

Corporation of the City of Temiskaming Shores

By-law No. 2025-019

Being a By-law to establish the Municipal Transient Accommodation Tax (MAT) within the City of Temiskaming Shores

Whereas under Section 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

Whereas under Section 400.1 of the Municipal Act, S. O. 2001 c. 25, as amended, provides that Council of a local municipality may pass By-laws imposing a tax in respect of the purchase of transient accommodation within the municipality;

Whereas under Section 400.1 of the Act and Ontario Regulation 435/17, Council of the Corporation of the City of Temiskaming Shores wishes to establish a tax rate and to levy the tax on the purchase of transient accommodation within the City of Temiskaming Shores;

Whereas under 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;

Whereas Section 434.1 of the Municipal Act, 2001, S.O. 2001, c. 25 authorizes a municipality to require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a By-law of the municipality passed under the Municipal Act, 2001, in order to assist the municipality in promoting compliance with its By-laws; and

Whereas Section 434.2 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended provides that an Administrative Penalty imposed by the municipality on a person under Section 434.1 of the Municipal Act, 2001, constitutes a debt of the person to the municipality; and

Whereas Council has engaged in public consultation, including public meetings and direct consultation with representatives of the hospitality industry; and

Whereas Council considered Administrative Report No. CS-001-2025 at the January 21, 2025 Committee of the Whole meeting, and directed staff to schedule a Public Meeting on the proposed Municipal Transient Accommodation Tax, following which the By-law to establish a Municipal Transient Accommodation Tax (MAT) would be presented for consideration at the February 18, 2025 Regular Council meeting; and

Whereas on February 4, 2025, in accordance with the City's Notice Policy, a Public Meeting was held to allow for comments respecting the Municipal Transient Accommodation Tax By-law prior to its passage; and

Whereas Council considered Administrative Report No. CS-004-2025 at the February 18, 2025 Regular Council meeting, and directed staff to prepare the necessary By-law to establish a Municipal Transient Accommodation Tax (MAT), for consideration at the February 18, 2025 Regular Council meeting.

Now therefore the Council of The Corporation of the City of Temiskaming Shores hereby enacts the following as a By-law;

1. That Council adopts a By-law to establish the Municipal Transient Accommodation Tax (MAT) within the City of Temiskaming Shores, a copy attached hereto as Schedule "A" forming part of this By-law.
2. That this By-law shall come into force and take effect on March 31, 2025.
3. That the Clerk of the City of Temiskaming Shores is hereby authorized to make any minor modifications or corrections of an administrative, numerical, grammatical, semantically or descriptive nature or kind to the By-law and schedule as may be deemed necessary after the passage of this By-law.

Read a first, second and third time and finally passed this 18th day of February, 2025.

Mayor

Clerk



Schedule "A" to

By-Law No. 2025-019

Municipal Transient Accommodation Tax

Section 1: Definitions

- 1.1 "Accommodation" means the use or possession or the right to the use or possession; for dwelling, glamping, lodging or sleeping purposes in a room or suite of rooms containing one or more beds or cots, whether in a hotel, motel, motor hotel, lodge, inn, resort, cottage, yurt, bed and breakfast or other establishment providing Lodging, or in all or part of a dwelling unit and whether or not additional amenities, services or the right to use additional space in the establishment or dwelling unit are provided, where such rights are acquired for a Purchase Price, whether or not the Lodging is actually used;
- 1.2 "Ancillary Charges" means charges related to the purchase of Transient Accommodation including for food, room service, mini bar products, internet, movie rentals, and phone charges.
- 1.3 "By-law" means this By-law including, as applicable, its schedules and any amending By-laws.
- 1.4 "Broker" means any individual, partnership, or corporation acting as a Short-term Accommodation Broker that, for compensation, markets and brokers the booking, reservation, or rental, of a Short-term Accommodation on behalf of a Short-term Accommodation Provider by a means of a website or digital application.
- 1.5 "City" means The Corporation of the City of Temiskaming Shores.
- 1.6 "Council" means the Council of The Corporation of the City of Temiskaming Shores.
- 1.7 "Continuous Period" means an uninterrupted stay in a Dwelling comprising a minimum of four (4) hours to a maximum of thirty (30) days.
- 1.8 "Dwelling" means one or mor habitable rooms designed, occupied, or intended to be occupied as living quarters.
- 1.9 "Eligible Tourism Entity" has the meaning given to it in Ontario Regulation 435/17, as amended.
- 1.10 "Establishment" means a physical location, a building, or part of a Dwelling that provides Accommodation.
- 1.11 "Lodging" includes: the use of a bedroom, a suite of rooms containing a bedroom, or the use of a bed within a bedroom; as well as the use of one or more additional beds or cots in a bedroom or suite.
- 1.12 "Municipality" means The Corporation of the City of Temiskaming Shores.

