

Bill No. 315
2022

By-law No. A.-_____ -____

A bylaw to impose a Municipal Accommodation Tax and to repeal By-law No. A.-7753-259, as amended, entitled, "A bylaw to impose a Municipal Accommodation Tax"

WHEREAS section 400.1 of the *Municipal Act, 2001* provides that a municipality may pass a by-law imposing a transient accommodation tax;

WHEREAS Ontario Regulation 435/17 provides regulations in respect of the imposition of a transient accommodation tax;

WHEREAS section 23.2 of the *Municipal Act, 2001* permits a municipality to delegate certain legislative and quasi-judicial powers;

AND WHEREAS at its meeting of May 8, 2018, Council approved the establishment of the transient accommodation tax to be imposed on the purchase of accommodations of short duration within the City of London, which will generate revenue to be shared with designated non-profit entities to promote local tourism;

AND WHEREAS Council now approves the imposition of transient accommodation tax on the purchase of Short-term Accommodation;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. DEFINITIONS

"Accommodation" means Hotel Accommodation and Short-Term Accommodation

"Ancillary Charges" means charges related to the purchase of Accommodation including, but not limited to the purchase of food, room service, mini bar products, internet, movie rentals, and phone charges.

"City" means The Corporation of the City of London.

"Council" means the Municipal Council of The Corporation of the City of London.

"Dwelling" means one or more habitable rooms designed, occupied or intended to be occupied as living quarters.

"Hotel Accommodation" means the purchase of accommodation in a hotel, motel, inn, resort, and hostel for a period of a minimum of 4 hours and a maximum of 29 consecutive days.

"Hotel Accommodation Provider" means a person who receives payment in consideration for Hotel Accommodation and includes agents, hosts or others who sell, offer for sale, or otherwise provides Hotel Accommodation. Where the Provider cannot easily be determined, the owner of a property providing Hotel Accommodation is deemed to be the Hotel Accommodation Provider.

"Municipal Accommodation Tax" or "MAT" means the tax imposed under this by-law.

"Person" includes a corporation.

"Purchaser" means the person who makes payment in consideration for Accommodation.

“Provider” includes a Hotel Accommodation Provider and a Short-term Accommodation Provider.

“Short-term Accommodation” means a temporary accommodation in all or part of a Dwelling that is provided for 29 consecutive days or less in exchange for payment, and includes a bed and breakfast, but does not include a hotel, motel, inn, resort, hostel, lodging house, or rooming house.

“Short-term Accommodation Broker” means any individual, partnership, or corporation that, for compensation, markets and brokers the booking, reservation or rental, of a Short-term Accommodation on behalf of a Short-term Accommodation Provider by a means of a website or digital application.

“Short-term Accommodation Provider” means a person who receives payment in consideration for Short-term Accommodation and includes agents, hosts or others who sell, offer for sale or otherwise provide Short-term Accommodation, but does not include a short-term Accommodation Broker. For the purposes of this definition, this does not include a corporation or partnership. Where the Provider cannot easily be determined, the owner of a property providing Short-term Accommodation is deemed to be the Short-term Accommodation Provider.

2. APPLICATION

2.1 A Purchaser of Accommodation shall pay, at the time of purchase, a Municipal Accommodation Tax in the amount of four (4) percent of the purchase price of the Accommodation provided for a continuous period of less than 30 nights.

2.2 The Municipal Accommodation Tax will not apply to Ancillary Charges that are itemized separately on the Purchaser’s receipt.

2.3 Where the Provider fails to separately itemize Ancillary Charges, the Municipal Accommodation Tax will apply to the total amount of the purchase price.

3. EXEMPTIONS

3.1 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*;
- 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.
- 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* and every private hospital operated under the authority of a licence issued under the *Private Hospitals Act*;
- e) Every long-term care home as defined in subsection 2(1) of the *Long-Term Care Homes Act, 2007*;
- f) Every treatment centre that receives provincial aid under the *Ministry of Community and Social Services Act*;
- g) Every house of refuge, or lodging 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 hotel or motel room used by the City or its contracted service providers for shelter accommodation purposes;
- j) Every tent or trailer sites supplied by a campground, tourist camp, or trailer park;
- k) Every accommodation supplied by employers to their employees in premises operated by the employer; and,
- l) Every hospitality room in an establishment that does not contain a bed and is used for displaying merchandise, holding meetings, holding hearings, or entertaining.

