



By-law 2018-116

Municipal Accommodation Tax By-law

WHEREAS section 400.1 of the *Municipal Act, 2001, S.O 2001, c.25*, (the “Act”) provides that the Council of a local municipality may, by by-law, impose a tax in respect of the purchase of transient accommodation within the municipality;

AND WHEREAS pursuant to section 400.1 of the Act and the Ontario Regulation 435/17, the Council of The Corporation of the City of Markham wishes to establish the tax rate and to levy the tax on the purchase of transient accommodation within the City of Markham;

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 Council wishes to add the outstanding tax including interest and penalties to the tax roll for the properties in the City of Markham registered in the name of the Provider to be collected in like manner as property taxes.

NOW THEREFORE the Council of the Corporation of the City of Markham ENACTS as follows:

DEFINITIONS

1. For the purposes of this By-law:

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

“**City**” means The Corporation of the City of Markham;

“**Council**” means the Council of The Corporation of the City of Markham;

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

“**Establishment**” means the 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;
- b) the use of one or more additional beds or cots in a bedroom or suite.

“**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 provide Accommodation;

“**Purchaser**” means a person who purchases 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.

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

APPLICATION OF TAX

2. A Purchaser shall, at the time of purchasing Accommodation, pay the Municipal Accommodation Tax in the amount of four (4) per cent of the Purchase Price of Accommodation provided for a continuous period of 29 consecutive nights or less provided in a hotel, motel, motor hotel, lodge, inn, bed and breakfast, dwelling unit or any place in which Accommodation is provided.
 - a) For greater certainty, the continuous period referred to above, is not disrupted by the purchase of different rooms, suites, beds or other lodging in the same Establishment in the course of the continuous period.

EXEMPTIONS

3. 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 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 purposes of calculating operating grants entitlements from the Crown on accommodations provided to students while the student is registered at 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 and every private hospital operated under the authority of a license 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 and hospices;
 - f) Accommodations provided by a treatment center that receives provincial aid under the Ministry of Community and Social Services Act;
 - g) Accommodations provided by house of refuge, or lodging for the reformation of offenders;
 - h) Accommodations provided by a charitable or non-profit philanthropic corporation organized as shelters for the relief of the poor or for emergency;
 - i) Accommodations provided by tent or trailer sites supplied by a campground, tourist camp or trailer park;
 - j) Accommodations supplied by employers to their employees in premises operated by the employer; and

TAX COLLECTED AND STATEMENT SUBMITTED

4. A Provider shall collect the MAT from the Purchaser at the time the Accommodation is purchased.
5. The amount of the MAT shall be identified as a separate item or charge on a bill, receipt, invoice, or similar document issued by the Provider in respect of the Accommodation on which the tax is imposed and the item shall be identified as "Municipal Accommodation Tax".
6. A Provider shall, on or before the last day of every month, remit to the City the amount of the MAT collected for the previous month and submit the monthly statements in the form required by the City's Treasurer detailing the number of the Accommodations sold, the purchase price of each Accommodation, the MAT amount collected and any other information as required by the City's Treasurer for the purposes of administering and enforcing this By-law.
7. Failure to comply with sections 4, 5, and 6 above shall constitute an offence under this By-law.

DELEGATION OF AUTHORITY

8. The Chief Administrative Officer, or designate, is hereby delegated the authority to enter into agreements, including all necessary documents ancillary thereto, with an Eligible Tourism Entity that receives an amount of the MAT, respecting reasonable financial accountability matters, in order to ensure that the amount paid to the entity is used for the exclusive purpose of promoting tourism, and the agreements may provide for other matters, all in a form satisfactory to the City Solicitor.
9. The Treasurer or his or her designate, shall be responsible for the administration of this By-law, including but not limited to approvals, appeals, enforcement, collection, and for instructing legal counsel to take such legal action as may be considered appropriate.

INTEREST AND PENALTIES

10. A charge of 1.25 per cent of the amount of the MAT due and unpaid shall be imposed as a penalty for the non-payment of taxes on the first day of default based on the full occupancy of the Establishment unless the actual amount of the MAT owing can be determined by the City, in which case, the charge of 1.25 per cent of the actual amount of the MAT owing to the City shall be imposed.
11. Interest at the rate of 1.25 per cent of the amount of the MAT due and unpaid, shall be imposed monthly for the non-payment of taxes on the first day of each and every month and subsequent months following the first day of default until the MAT, including all charges and interest owing, is paid in full.

LIENS

12. All MAT charges, penalties and interest that is past due shall be deemed to be in arrears, and may be added to the tax roll for any real property in the City of Markham registered in the name of the Provider, to be collected in 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 subsections 1(2.1), (2.2) and (3) of *the Municipal Act, 2001*, as amended and such lien will not have a

higher priority than it would otherwise have in law in relation to other claims, liens or encumbrances.

AUDIT AND INSPECTION

13. Every Provider shall keep books of account, records, and documents sufficient to furnish the City with the necessary particulars of sales of Accommodation, amount of MAT collected, and remittance.
14. The City may inspect and audit all books, documents, transactions, and accounts of the Providers and require the Providers to produce copies of any documents or records required for the purposes of administering and enforcing this By-law, as required.

OFFENCE AND PENALTIES

15. Any Provider who contravenes or fails to comply with any provision of this By-law, is guilty of an offence and is liable as follows:
 - a) Upon a first conviction, to a fine of not less than \$300 and not more than \$50,000.
 - b) Upon a second or subsequent conviction for the same offence, to a fine of not less than \$500 and not more than \$100,000.
 - c) Upon conviction for a continuing offence, to a fine of not less than \$100 and not more than \$100,00 for each day or part of a day that the offence continues. The total of the daily fines may not exceed \$100,000.
 - d) Upon conviction for a multiple offence, for each offence included in the multiple offence, to a fine of not less than \$100 and not more than \$10,000. The total of all fines for each included offence is not limited to \$100,000.
16. Where a Provider convicted of an offence is a corporation, the corporation is liable to a fine not less than \$500 and not more than \$100,000.


GENERAL

17. This By-law shall come into force and effect on January 1st, 2019.
18. If any section or portion of this By-law is found by a court of competent jurisdiction to be invalid, it is the intent of Council for the City that all remaining sections and portions of this By-law continue in force and effect.
19. This By-law may be referred to as "The Municipal Accommodation Tax By-law".

Read a first, second and third time and passed this 12th day of September, 2018.



Kimberley Kitteringham
City Clerk



Frank Scarpitti
Mayor