

# *THE CITY OF VAUGHAN*

# *BY-LAW*

## **BY-LAW NUMBER 029-2019**

**A By law to enact a Municipal Accommodation Tax on the sale of Hotel Accommodation within the City of Vaughan.**

**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 Vaughan wishes to establish the tax rate and to levy the tax on the purchase of Hotel Accommodation within the City of Vaughan;

**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;

**NOW THEREFORE** the Council of the Corporation of the City of Vaughan ENACTS as follows:

### **DEFINITIONS**

1. For the purpose of this By-law:

"**Chief Financial Officer and City Treasurer**" means the person appointed and designated as the City Treasurer;

"**City**" means The Corporation of the City of Vaughan;

"**Council**" means the Council of The Corporation of the City of Vaughan;

"**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 Hotel Accommodation;

"**Hotel Accommodation**" means lodging in a room containing one or more beds in a hotel, motel,

hostel, campground, bed and breakfast, club, condo hotel, or portion of a large multi-use complex used as a hotel, for a period of a minimum of 4 hours and a maximum of 29 consecutive nights.

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

**"Provider"** means a person or an entity that sells, offers for sale, or otherwise provides Hotel Accommodation, and includes agents, hosts or others who sell, offer for sale or otherwise provide Hotel Accommodation;

**"Purchaser"** means a person who purchases Hotel Accommodation;

**"Purchase Price"** means the price for which Hotel Accommodation is purchased, including the price paid, and/or other consideration accepted by the Provider in return for the Hotel Accommodation provided. Purchase Price does not include the goods and services tax imposed by the Government of Canada or by the Province of Ontario. Purchase Price also does not include fees and surcharges for ancillary services including food, beverages, entertainment, internet and telephone usage, unless such ancillary charges have not been separately itemized on the invoice for Hotel Accommodation;

#### **APPLICATION OF TAX**

2. A Purchaser shall, at the time of purchasing Hotel Accommodation, pay the Municipal Accommodation Tax in the amount of four (4) per cent of the Purchase Price of Hotel Accommodation.
  - 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;

- 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) Every hotel or motel room used by the City or its agents for shelter purposes; and
- j) Accommodations supplied by employers to their employees in premises operated by the employer.

#### **DELEGATION OF AUTHORITY**

- 4. The City Clerk, or designate, is hereby delegated the authority to enter into agreements, including all necessary documents ancillary thereto, with an Eligible Tourism Entity(ies) 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.
- 5. The Chief Financial Officer and City 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.
- 6. In administering this By-law, the Chief Financial Officer and City Treasurer, or his or her designate,

may issue such interpretation bulletins and guidelines as the Chief Financial Officer, from time to time, determines necessary or advisable.

#### **TAX COLLECTED AND STATEMENT SUBMITTED**

7. A Provider shall collect the MAT from the Purchaser at the time the Hotel Accommodation is purchased.
8. 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 Hotel Accommodation on which the tax is imposed and the item shall be identified as "Municipal Accommodation Tax".
9. A Provider shall have a one-time-only choice of whether to remit the MAT collected on a monthly or quarterly basis. Once the Provider has made a choice regarding the frequency of remittance, the Provider shall not be able to change the frequency of remittance.
10. If the Provider chooses to remit monthly, the 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 Chief Financial Officer and City Treasurer detailing the number of the Hotel Accommodations sold, the Purchase Price of each Hotel Accommodation, the MAT amount collected and any other information as required by the Chief Financial Officer and City Treasurer for the purposes of administering and enforcing this By-law.
11. If the Provider chooses to remit quarterly, the Provider shall, on or before April 30, July 31, October 31, and January 31 (of the following year), remit to the City the amount of the MAT collected for the previous three months and submit the monthly statements in the form required by the Chief Financial Officer and City Treasurer detailing the number of the Hotel Accommodations sold, the Purchase Price of each Hotel Accommodation, the MAT amount collected and any other information as required by the Chief Financial Officer and City Treasurer for the purposes of administering and enforcing this By-law.

#### **INTEREST, PENALTIES AND FEES**

12. 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.

13. 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.
14. A fee shall be charged in respect of all payment remittances that are not honoured by the financial institution upon which it is drawn in an amount as set out in the City of Vaughan User Fee By-law, 396-2002, as amended.

### **ENFORCEMENT & LIENS**

15. Upon default of payment, the City may bring an action for the recovery of the amount in any court in which a debt or money demand of a similar amount may be collected and every such action shall be brought and executed in and by the name of the City.
16. The use of any of the remedies provided by this section does not bar or affect any of the other remedies herein provided, and the remedies provided by this By-law 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, and no action or other proceeding in any way prejudices, limits or affects any lien, charge or priority existing under this chapter or at law in favour of the City.
17. The City may refer the collection of any tax payable or required to be remitted to a bailiff or collection agency.
18. The City may register a lien on any property in which the accommodation has been provided and for which tax remains owing.

