

**OFFICE CONSOLIDATION
FOR INFORMATION PURPOSES ONLY**

**THE CORPORATION OF THE TOWN OF GANANOQUE
BY-LAW NO. 2019-058**

BEING A BY-LAW TO ESTABLISH THE MUNICIPAL ACCOMMODATION TAX (MAT)

AND WHEREAS Section 5 of the *Municipal Act*, 2001, S.O. 2001, c. 25, the powers of a municipal corporation are to be exercised by its Council;

AND WHEREAS the *Municipal Act*, 2001, S.O. 2001, c. 25, provided that the powers of every Council are to be exercised by By-law.

AND WHEREAS the Town may, through a 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, Chapter 25, as amended, and the Transient Accommodation Tax Regulation 435/17; and

AND WHEREAS Council Motion #19-122 directs staff to implement a Municipal Accommodation Tax (MAT) effective October 31, 2019.

AND WHEREAS the Committee of the Whole reviewed Report COW-FIN-2019-20, and concurs with the recommendation to pass a By-law, being a By-law to establish a Municipal Accommodation Tax (MAT);

AND WHEREAS at its meeting on June 18, 2019, the Council of The Corporation of the Town of Gananoque approved the establishment of the transient accommodation tax to be imposed on the purchase of short term accommodations within the Town of Gananoque, which will generate revenue that may be shared with designated non- profit entities who promote local tourism as further described in Regulation 435/17; and

AND WHEREAS Section 425 of the *Municipal Act*, 2001, S.O. 2001, Chapter 25, as amended, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under that Act is guilty of an offence;

AND WHEREAS on August 13, 2019, the Committee of the Whole received a Notice of Motion to amend By-law No. 2019-058, to add a Section entitled "**REMITTANCE SCHEDULE**", and to amend Section 14, entitled "**EFFECTIVE DATE**" to remove October 31st, 2019 and replace it with December 31st, 2019, and subsequently, unanimously passed the amendment;

AND WHEREAS the Council of the Corporation of the Town of Gananoque deems it advisable to pass such a By-law.

NOW THEREFORE the Council of the Corporation of the Town of Gananoque enacts as follows:

1. DEFINITIONS:

For the purposes of this By-Law:

1.1 "accommodation" means lodging, and the right to use lodging, that is provided for consideration, whether or not the lodging is actually used.

2.1 "person" means an individual as well as a corporation.

3.1 "provider of transient accommodation" means a person or an entity that sells, offers for sale, or otherwise provides accommodation.

4.1 "purchaser" means a person who gives money or other consideration in exchange for accommodation.

2. AUTHORIZATION AND ADMINISTRATION:

- a. That the Mayor and Clerk are hereby authorized to establish a Municipal Accommodation Tax (MAT).
- b. The Treasury Department is responsible for the administration and enforcement of this By-law.

3. APPLICATION OF TAX:

- a. A provider of transient accommodation shall charge the Municipal Accommodation Tax, plus applicable taxes, to every Purchaser, at the time of purchase.
- b. A purchaser shall pay to the provider of transient accommodation an accommodation tax, at the time of purchase, in the amount of four (4) percent and any associated tax of the purchase price of the transient accommodation which is provided for a continuous period of less than thirty (30) nights and is provided within a hotel, motel, inn, bed and breakfast, resort or hostel.
- c. A provider of transient accommodation shall include on every invoice and receipt for the purchase of transient accommodation a separate item for the amount of tax on the transient accommodation imposed on the purchase, and the item shall be identified as "Municipal Accommodation Tax".

4. EXEMPTIONS:

The Municipal Accommodation Tax imposed by Subsection 1

- (a) Does not apply to: Every university in Ontario and every college of applied arts and technology and post-secondary institutions in Ontario whether or not affiliated with a 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 the student is registered at and attending the institution;
- (b) 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 license issued under the *Private Hospitals Act*;
- (c) Every long-term care home as defined in subsection 2(1) of the *Long-Term Care Act, 2007*, retirement home and hospices;
- (d) Every treatment centre that receives provincial aid under the Ministry of *Community and Social Services Act*;
- (e) Every house of refuge or lodging for the reformation of offenders;
- (f) Every charitable, non-profit philanthropic corporation organized as shelters for the relief of the poor or for emergency;
- (g) Every tent or trailer site supplied by a campground, tourist camp or trailer park;

- (h) Every accommodation supplied by employers to their employees in premises operated by the employer;
- (i) Every private, residential dwellings (or part of dwellings) rented through a third party home-sharing listing entity without provision within the rental fee of a breakfast to provide sleeping accommodations to a person or persons on a temporary basis (generally less than twenty-eight (28) days, with daily or weekly rates);
- (j) Every hospitality room in an establishment that does not contain a bed and is used for displaying merchandise, holding meetings or entertaining; or
- (k) The accommodation of visitors without receipt of payment or other consideration, where that accommodation is incidental to and normally associated with the permitted residential use of a dwelling unit.