4. TAX COLLECTED BY PROVIDERS OF HOTEL ACCOMMODATION

4.1 Hotel Accommodation Providers shall list the Municipal Accommodation Tax as a separate item on the Purchaser's receipt or invoice and identify such tax as "Municipal Accommodation Tax".

4.2 Hotel Accommodation Providers shall collect the Municipal Accommodation Tax from the Purchaser at the time of purchase as agents of the municipality.

4.3 Hotel Accommodation Providers shall, on a monthly basis within 15 days of the end of each calendar month for the month prior, remit the Municipal Accommodation Tax to the tax collection agent designated by the City in a manner the City Treasurer deems acceptable

4.4 Hotel Accommodation Providers shall, on a monthly basis within 15 days of the end of each calendar month for the month prior, provide a monthly statement in the form required by the tax collection agent; these monthly statements shall include:

- i. The number of rooms sold;
- ii. The purchase prices of the rooms sold;
- iii. The number of rooms that were exempt under the by-law and proof the Provider relied on; and
- iv. The Municipal Accommodation Tax Collected.

4.5 Hotel Accommodation Providers shall provide any information as required by the City Treasurer for the purposes of enforcing this by-law.

5.0 TAX COLLECTED BY PROVIDERS OF SHORT-TERM ACCOMMODATION

5.1 Short-term Accommodation Providers shall list the Municipal Accommodation Tax as a separate item on the Purchaser's receipt or invoice and identify such tax as "Municipal Accommodation Tax". If the purchase of Short-term Accommodation is made through a Short-Term Accommodation Broker, the Short-Term Accommodation Broker shall list the Municipal Accommodation Tax as a separate item on the Purchaser's receipt or invoice and identify such as tax as "Municipal Accommodation Tax".

5.2 Short-term Accommodation Providers shall collect the Municipal Accommodation Tax from the Purchaser at the time of purchase as agents of the municipality. If the purchase of a Short-term Accommodation is made through a Short-Term Accommodation Broker, the Short-term Accommodation Broker shall collect the Municipal Accommodation Tax at the time of purchase as agents of the municipality and remit it to the Provider of Short-term Accommodation.

5.3 Short-term Accommodation Providers shall, on a quarterly basis within 15 days of the end of the previous quarter, remit the Municipal Accommodation Tax to the tax collection agent designated by the City in a manner the City Treasurer deems acceptable

5.4 Short-term Accommodation Providers shall, on a quarterly basis within 15 days of the end of the previous quarter, provide a quarterly statement in the form required by the tax collection agent; these quarterly statements shall include:

- i. The number of rooms sold;
- ii. The purchase prices of the rooms sold;
- iii. The number of rooms that were exempt under the by-law and proof the Provider relied on; and
- iv. The Municipal Accommodation Tax collected.

5.5 Short-Term Accommodation Providers shall provide any information as required by the City Treasurer for the purposes of enforcing this by-law.

6.0 REFUNDS

6.1 Where a Purchaser has paid an amount that is not payable, the City Treasurer or the City's agent, may upon receipt of satisfactory evidence, make a determination that the amount was wrongly paid, and if such a determination is made, the City or its agent shall refund or credit all or part of the amount, but no refund shall be made unless an application is made within twenty-four (24) months after the payment date.

6.2 Where a Provider remits a surplus in error, the City or its agent, may upon receipt of satisfactory evidence, make a determination that an amount was wrongly paid, and if such a determination is made, the City or its agent, shall refund all or part of the amount, but no refund shall be made unless an application for such a refund is made within twenty-four (24) months after the date of remittance.

6.3 Where a person has applied for a refund and the person's claim is in whole or in part refused, the City or its agent shall provide a statement of disallowance in such form as determined by the City or its agent, and the statement shall specify the amount of disallowance and the reasons for the disallowance.

