

# The Corporation of the City of Kenora

## By-law Number 158 - 2020

### A By-law to Establish a Municipal Accommodation Tax

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Whereas the City may, by 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

Whereas at its meeting of April 17, 2018, Council approved the establishment of an accommodation tax to be imposed on the purchase of accommodations of short duration within the City of Kenora, which will generate revenue which will be shared with the Kenora Hospitality Alliance (KHA) who promote local tourism with the balance of the funds being allocated towards economic development and tourism initiatives as further described in Regulation 435/17;

Therefore the Council of the City of Kenora enacts as follows:

#### 1. Application of Tax

**1.1** A purchaser shall, at the time of purchasing accommodation, pay an accommodation tax in the amount of four percent (4%) of the purchase price of the accommodation provided for a continuous period of less than 30 nights provided in a hotel, motel, inn, bed and breakfast, resort, and Airbnb/VRBO, or any place in which accommodation is provided.

**1.2** A provider of transient accommodation shall include on every invoice or receipt for the purchase of transient accommodation a separate item for the amount of tax on transient accommodation imposed on the purchase, and the item shall be identified as "Municipal Accommodation Tax".

#### 1.3

Bed & Breakfasts have the opportunity to charge the Accommodation Tax (4%) on only 75% of the total room rate understanding that the remaining 25% is considered the breakfast portion.

#### 2. Exemptions

**2.1** The municipal accommodation tax imposed by subsection 1(1) 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, the enrolments of which are counted for the purposes of calculating annual 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*, retirement home and hospices;

(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 tent or trailer sites supplied by a campground, tourist camp or trailer park;

(k) Every accommodation supplied by employees to their employees in premises operated by the employer; and

(j) Every hospitality room in an establishment that does not contain a bed and is used for displaying merchandise, holding meetings, or entertaining.

**2.2** All other revenues generated from the accommodation services; whether sold individually or included in a room package; are excluded from the Municipal Accommodation Tax, including but not limited to, meeting room rental, food and beverage, room service, laundry services, internet access, parking etc.

### **3. Tax Collected by Service Provider**

**3.1** Providers of transient accommodation shall include on every invoice or receipt for the purchase of transient accommodation a separate item identified as "Municipal Accommodation Tax" for the amount of MAT imposed on the purchase.

**3.2** Providers of transient accommodation shall collect the MAT from the purchaser at the time the accommodation is purchased and shall remit the MAT to the municipality within the time prescribed in any MAT notice and shall include monthly statements in the form required by the municipality detailing the number of rooms sold, purchase price and levy collected.

**3.3** The City Treasurer, or designate, is designated to establish the notices, forms and remittance statements, past due notices and monitor collection for the service providers.

## **4. Allocation of Funds**

**4.1** Revenues generated by this MAT will be deemed for municipal economic development and tourism purposes.

**4.2** A Destination Marketing Program existed in the municipality prior to the imposition of the MAT, and therefore the municipality is required to remit the total amount of Destination Marketing Fee revenues collected by the Destination Marketing Program from accommodations in the municipality in the fiscal year prior to the tax coming into effect (2017). This DMP exists as the Kenora Hospitality Alliance (KHA) and therefore the annual remittance to KHA will be \$140,309.00 which will be remitted in two installments on May 31<sup>st</sup> and December 31<sup>st</sup> annually. Further to the annual remittance to the KHA in 2019 and beyond will be based on the previous years' remittance adjusted by a 10 year rolling average of the annual percentage change in Ontario's total tourism receipts, as published by the Ministry of Tourism, Culture and Sport.

**4.3** The excess funds beyond those remitted to the KHA will be allocated to a reserve for tourism and economic development projects.

**4.4** The MAT reserve funds will be utilized for tourism and economic development priorities as established through the planning process of the City of Kenora.

## **5. Penalties and Interest**

**5.1** Penalties and interest at the rate applicable to overdue property taxes shall be payable by the providers of transient accommodation on the non-payment of the full amount of the MAT by the due date set out in the notice, and interest may be added on the first day of default and on each month thereafter in which the default continues.

## **6. Liens**

**6.1** All MAT penalties and interest that are past due shall be deemed by the City Treasurer to be in arrears, and shall be transferred to the tax collectors' roll of the City to be collected in the same manner as municipal property taxes and shall constitute a lien upon the lands.

## **7. Audit and Inspection**

**7.1** Every transient accommodation service provider shall keep books of account, records, and documents sufficient to furnish the City and its designated tax collectors with the necessary particulars of sales of accommodation, amount of levy collected and remittance.

**7.2** The City Treasurer, or designate, is designated pursuant to section 3 and may inspect and audit all books, documents, transactions and accounts of transient accommodation providers and require transient accommodation providers to produce copies of any documents or records required for the purposes of administering and enforcing this by-law, as required.

## **8. Offence and Penalties**

**8.1** 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*.

**8.2** A person who is convicted of an offence under this by-law is liable, to a minimum fine of \$500.00 and a maximum fine of \$100,000 as provided for in subsection 429(3), paragraph 1 of the *Municipal Act, 2001*.

**8.3** 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 of the daily fines for the offence is not limited to \$100,000, as provided for in subsection 429(3) paragraph 2 of the *Municipal Act, 2001*.

**8.4** 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 convicted, issue an order:

(a) prohibiting the continuation or repetition of the offence by the person convicted; and

(b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

## **9. Repeal**

That bylaw number 83-2018 is hereby repealed.

## **10. Effective Date**

This bylaw shall come into force and take effect upon third and final reading.

**By-law read a First and Second Time this 20<sup>th</sup> day of October, 2020**

**By-law read a Third and Final Time this 20<sup>th</sup> day of October, 2020**

**The Corporation of the City of Kenora:-**

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**Daniel Reynard, Mayor**

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**Kelly Galbraith, Deputy Clerk**