



Memorandum

Corporate By-law Number BL 74/2018

TO: Office of the City Clerk **FILE:**

FROM: Corporate Services & Long Term Care

DATE: 07/16/2018

SUBJECT: BL 74/2018 Municipal Accommodation Tax

MEETING DATE: City Council - (08/13/2018)

By-law Description: BL 74/2018 - A By-law to establish a Municipal Accommodation Tax

Authorization: R 77/2018 (City Manager's Office - Corporate Strategic Services) – Committee of the Whole - June 4, 2018.

By-law Explanation: The purpose of this By-law is to establish a Municipal Accommodation Tax within the boundaries of the City of Thunder Bay.

Schedules and Attachments:

Schedule A: Accommodation Establishment Information Form

Schedule B: Municipal Accommodation Tax Return Form

Amended/Repealed By-law Number(s):



THE CORPORATION OF THE CITY OF THUNDER BAY
BY-LAW NUMBER BL 74/2018

A By-law to establish a Municipal Accommodation Tax within the boundaries of the City of Thunder Bay, in the District of Thunder Bay.

Recitals

1. Section 400.1 of *the Municipal Act*, 2001, SO 2001, c 25, (the “*Act*”) provides that the council of a local municipality may pass By-laws imposing a tax in respect of the purchase of Transient Accommodation within the municipality.
2. Council considers it desirable to establish a Municipal Accommodation Tax to be imposed on the purchase of Transient Accommodations within the City of Thunder Bay, in the District of Thunder Bay.
3. Sections 400.1, 400.4, 420, and 430 of the *Act*, provides that a Municipality can establish enforcement measures as Council considers appropriate if an amount assessed for outstanding tax, penalties, or interest remains unpaid after it is due;

ACCORDINGLY, THE COUNCIL OF THE CORPORATION OF THE CITY OF THUNDER BAY ENACTS AS FOLLOWS:

DEFINITIONS

1. This By-law may be referred to as the “Municipal Accommodation Tax By-law”.
2. 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.

“**Accommodation**” means Lodging that is provided for consideration whether or not that Lodging is actually used;

“**City**” means The Corporation of the City of Thunder Bay;

“**Council**” means the Council of The Corporation of the City of Thunder Bay;

“**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;

“Lodging” includes:

- a) the use of a bedroom, a suite of rooms containing a bedroom, or the use of a bed within a bedroom; or,
- b) the use of one or more additional beds or cots in a bedroom or suite;

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

“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, 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 considerations accepted by the Provider in return for the Accommodation, excluding Harmonized Sales Tax (HST);

“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.

3. 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.
4. The captions, articles and section names appearing in this By-law are for convenience of reference only and have no effect on its interpretation.
5. This By-law is to be read with all changes of gender required by the context.

ADMINISTRATION

6. The City Treasurer shall be responsible for the general administration of this By-law.
7. The City Manager, or designate, is delegated the authority to enter into agreements, including any necessary documents ancillary thereto, with any person or entity providing for the implementation, collection, and remittance of the Municipal Accommodation Tax.
8. The City Manager, or designate, is delegated the authority to develop agreements, including all necessary documents ancillary thereto, with any Eligible Tourism Entity that is designated

to receive any portion of the revenue generated through the Municipal Accommodation Tax which agreements shall:

- (a) Provide terms respecting reasonable financial accountability;
- (b) Ensure amounts paid to the Eligible Tourism Entity are used for the exclusive purpose of promoting tourism; and,
- (c) Provide for any other provisions deemed by the City Manager to be appropriate.

EXEMPTIONS

9. The Municipal Accommodation Tax does not apply to the following types of Accommodations:

- a) Accommodations provided by the Crown in right of Canada, the Crown in right of Ontario, every agency or 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 an Order in Council or the Lieutenant Governor in Council or a member of the Executive Council, as the case may be;
- b) Accommodations provided by every board as defined in section 1(1) of the *Education Act*, R.S.O. 1990, c. E.2;
- c) Accommodations provided by a 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 the purpose of calculating operating grant entitlements from the Crown in right of Canada or the Crown in right of Ontario;
- d) Accommodations provided by a 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 operated under the authority of a license issued under the *Private Hospitals Act*, R.S.O. 1990, c. P.24 or every community health facility within the meaning of the *Oversight of Health Facilities and Devices Act*, 2017, that was formerly licensed under the *Private Hospitals Act*, as the case may be;
- e) Accommodations provided by a long-term care home as defined in section 2(1) of the *Long-Term Care Homes Act, 2007*, S.O. 2007, c.8 or hospice and palliative care centres;
- f) Accommodations provided by a treatment centre that receives provincial aid under the *Ministry of Community and Social Services Act*, R.S.O. 1990, c. M.20;

- g) Accommodations provided for the reformation of offenders;
- h) Accommodations provided by charitable or non-profit philanthropic organizations that are organized as shelters for the relief of the poor or for emergency;
- i) Accommodations consisting of a tent or trailer site supplied by a campground, tourist camp, or trailer park; and,
- j) A room in an Establishment that does not contain a bed, which is used for displaying merchandise, holding meetings, or entertaining.