5. TAX COLLECTED BY SERVICE PROVIDER:

Providers of transient accommodation shall collect the Municipal Accommodation Tax from the purchaser at the time the accommodation is purchased and shall remit the Municipal Accommodation Tax to the tax collection agents, designated by the Town, and in accordance with the following schedule:

- Tax collected from January 1st to March 31st inclusive, remitted by April 30th
- Tax collected from April 1st to June 30th inclusive, remitted by July 31st
- Tax collected from July 1st to September 30th inclusive, remitted by October 31st
- Tax collected from October 1st to December 31st inclusive, remitted by January 31st

and shall include a detailed statement in the form required by the tax collection agents detailing the Municipal Accommodation Tax collected for the reporting period.

6. TAX COLLECTION AGENT:

The Municipal Accommodation Tax received by providers of transient accommodation shall be collected by the Town of Gananoque who shall administer the Municipal Accommodation Tax in accordance with an agreement entered into with the Town.

The Mayor and the Chief Administrative Officer may designate additional tax collection agents for the municipality and enter into agreements with any designated collection agents.

7. PENALTIES AND INTEREST:

Past due amounts payable by providers of transient accommodation shall bear penalties and interest at the rate applicable to property tax arrears and shall be payable on the non-payment of the full amount of the outstanding Municipal Accommodation Tax by the due date in accordance with the Town's Tax Rates and Ratios By-law. A penalty will be charged on the unpaid amount of a Municipal Accommodation Tax installment on the first day of default and monthly interest charges will be imposed on the first day of each month thereafter until paid in full. An additional fee will be charged in respect of any remittances made by cheque that are not honoured by the financial institution upon which it is drawn.

8. LIENS:

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

9. AUDIT AND INSPECTION:

- (a) Every provider of transient accommodation shall keep and retain books of account, records and documents sufficient to furnish the Town and its designated tax collection agents with the necessary particulars of sales of accommodation, amount of levy collected and remittance.
- (b) The Town's designated tax collection agent may inspect and audit all books, documents, transactions and accounts of the transient accommodation service provider as required for the purposes of administering and enforcing this By-law.
- (c) No person shall obstruct or hinder or attempt to obstruct or hinder a designated Tax Collection Agent or other authorized employee or agent of the Town in the exercise of a power or the performance of a duty under this By-law.
- (d) Every designated Tax Collection Agent shall have the right to enter lands and premises to conduct an inspection to determine whether the provisions of this By-law and any order(s) issued hereunder are being complied with in accordance with the provisions of Sections 435 and 436 of the *Municipal Act*, 2001.

10. ORDERS:

If the Town is satisfied that a person has contravened a provision of this By-law, the Town may Order the person who contravened the By-law or who caused or permitted the contravention to discontinue the contravening activity.

No person shall fail to comply with an order issued pursuant to Section 10 of this By-law.

11. OFFENCE AND PENALTIES

- (a) 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.
- (b) A person who is convicted of an offence under this By-law is liable, for each day or part of a day that the offense continues, to a minimum fine of \$500.00 and a maximum fine of \$10,000.00 and total of all of the daily fines for the offence is not limited to \$100,000.00, as provided for in 429(3) paragraph 2 of the *Municipal Act*.
- (c) As provided for in section 431 of the *Municipal Act*, 2001, if a person has been convicted of an offence under this By-law, the Ontario Court of Justice or any court of competent jurisdiction thereafter may, in addition to any penalty imposed on the person convicted issue an order.
- (d) Prohibiting the continuation or repetition of the offence by the person convicted; and
- (e) Requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

Without limiting the foregoing, the Town may establish and use other dispute resolution mechanisms and enforcement measures if an amount assessed for outstanding tax, penalties or interest remains unpaid after it is due, including measures such as garnishment or the seizure and sale of property.

12. VALIDITY:

If a Court of competent jurisdiction declares any provision, or any part of a provision, of this By-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-law that each and every provision of this By-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

13. REMITTANCE SCHEDULE

The Corporation of the Town of Gananoque shall remit payment to the Thousand Islands Accommodation Partners (TIAP), as follows:

- January 1st – 25%
- April 1st – 25%
- July 1st – 25%, and;
- September 1st – 25%

14. SHORT TITLE OF BY-LAW:

This By-law may be referred to as the "Municipal Accommodation Tax By-Law".

15. EFFECTIVE DATE:

This By-law shall come into full force and effect on December 31st, 2019.