Municipal Accommodation Tax Return Form (Schedule B) that allows for the determination of the actual amount of the MAT that should have been collected and is owing, the prescribed interest and penalties shall be assessed as of the first day of default in addition to the amount of the MAT that is due and that remains unremitted.
- (2) Where a Provider has not submitted a Municipal Accommodation Tax Return Form (Schedule B) on or before the applicable due date prescribed within section 5, the interest and penalties shall be assessed pursuant to the calculation as prescribed at subsection 2(6) of this By-law and shall be assessed on the first day of each month, and for all subsequent months, following the first day of default for any amount of the MAT that is owing and that remains unremitted.

The penalty and interest provisions for remittance of the Municipal Accommodations Tax are waived from March 23, 2020 and only until the end of the year 2020, or until such time that this by-law is amended. **[Amended by By-laws 2020-80, 2020-135 and 2020-158]**

7. Liens

- (1) All MAT penalties and interest owing under this By-law 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 registered in the name of the Provider to be collected in a 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 sections 1 (2.1), (2.2) and (3) of the *Act*, and such lien will not have higher priority than it would otherwise have in law in relation to other claims, liens, or encumbrances.

8. Repayment Agreements

- (1) Where discretionally the Treasurer determines that is in the best interests of the City to do so, the Treasurer is authorized to enter into a repayment arrangement with any Provider, providing for terms of payment of any MAT and interest and penalties thereon, which were not paid in accordance with this By-law, on such terms as may be established by the Treasurer. While the repayment agreement is in good standing no further collection efforts shall be taken, despite section 9 hereunder. The Treasurer is not obligated to authorize a repayment agreement.
- (2) The repayment agreement shall terminate automatically upon breach of any provision thereof.
- (3) Interest shall continue to accrue on the amount of MAT outstanding during the term of the repayment agreement.

9. Collection

- (1) All MAT provided for under this By-law 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 to be collected in like 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 *Act*, or otherwise available at law.
- (2) 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.

10. Audit and Inspection

- (1) The Provider shall keep books of account, records, and documents sufficient to provide the City or its agent with the necessary particulars of sales of Accommodations and the amount of MAT which should have been collected and remitted.
- (2) The Treasurer or its designate may inspect and audit all books, documents, transactions, and accounts of the Provider and require the Provider to produce

copies of any documents or records required to be kept for the purposes of administering and enforcing this By-law.

11. Adjustment By Treasurer

- (1) Where the Treasurer determines as a result of audit of the Provider's records that MAT which accrued within a period of two years prior to the date of the audit, was not reported and paid by that Provider in accordance with this By-law, the Treasurer may make a determination of the amount of MAT properly payable for that period, adjust the City records appropriately to reflect the adjustment, and:

- (a) notify the Provider in writing:
 - (i) of the period for which MAT was adjusted;
 - (ii) of the basis for the adjustment;
 - (iii) of the amount of MAT actually paid and the amount payable for the period of adjustment;
 - (iv) of the amount now owing to the City or overpaid to the City; and
 - (v) where applicable, that payment of any amount owing to the City is due within 15 days of the date of the notice; and
- (b) in the event that an audit reveals an overpayment, the Treasurer, in his or her discretion will provide: a refund of the amount of MAT overpaid; a credit against future obligations to pay MAT; or a credit against any debt then owing to the City by the Provider, whether or not related to MAT. No interest shall be paid on the amount of the overpayment.

- (2) In the event the Treasurer establishes that a Person has made any misrepresentation that is attributable to neglect, careless or willful default or has committed a fraud in supplying any information under this By-law, the Treasurer's right to adjust the MAT is not restricted to a two-year period, despite subsection 11(1).

12. Application for Refund

- (1) A Provider who has paid an amount as MAT which was not payable under this By-law and not addressed through a re-assessment in accordance with subsection 2(6) and 6(2) or through an adjustment in accordance with section 10, may, within two years of the date the Provider becomes aware that the MAT may have been overpaid, apply in writing to the Treasurer to review the application for a refund and where a form has been established by the Treasurer, shall use the prescribed form. The onus of proof shall be on the Provider, who shall provide to the Treasurer such information as the Provider intends to rely on in support of the application.

No application for a refund will be accepted if the applicant is not current in filing of MAT Remittance Reports.

- (2) The Treasurer shall review the application, the supporting material provided by the Provider and any other information available to the Treasurer, make a determination of whether all or part of an amount of MAT was wrongly paid, and notify the Provider of his or her decision in writing.
- (3) Where, as a result of the review in subsection 12(2), the Treasurer is satisfied:
 - (a) there has been an overpayment of MAT, the Treasurer will notify the Provider and in his or her discretion will: refund the overpaid amount; provide a credit against future obligations to pay MAT; or provide a credit against any debt then owing to the City by the Provider, whether or not related to MAT. No interest shall be paid on the amount of the overpayment; or
 - (b) that no overpayment has been made, the Treasurer shall notify the Provider of the decision in writing and shall provide particulars for disallowing all or part of the refund claimed.
- (4) Any refund authorized under subsection 12(3) shall be limited to the amount overpaid by the Provider during the two year period prior to the date of the application and while the Provider owned the Establishment which provided the accommodation.

13. False Statement

- (1) No Person shall:
 - (a) make a false, inaccurate or intentionally misleading statement or representation in any document, statement or request provided for by this By-law; or
 - (b) file a document, statement or request provided for in this By-law where such Person knows or believes it contains a false, inaccurate or intentionally misleading statement or representation, whether or not such statement or representation was made by the Person filing the document or application.

14. No Interference

- (1) No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Person exercising a power or performing a duty under this By-law.

15. Offences and Penalties

- (1) Every Person who contravenes any provision of this By-law is guilty of an offence and is liable to a fine and such other penalties as may be provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33 and the *Act*, each as amended.
- (2) For the purposes of subsection 15(1), each day on which a Person contravenes any of the provisions of this By-law shall be deemed to constitute a separate offence under this By-law.
- (3) 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*.
- (4) 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 *Act*.
- (5) 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 a 429(3) paragraph 2 of the *Act*.
- (6) 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.

16. Enforcement

- (1) This By-law may be enforced by any Municipal By-law Enforcement Officer.

17. General

- (1) If any section, subsection, part or parts of this By-law is declared by a court of competent jurisdiction to be bad, illegal or ultra vires, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.
- (2) Nothing in this By-law relieves any Person from complying with any provision of any federal or provincial legislation or any other By-law of the City.

18. Confidential Information

- (1) All information submitted to and collected by the City, will, except as otherwise provided in this section, be available for disclosure to the public in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended (“MFIPPA”).
- (2) In the event that any Person in submitting information to the City or to the Treasurer in any form, as required under this By-law, where such information is confidential or proprietary or otherwise may be exempt from disclosure under the MFIPPA, the Person submitting the information shall so identify that information upon its submission to the City or the Treasurer and shall provide sufficient details as to the reason for its purported exemption from disclosure.

19. Short Title

- (1) This By-law may be referred to as the “Municipal Accommodation Tax By-law”.

20. Effective Date

- (1) This By-law shall come into force and take effect on December 10, 2018.

PASSED in open Council this 10th day of December, 2018.

MAYOR – CHRISTIAN PROVENZANO

CITY CLERK – MALCOLM WHITE

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