REGISTRATION OF ACCOMMODATION ESTABLISHMENT

- 10. 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) to the City before September 30, 2018.
- 11. 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.
- 12. 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.

APPLICATION OF THE MUNICIPAL ACCOMMODATION TAX

- 13. The amount of four (4) per cent shall be established as the tax rate for the Municipal Accommodation Tax to be imposed on the Purchase Price of any Transient Accommodation.
- 14. A Purchaser shall pay the Provider the total amount of the Municipal Accommodation Tax at the Point of Purchase of the Accommodation.
- 15. 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.
- 16. A Provider shall clearly indicate as a separate item on every invoice and receipt the value of the Municipal Accommodation Tax that was imposed and collected for the purchase of Transient Accommodation and shall identify such amount as the “Municipal Accommodation Tax”.

17. The Provider shall remit to the City the Municipal Accommodation Tax collected as outlined below through the Municipal Accommodation Tax Return Form (Schedule B):

- a) Providers who remit the Harmonized Sales Tax (HST) monthly shall remit the amount of the Municipal Accommodation Tax that is collectible on a monthly basis; the Provider shall remit the Municipal Accommodation Tax 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 administrating and enforcing this By-law; and,
- b) Providers who remit HST quarterly, annually, or who are not registered to remit HST, shall remit the amount of the Municipal Accommodation Tax that is collectible on a quarterly basis; the Provider shall remit the Municipal Accommodation Tax that is collectible for the previous quarter on or before the last day of the month following the end of the quarter and shall submit the Municipal Accommodation Tax Return Form (Schedule B) to the City as required for the purposes of administrating and enforcing this By-law;

18. Where a Provider fails to submit a Municipal Accommodation Tax Return From (Schedule B) on or before the due date prescribed at section 17 above, the amount that is determined on the basis of the following calculation shall be deemed to be the amount that is due and unremitted and this amount shall be assessed on the first day of default;

$$A \times 4\% = B$$

Where,

“A” is the amount of revenue that would have been generated had the Establishment experienced full occupancy for the period; and,

“B” is the amount deemed to be the amount of the Municipal Accommodation Tax that should have been collected and remitted and this amount shall be deemed to be the amount that is due and that remains unremitted on the first day of default.

19. A Provider who fails to collect any amounts owing for the Municipal Accommodation Tax 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 section 17 above, shall be personally liable for such amounts as should have been collected and remitted.

INTEREST PENALTIES

20. Where a Provider has submitted a Municipal Accommodation Tax Return Form (Schedule B) that allows for the determination of the actual amount of the Municipal Accommodation Tax 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 Municipal Accommodation Tax that is due and that remains unremitted.

21. Where a Provider has not submitted a Municipal Accommodation Tax Return Form (Schedule B) on or before the due date prescribed at section 17 above, the interest and penalties prescribed shall be assessed in addition to the amount that is determined on the basis of the following formula;

$$A \times 4\% = B$$

Where,

“A” is the amount of revenue that would have been generated had the establishment experienced full occupancy for the period; and,

“B” is the amount deemed to be the Municipal Accommodation Tax which should have been collected and remitted and deemed to be the amount of the Municipal Accommodation Tax that is due and remains unremitted as of the first day of default.

22. The prescribed interest and penalties 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 Municipal Accommodation Tax that is owing and that remains unremitted.

LIENS

23. All Municipal Accommodation Tax penalties and interest owing under the 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.

AUDIT AND INSPECTION

24. 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 Municipal Accommodation Tax which should have been collected and remitted.
25. The City or its agent 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 administrating and enforcing this By-law.

OTHER PENALTIES

26. 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.

27. 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 daily fines for the offence is not limited to \$100,000.

28. 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, issue an order;

- a) Prohibiting the continuation or repetition of the offence by the person; and,
- b) Requiring the person to correct the contravention in the manner and within the period that the court considers appropriate.

GENERAL

29. If any section or portion of this By-law is found by a court of competent jurisdiction to be invalid, that section shall be severed and all remaining portions of this By-law shall continue in force and effect.

30. This By-law shall come into effect on September 1st, 2018.

Enacted and passed this 13th day of August, A.D. 2018 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

Keith Hobbs

Mayor

Krista Power

Deputy City Clerk

Schedule A

Accommodation Establishment Information

Adopted Pursuant to By-Law #74-2018

**Municipal
Accommodation Tax**
500 Donald Street East
P.O. Box 800
Thunder Bay (ON) P7C 5K4
Tel: 807-625-2255



Important: This Accommodation Establishment Information form must be completed by Providers who operate Accommodation Establishments within the City of Thunder Bay and must be submitted to the City before the latter of:

- (i) Before September 30, 2018; or,
- (ii) 30 days after the Establishment commences operations.

It is the responsibility of the Provider to update and submit to the City within 30 days this form where there are any changes required to the information provided.