7.0 TAX COLLECTION AGENT

7.1 The tax collection agent shall be the Ontario Restaurant Hotel & Motel Association ("ORHMA").

7.2 The City Manager, in consultation with the City Solicitor, may designate additional tax collection agents for the City and enter into agreements with designated tax collection agents.

7.3 The tax collection agent(s) shall collect and administer the Municipal Accommodation Tax as an agent for the City in accordance with the agreement between the City and the tax collector(s) and this by-law.

8.0 INTEREST, FEES AND LIENS

8.1 Penalties and interest at a monthly rate of interest applicable to overdue property taxes shall apply to any outstanding Municipal Accommodation Tax and shall be payable monthly by the Providers of Accommodation on the amount of any 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 tax is paid or remitted in full.

8.2 The City Treasurer may refer the collection of any Municipal Accommodation Tax payable or required to be remitted to a bailiff or a collection agency.

8.3 Upon default of Municipal Accommodation Tax required to be paid or remitted under this bylaw, the City Treasurer may bring an action for the recovery of the amount in any court in which a debt or money demand or similar amount may be collected and every such action shall be brought and executed in the name of the City.

8.4 The City Treasurer may register a lien on any property in which Accommodation has been provided and for which tax remains owing.

8.5 A fee, as prescribed by the Fees & Charges By-law A-52, shall be charged in respect of all remittances made by cheque that are not honoured by the financial situation upon which it is drawn.

9.0 AUDIT AND INSPECTIONS

9.1 Every Provider shall keep, for no less than three (3) years, books of account, records, and documents sufficient to furnish the City or its designated tax collection agent(s) with the necessary particulars of:

- i. sales of accommodation;
- ii. amount of the Municipal Accommodation Tax collected; and
- iii. the remittances made to the tax collection agent.

9.2 Every Short-term Accommodation Broker shall keep, for no less than (3) years, books of account, records and documents sufficient to furnish the City or its designated tax collection agent with the necessary particulars of:

- i. sales of accommodation;
- ii. amount of the Municipal Accommodation Tax collected.

9.3 The City Treasurer or designate or the City's designated tax collection agent may inspect and audit all books, documents, transactions, and accounts of Providers and Short-term Accommodation Brokers and require Providers or Short-term Accommodation Brokers to produce copies of any document or records required for the purpose of administering and enforcing this by-law.

9.4 Every Provider or Short-term Accommodation Broker shall furnish upon the demand of the City Treasurer or the City's designated tax collection agent for reasonable inspection, copies of any books, documents, transactions, accounts or records required for the purposes of the administration and enforcement of this by-law.

10.0 OFFENCES AND PENALTIES

10.1 Every person who contravenes any provision of this by-law is guilty of an offence.

10.2 Every director or officer of a corporation who knowingly concurs in the contravention of any provision of this by-law is guilty of an offence.

10.3 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 as provided for in subsection 429(3) of paragraph 1 of the *Municipal Act, 2001*.

10.4 Every person convicted of an offence under this by-law is liable, for each day the offence continues, to a minimum fine of \$500 and a maximum fine of \$100,000 as provided for in subsection 429(3) paragraph 2 of the *Municipal Act, 2001*. The total of all the daily fines for a continuing offence is not limited to \$100,000.

10.5 The Superior Court of Justice or any court of competent jurisdiction may, in addition to any penalty imposed on a person convicted of an offence under this by-law issue an order:

- a) Prohibiting the continuation or repetition of the offence by the person convicted;
- or
- b) Requiring the person convicted to correct the contravention in a manner prescribed by the court.

11.0 ADMINISTRATION

11.1 The administration of this by-law is delegated to the City Treasurer or their designate.

12.0 GENERAL

12.1 This by-law shall come into force and effect October 1, 2022.

PASSED in Open Council on August 2, 2022.

Ed Holder
Mayor

Michael Schulthess
City Clerk

First Reading – August 2, 2022
Second Reading – August 2, 2022
Third Reading – August 2, 2022