- 1.13 "Municipal Accommodation Tax" or "MAT" means the tax imposed under this By-law.
- 1.14 "Person" includes an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, and a corporation (be it for profit or not-for-profit).
- 1.15 "Point of Purchase" means the time at which payment for Accommodation is made by the Purchaser.
- 1.16 "Provider" means a Person or an entity that sells, offers for sale, or otherwise provides Accommodation, and includes agents, hosts or others who sell, offers for sale or otherwise provides Accommodation. Where the Provider cannot easily be determined, the owner of a property providing Accommodation is deemed to the Provider.
- 1.17 "Purchaser" means a person who gives money or other consideration in exchange for Accommodation.
- 1.18 "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.
- 1.19 "STA" means Short-term Accommodation.
- 1.20 "Short-term Accommodation" means a temporary accommodation in all or part of a Dwelling that is provided in exchange for payment, and includes a bed and breakfast, but does not include a hotel, motel, inn, resort, hostel, lodging house, or rooming house.
- 1.21 "Short-term Accommodation Broker" means any individual, partnership, or corporation that, for compensation, markets and brokers the booking, reservation, or rental, of a Short-term Accommodation on behalf of a Short-term Accommodation Provider by a means of a website or digital application.
- 1.22 "Tax Collection Agent" means the person or persons from time to time appointed by Council or by the City's City Manager pursuant to Section 16 to collect from Providers the Municipal Accommodation Tax.
- 1.23 "Treasurer" means the person appointed by Council from time to time as the Treasurer for the City and includes their authorized designates.
- 1.24 "Transient Accommodation" means Accommodation for a Continuous Period; this Continuous Period is not disrupted by the purchase of different rooms, suites, beds or lodging in the same Establishment. For greater certainty, the Continuous

Period 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.

Section 2: Registration of Accommodation Establishment

- 2.1 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 with the City before March 31, 2025.
- 2.2 Providers who begin to operate an Establishment subsequent to the enactment of this By-law shall register their Establishment with the City by submitting a completed Accommodation Establishment Information Form within thirty (30) days of the date of commencement for their operation.
- 2.3 Where there are any changes to the information provided, Providers shall update and submit the Accommodation Information Form to the City within thirty (30) days of the change.

Section 3: Application of the Tax

- 3.1 The amount of five per cent (5%) shall be established as the tax rate for the Municipal Accommodation Tax to be imposed on the Purchase Price of Accommodation provided for a continuous period of thirty (30) days or less provided in any place in which Accommodation is provided, inclusive of STA but exempting those facilities and establishments identified in Section 5.
- 3.2 The Municipal Accommodation Tax shall apply to Accommodations only.
- 3.3 The Municipal Accommodation Tax does not apply to Ancillary Charges that are itemized separately on the Purchaser's receipt.
- 3.4 Where the Provider of Transient Accommodation fails to separately itemize Ancillary Charges, the Municipal Accommodation Tax will apply to the total amount of the purchase price.

Section 4: Tax Collected by Providers

- 4.1 The Purchaser shall pay the Provider the total amount of the Municipal Accommodation Tax at the Point of Purchase of the Accommodation.
- 4.2 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".

