

**THE CORPORATION OF THE TOWN OF COCHRANE**

**BY-LAW \_\_\_\_-2018**

**BEING A BY-LAW TO IMPOSE A TAX IN  
RESPECT OF THE PURCHASE OF MUNICIPAL  
ACCOMODATION IN THE TOWN OF COCHRANE**

**WHEREAS** section 400.1 of the *Municipal Act, 2001*, SO 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 municipal transient accommodation in 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 Town of Cochrane wishes to establish the tax rate and to levy on the purchase of municipal transient accommodation within the Town of Cochrane;

**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 arrears of the interest and penalties to the tax roll for the properties in the Town of Cochrane registered in the name of the Provider to be collected in like manner as property taxes and such arrear shall constitute a lien upon the lands, but pursuant to section 400.4(2) of the Act, such lien shall not be a priority lien for the purposes of subsections 1(2.1), (2.2) and (3) of the Act and such lien will not have a higher priority than it would otherwise have in law in relation to other claims, liens or encumbrances;

**NOW THEREFORE** being enacted by the Council of the Corporation of the Town of Cochrane as follows:

**DEFINITIONS**

1. For the purposes of this By-law:

**"Municipal Transient Accommodation" and "Transient Accommodation"** means:

- (a) The use of land or a building for the temporary accommodation of travelers and transient guests, and without limiting the generality of the foregoing includes, hotels, motels, bed and breakfast accommodations, resorts, and condominiums; but
- (b) does not include the accommodation of visitors without receipt of payment or other consideration, where that accommodation is incidental to and to and normally associated with the permitted residential use of a dwelling unit.

**"Council"** means the Council of The Corporation of the Town of Cochrane;

**"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 Transient Accommodation;

**"Provider"** means a person that sells, offers for sale, or otherwise provides Municipal Transient Accommodation, and includes agents, hosts or others who sell, offers for sale or otherwise provides Municipal Transient Accommodation;

**"Purchaser"** means a person that purchases Municipal Transient Accommodation;

**"Purchase Price"** means the all-in price for which Municipal Transient Accommodation is purchased, including the price paid and/or other consideration accepted by the Provider in return for the Accommodation provided, and the Harmonized Sales Tax (HST).

**"Town"** means The Corporation of the Town of Cochrane;

**"Municipal Accommodation Tax" or "Municipal Transient Accommodation Tax"** means the tax imposed under this by-law;

## **APPLICATION**

2. Upon payment of the Purchase Price for Municipal Transient Accommodation, a Purchaser shall pay Municipal Accommodation Tax in the amount of four (4) percent of the Purchase Price of Municipal Transient Accommodation provided for a continuous period of thirty (30) days or less.
  - (a) For greater clarity, the continuous period referred to above is not disrupted by the purchase of different room, 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) The purchase of Municipal Transient Accommodation at a 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) 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;
  - (j) Every accommodation supplied by employees to their employees in premises operated by the employer; and
  - (k) Every hospitality room in an establishment that does not contain a bed and is used for displaying merchandise, holding meetings, or entertaining.
  - (l) Bed and Breakfast establishments that qualify for exemption.
  - (m) Such other persons and entities as may be prescribed.

## **TAX COLLECTED AND STATEMENT SUBMITTED**

4. Providers are required to collect the Transient Accommodation Tax and remit it to the Town of Cochrane
5. The Town may enter into an agreement with a third party to act as its agent for the purpose of collecting the Municipal Accommodation Tax and remitting it to the Town.
6. Providers must include on every invoice or receipt for the purchase of Municipal Transient Accommodations a separate item identified as Transient Accommodation Tax Remittance is to be accompanied by a report , prescribed by the Town, indicating but not limited to the average number of rooms available for taxable occupancy, the average daily rate, the total room charges for the month, the total tax collected and remitted, and any other information relating to the amount of tax due as may be determined by the Town's CAO.

7. Providers must remit the Municipal Accommodation Tax to the Town by electronic transfer or cheque to a designated Town controlled account, or a joint Town-agent account where a Town agent is used, or any other method deemed acceptable to the Town's CAO.

### **PENALTIES AND INTEREST**

8. Penalties and interest at a rate of 1.25 percent of the amount of the Municipal Accommodation Tax shall be payable by Providers on the non-payment of the full amount of the Municipal Accommodation Tax by the due date, and interest may be added on the first day of default and on each month thereafter in which the default continues.

### **LIENS**

9. All Municipal Accommodation Tax penalties and interest 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 Town 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**

10. Every Provider shall keep books of account, records, and documents sufficient to furnish the Town or its agent with the necessary particulars of sales of Municipal Transient Accommodation, amount of Municipal Accommodation Tax collected and remittance.
11. The Town or its agent may inspect and audit all books, documents, transactions and accounts of Providers and require Providers to produce copies of any documents or records required for the purposes of administering and enforcing this by-law, as required.

### **OTHER PENALTIES**

12. Every person who contravenes any provision of this by-law is guilty of an offence and, in addition to being liable for payment of the penalty imposed by section 8, is liable to a fine and such other penalties as provided for in the *Provincial Offences Act*, RSO 1990, c P.33 and the *Municipal Act., 2001*, each as amended:
  - (a) 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 daily fines for the offence is not limited to \$100,000.00 as provided for in subsection 429(3)2 of *the Municipal Act, 2001*.
  - (b) 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:
    - (i) prohibiting the continuation or repetition of the offence by the person convicted; and
    - (ii) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
13. 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, the seizure and sale of property and the creation and registration of liens as it considers appropriate.

### **GENERAL**

14. This By-law shall come into effect on \_\_\_\_\_, 2018.
15. 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 Town that all remaining sections and portions of this by-law continue in force and effect.
16. This by-law may be referred to as the "Municipal Accommodation Tax By-law".

**READ** a first and second time this \_\_\_\_ day of \_\_\_\_\_, 2018.

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**MAYOR**

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**CLERK**

**READ** a first and second time this \_\_\_\_ day of \_\_\_\_\_, 2018.

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**MAYOR**

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**CLERK**