### **AUDIT AND INSPECTION**

19. Every Provider shall keep books of account, records, and documents. sufficient to furnish the City with the necessary particulars of sales of Hotel Accommodation, amount of MAT collected, and remittance for a period of no less than seven years.
20. The City, or its agent, may inspect and audit all books, documents, transactions, and accounts of the Providers and require the Provider(s) to produce copies of any documents or records required for the purposes of administering and enforcing this By-law.

21. The City may, for any purpose relating to the administration or enforcement of this By-law, serve on any person personally, by electronic communication, registered mail or by a courier service, a written demand for information or for the production on oath or otherwise of books, letters, accounts, invoices, financial statements, electronic and such other documents as the City considers necessary to determine compliance with this By-law.
22. Where it appears from an inspection, audit or examination of the books of account, records or documents that this By-law has not been complied with, the person making the inspection, audit or examination shall calculate the amount payable in such manner and form and by such procedure as the City considers adequate and expedient, and the City shall assess the amount payable.
23. A person in receipt of such a demand shall comply within the time specified on the demand.

#### **DETERMINATION OF AMOUNT**

24. The City may make a determination of an amount of tax required to be remitted, together with any interest imposed upon any tax outstanding, if a Provider responsible for the payment or remittance of tax fails to pay, as required.
25. The City may assess or reassess for any tax payable by the Provider within three years from the day the tax was remittable, except that where the City establishes that a Provider has made any misrepresentation that is attributable to neglect, carelessness or willful default, or has committed any fraud in supplying any information under this chapter, or in omitting to disclose any information, then the City may assess or reassess, for any time the City considers reasonable, the tax payable.
26. The City shall send by mail or registered mail or deliver by hand, a notice of the calculation made under section 18 or 19 to the Provider at the Providers' last known address, and that the amount determined is payable within 30 days from the date of mailing or delivery of the notice.
27. Liability to pay an amount is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.
28. The City is not bound by any information delivered by or on behalf of a Provider responsible for the payment of tax and may, notwithstanding any information that has been delivered or if no information has been delivered, assess the tax payable.
29. This calculation, subject to being varied or adjusted due to an objection or appeal and subject to a

recalculation, shall be deemed to be valid and binding despite any error, defect or omission in the assessment or in any proceeding related to it.

## **REFUNDS**

30. Where a person has paid or remitted an amount that is not payable under this By-law, the City may, upon receipt of satisfactory evidence, make determination that the amount was wrongly paid or remitted, and if such a determination is made, the City shall refund or credit all or part of the amount, but no refund shall be made unless an application for such refund is made within 24 months after the payment date.
31. Where a person has, in accordance with this By-law, applied for a refund under this By-law and the person's claim is in whole or in part denied, the City shall deliver to such person by mail, a statement as such and the statement shall specify the denied amount and the reasons.

## **OFFENCES AND PENALTIES**

32. Every person is guilty of an offence under this By-law who:
  - a. Makes, participates in, assents to or contributes in the making of false or deceptive statements in a report, statement, form or other document prepared, submitted or filed under or for the purposes of this By-law;
  - b. Destroys, alters, mutilates, hides or otherwise disposes of any records or books of account, in order to evade payment or remittance of tax;
  - c. Makes, assents to or contributes in the making of false or deceptive entries, or assents to or contributes in the omission to enter a material, in any records or books of account;
  - d. Willfully, in any manner, evades or attempts to evade:
    - i. Paying tax;
    - ii. Remitting tax; or
    - iii. Otherwise complying with this By-law; or
  - e. Conspires with any person to commit an offence described in Subsection 32 (a) through (e).
33. Any Provider who contravenes or fails to comply with any provision of this By-law, is guilty of an offence.

34. Any Provider who is guilty of an offence is liable as follows:
- a) Upon a first conviction, to a fine of not less than \$300 and not more than \$50,000 if the Provider is an individual, and \$500 and not more than \$100,000 if the Provider is a corporation.
  - 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 multiple offences, for each offence included in the multiple offences, 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.

#### **GENERAL**

35. This By-law shall come into force and effect on April 1<sup>st</sup>, 2019.
36. 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.
37. This By-law may be referred to as "The Municipal Accommodation Tax (Hotel) By-law".

Enacted by City of Vaughan Council this 19<sup>th</sup> day of March, 2019.

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Hon. Maurizio Bevilacqua, Mayor

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Todd Coles, City Clerk

Authorized by Item No. 3 of Report No. 1  
of the Finance, Administration and Audit Committee  
Adopted by Vaughan City Council on  
January 29, 2019.