- 4.3 The Provider shall remit to the City the amount of the MAT collected as outlined below through the Municipal Accommodation Tax Return Form.
- 4.4 A Provider shall, on or before the last day of the month following the previous month, remit to the Municipality the amount of the MAT collected for the previous month and shall submit the Municipal Accommodation Tax Return Form as required for the purposes of administrating and enforcing this By-law.
- 4.5 When a due date falls on a Saturday, a Sunday, or a public holiday recognized by the Canada Revenue Agency, the payment is considered on time if received on the next business day.
- 4.6 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.
- 4.7 Where a Provider fails to submit a Municipal Accommodation Tax Return Form on or before the due date prescribed at Subsection 4.4, the amount is determined on the basis of the following calculation: (amount of revenue that would have been generated had the Establishment experienced full occupancy for the period) x (5%) (the amount MAT that is due and unremitted). This amount shall be assessed on the first day of default.
- 4.8 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 Subsection 4.4 shall be liable for such amounts as should have been collected and remitted.
- 4.9 At the Treasurer's sole discretion and based on the type of Accommodation and number of Accommodations being provided annually, the Treasurer may modify the remittance period set out in Subsection 4.4.

4.10 Providers shall provide any information as required by the Treasurer for the purposes of enforcing this By-law.

Section 5: Exemptions

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

- a) accommodations provided by the Crown, every agency of the Crown in right of Ontario or 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) accommodations provided by any board as defined in subsection 1(1) of the Education Act, R.S.O 1990 c E. 2, as amended.
- c) accommodations provided by any university in Ontario or any 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 purposes of calculating operating grants entitlements from the Crown.
- d) accommodations provided by any 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, as amended, and every private hospital operated under the authority of a license issued under the Private Hospitals Act, R.S.O 1990, c. P.24, as amended, and upon of the Lieutenant Governor of the amendment to paragraph 4 of subsection 400.2 of the Act, to any community health facility within the meaning of the Oversight of Health Facilities and Devices Act, S. O. 2017, c.25, as amended, that was formerly licensed under the Private Hospitals Act.
- e) accommodations provided by any long-term care home as defined in subsection 2(1) of the Long-Term Care Home Act, S. O. 2007, c.8, as amended.
- f) accommodations provided by any retirement home as defined in the Retirement Home Act, S. O. 2010, c.11, as amended.
- g) accommodations provided by any home for special care within the meaning of the Homes for Special Care Act, R.S. O. 2190, c. H.12, as amended.
- h) accommodations provided by any non-profit hospice occupying land for which there is an exemption from taxation determined in accordance with

section 23.1 of Ontario Regulation 282/ 98 made under the Assessment Act, R.S. O. 1990, c. A.31, as amended.

- i) accommodations provided by any Person or entity as prescribed by regulation under the Act, as exempt from payment of MAT.
- j) accommodations provided by any treatment center that receives provincial aid under the Ministry of Community and Social Services Act, R.S. O. 1990, c. M.20, as amended.
- k) every hospitality room in a Dwelling that does not contain a bed and is used for displaying merchandise, holding meetings, holding hearings, or entertaining.
- l) accommodation bookings with signed contracts prior to the date that this By-law takes effect, whether paid partially or in-full.
- m) accommodation provided:
 - I. in a house of refuge or lodging for the reformation of offenders;
 - II. by charitable or not-for-profit corporations or by the City or its contractors or agents for the purpose of providing or operating a shelter or emergency shelter for the relief of the poor; or for the benefit of persons who are fleeing situations of physical, financial, emotional or psychological abuse; or for other persons who are suffering from homelessness;
 - III. as a tent site or a trailer site lawfully supplied by a campground, tourist camp, or trailer park;
 - IV. by an employer to its employees in premises operated by the employer; or
 - V. in premises owned or operated by the City;
 - VI. every hotel or motel room used by the City or its contracted service providers for shelter accommodation purposes.