Legal Name of Provider:		
Operating Name of Establishment:		
Legal Name of Property Owner:	Tax Roll Number:	
Property Location:		
Mailing Address (if different):		
Contact Name:	Contact Phone Number:	Contact Email:
Frequency of HST Remittance: <input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Other* *Annual or not registered	Business Number:	
	Agent or Internet Booking Platform(s) Used:	
Total Number of Rooms in Establishment:	Daily Room Rate:	
Name:	Position:	
Authorized Signature:	Date:	

The personal information on this form is requested pursuant to By-law 74/2018 and is collected under the authority of the *Municipal Act*, S.O. 2001, c. 25. Questions about this collection should be directed to c/o Municipal Accommodation Tax, The Corporation of the City of Thunder Bay, 500 Donald Street East, Thunder Bay Ontario, P7C 5K4. Telephone (807) 625-2255.

Schedule B

Municipal Accommodation Tax Return

Adopted Pursuant to By-Law #74-2018

Municipal Accommodation Tax

500 Donald Street East
P.O. Box 800
Thunder Bay (ON) P7C 5K4
Tel: 807-625-2255



Form instructions on page two.

Accommodation Establishment Information

Legal Name of Provider	Operating Name of Establishment	Business Number
Property Location		Contact Name
Contact Email Address	Contact Phone Number	

Reporting Period

Reporting Period			To	Reporting Period		
Month	Day	Year		Month	Day	Year

Municipal Accommodation Tax Calculation

Accommodation Revenue for the above reporting period (if no revenue was earned, enter "NIL" in Box A)	A	
Exemptions (Provide explanation in section below)	B	
Adjustments (Provide explanation in section below)	C	
Total Accommodation Revenue Subject to Accommodation Tax	A - B - C =	D
Total Amount of Municipal Accommodation Tax Owing	D x 4% =	E
Tax Remitted on Your Behalf (Provide name of agent or internet booking platform(s) in section below)	F	
Total Amount of Municipal Accommodation Tax To Be Remitted	E - F =	G

Explanation of Exemptions, Adjustments, or Tax Remitted on Your Behalf

Please include reason for the exemption, adjustment, or tax remitted on your behalf and to which reporting period the items pertain to.

Attach additional sheets as required

Claimant Declaration

By affixing my signature below, I certify that the information I provided on this form and any attachments are true, complete and accurate

Signature _____

Name:

Title:

Date:

Reporting Period

Providers who collect and remit the Harmonized Sales Tax (HST) to Canada Revenue Agency monthly shall remit the amount of the Municipal Accommodation Tax that is collected and becomes collectible on a monthly basis. The Provider shall remit the amount 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) to the City at that time.

Providers who collect and remit Harmonized Sales Tax (HST) to Canada Revenue Agency quarterly, annually, or who are not registered to collect remit HST to Canada Revenue Agency, shall remit the amount of the Municipal Accommodation Tax that is collected and becomes collectible on a quarterly basis. The Provider shall remit the amount for the previous quarter on or before the last day of the month following the end of the quarter and shall submit the Municipal Accommodation Tax Return Form (Schedule B) to the City at that time.

Municipal Accommodation Tax Calculation

- In Box "A": Enter the amount of revenue received for the reporting period (if no revenue was earned in the reporting period enter "NIL" in Box "A").
- In Box "B": Enter the amount of exemptions claimed in the reporting period.
- In Box "C": Enter the amount of adjustments claimed in the reporting period.
- In Box "D": Deduct the amounts in Box "B" and "C" from Box "A".
- In Box "E": Enter the amount obtained by multiplying the amount in Box "D" by 4%, this amount is the Municipal Accommodation Tax owing for the period.
- In Box "F": Enter the amount of the Municipal Accommodation Tax which has been collected and remitted by a third-party on your behalf (e.g. Agent or internet booking platform).
- In Box "G": Deduct the Municipal Accommodation Tax which has been collected and remitted by a third-party found in Box "F" from the Municipal Accommodation Tax owing in Box "E". This is the amount that must be remitted to the City.

Exemptions or Adjustments

Please provide an explanation of the exemption (e.g. accommodation provided for a continuous period of 30 days or greater), adjustment (e.g. refunds) or tax remittances paid by a third-party on your behalf (e.g. agent or internet booking platform) claimed and to which reporting period the exemption, adjustment, or tax remittance pertains to.

Form and payment must be received by the City by the last day of the month for the previous month's reporting period. Late payment charges will be charged on outstanding balances as prescribed.

By Electronic Funds Transfer: To get set up for EFT, please contact us at 807-625-2255.

In Person or by Mail

City of Thunder Bay
Attn: Cashiers-Municipal Accommodation Tax
Victoriaville Civic Centre
111 Syndicate Avenue S
Thunder Bay Ontario P7E 6S4
Hours: 8:30-4:30

Payment Options: Cash, Debit, Cheque
Payments made by mail or in person must be accompanied by this form.

Account Number: 411350
(for internal purposes only)

Cost Centre: 21019
(for internal purposes only)

For more information, visit us at: www.thunderbay.ca/MAT