Section 6: Administration

6.1 This By-law takes force and effect upon execution thereof.

6.2 The Treasurer is provided delegated authority to implement and administer this By-law, to collect the MAT, and to take all actions and make all decisions required of the Treasurer under this By-law. Without limiting the generality of the foregoing, the Treasurer is delegated the authority to:

- a) establish and amend from time to time, such interpretation guidelines, protocols, procedures, forms, documents, agreements and schedules to this By-law, as the Treasurer may determine are required to implement and administer this By-law and to collect the MAT;
 - b) perform all administrative functions and conduct all enquiries, audits, assessments, approvals, referred to herein and those incidental to and necessary for the due administration, implementation and enforcement of this By-law and collection of monies owing hereunder and authorize refunds in accordance with this By-law;
 - c) authorize, establish terms of and sign any repayment agreements provided for herein and any ancillary or related documents, and to amend, extend or terminate or otherwise administer or enforce such agreements;
 - d) carry out all duties assigned to the Treasurer under this By-law; and
 - e) Ensure that all records related to the Municipal Accommodation Tax are kept and secured in the form as established by the Municipal Clerk.
- 6.3 The Treasurer may delegate the performance of any one or more of their functions under this By-law to one or more persons, from time to time, as the occasion requires, and may impose conditions upon such delegation and may revoke any such delegation. The Treasurer may continue to exercise any function delegated during the delegation.

Section 7: Penalties And Interest

- 7.1 Penalties and interest at a monthly rate of interest applicable to overdue accounts receivable invoices shall apply to any outstanding Municipal Accommodation Tax.
- 7.2 Where a Provider has submitted a Municipal Accommodation Tax Return Form that allows for the determination of the actual amount of the MAT 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 MAT that is due and that remains unremitted.
- 7.3 Where a Provider has not submitted a Municipal Accommodation Tax Return Form on or before the applicable due date, the interest and penalties shall be assessed pursuant to the calculation as prescribed at Subsection 4.7 of this By-law and 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 MAT that is owing and that remains unremitted.

Section 8: Liens

- 8.1 All MAT penalties and interest owing under this 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.

Section 9: Repayment Agreements

- 9.1 Where discretionally the Treasurer determines that is in the best interests of the City to do so, the Treasurer is authorized to enter into a repayment arrangement with any Provider, providing for terms of payment of any MAT and interest and penalties thereon, which were not paid in accordance with this By-law, on such terms as may be established by the Treasurer. While the repayment agreement is in good standing no further collection efforts shall be taken, despite Section 10 hereunder. The Treasurer is not obligated to authorize a repayment agreement.
- 9.2 The repayment agreement shall terminate automatically upon breach of any provision thereof.
- 9.3 Interest shall continue to accrue on the amount of MAT outstanding during the term of the repayment agreement.

Section 10: Collection

- 10.1 All MAT provided for under this By-law and related penalties and interest that are past due shall be deemed to be in arrears and a debt owing to the City. The Treasurer is authorized to take any one or more steps available to the City to collect any such amount including without limitation:
- a) adding the amount to the tax roll for any real property in the City registered in the name of the Provider to be collected in like manner as property taxes and constituting a lien upon the lands;
 - b) bringing an action in the name of the City for the recovery of the amount in the court of appropriate jurisdiction;
 - c) referring the collection of the amount to a collection agency; and

- d) exercising any other remedy available pursuant to the Act, or otherwise available at law.

10.2 The remedies provided 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.

Section 11: Audit And Inspection

11.1 The Provider must keep, for a period of no less than seven (7) years, 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 MAT which should have been collected and remitted.

11.2 The Treasurer or their designate 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.

Section 12: Adjustment By Treasurer

12.1 Where the Treasurer determines as a result of audit of the Provider's records that MAT which accrued within a period of two (2) years prior to the date of the audit, was not reported and paid by that Provider in accordance with this By-law, the Treasurer may make a determination of the amount of MAT properly payable for that period, adjust the City records appropriately to reflect the adjustment, and notify the Provider in writing:

- a) of the period for which MAT was adjusted;
- b) of the basis for the adjustment;
- c) of the amount of MAT actually paid and the amount payable for the period of adjustment;
- d) of the amount now owing to the City or overpaid to the City;
- e) where applicable, that payment of any amount owing to the City is due within fifteen (15) days of the date of the notice; and
- f) in the event that an audit reveals an overpayment, the Treasurer, in his or her discretion, will provide: a refund of the amount of MAT overpaid; a credit against future obligations to pay MAT; or a credit against any debt then

owing to the City by the Provider, whether or not related to MAT. No interest shall be paid on the amount of the overpayment.

- 12.2 In the event the Treasurer establishes that a Person has made any misrepresentation that is attributable to neglect, careless or willful default or has committed a fraud in supplying any information under this By-law, the Treasurer's right to adjust the MAT is not restricted to a two (2) year period, despite Subsection 12.1.

Section 13: Application For Refund

- 13.1 Where a Purchaser has paid an amount that is not payable, the Treasurer may, upon receipt of satisfactory evidence, make a determination that the amount was wrongly paid, and if such a determination is made, the Treasurer shall refund or credit all or part of the amount, but no refund shall be made unless an application is made within twenty-four (24) months after the payment date.
- 13.2 Where a Purchaser has applied for a refund and the person's claim is in whole or in part refused, the Treasurer shall provide a statement of disallowance in such form as determined by the Treasurer, and the statement shall specify the amount of disallowance and the reasons for the disallowance.
- 13.3 Where a Provider remits a surplus in error, the Treasurer, may upon receipt of satisfactory evidence, make a determination that an amount was wrongly paid, and if such a determination is made, the Treasurer shall refund all or part of the amount, but no refund shall be made unless an application for such a refund is made within twenty-four (24) months after the date of remittance.
- 13.4 The onus of proof shall be on the Purchaser or Provider claiming a refund to provide to the Treasurer such information as the Purchaser or Provider intends to rely on in support of the application. No application for a refund will be accepted if the applicant is not current in filing of MAT Remittance Reports.
- 13.5 Any refund authorized shall be limited to the amount overpaid by the Purchaser or Provider during the two (2) year period prior to the date of the application and while the Provider owned the Establishment which provided the accommodation.

Section 14: False Statement

- 14.1 No Person shall:

- a) make a false, inaccurate or intentionally misleading statement or representation in any document, statement or request provided for by this By-law; or
- b) file a document, statement or request provided for in this By-law where such Person knows or believes it contains a false, inaccurate or intentionally misleading statement or representation, whether or not such statement or representation was made by the Person filing the document or application.

Section 15: No Interference

- 15.1 No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Person exercising a power or performing a duty under this By-law.

Section 16: Offences And Penalties:

- 16.1 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.
- 16.2 For the purposes of Subsection 15.1, each day on which a Person contravenes any of the provisions of this By-law shall be deemed to constitute a separate offence under this By-law.
- 16.3 Every Person who contravenes any provision of this By-law is guilty of an offence as provided for in subsection 429(1) of the Act, and all such offences are designated as continuing offences as provided for in subsection 429(2)(a) of the Act.
- 16.4 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 Act.
- 16.5 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 a 429(3) paragraph 2 of the Act.
- 16.6 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.

Section 17: Enforcement

17.1 This By-law may be enforced by any person as so designated by the Treasurer.

Section 18: General

- 18.1 If any section, subsection, part or parts of this By-law is declared by a court of competent jurisdiction to be bad, illegal or ultra vires, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.
- 18.2 Nothing in this By-law relieves any Person from complying with any provision of any federal or provincial legislation or any other By-law of the City.

Section 19: Confidential Information

- 19.1 All information submitted to and collected by the City, will, except as otherwise provided in this section, be available for disclosure to the public in accordance with the Municipal Freedom of Information and Protection of Privacy Act, R.S. O. 1990, c. M.56, as amended ("MFIPPA"). In the event that any Person in submitting information to the City or to the Treasurer in any form, as required under this By-law, where such information is confidential or proprietary or otherwise may be exempt from disclosure under the MFIPPA, the Person submitting the information shall so identify that information upon its submission to the City or the Treasurer and shall provide sufficient details as to the reason for its purported exemption from disclosure.