

The Corporation of the City of Pembroke

By-Law Number 2024-72

A by-law to repeal and replace by-law 2024-29, being a by-law to establish a Municipal Accommodation Tax in the City of Pembroke

Whereas, Section 400.1 (1) of the *Municipal Act, 2001, as amended*, enables a municipality to pass by-laws imposing a tax in respect of the purchase of transient accommodation within the municipality; and

Whereas Section 400.1 (2) of the *Municipal Act* and O. Reg. 435/17 *Transient Accommodation Tax* provides the by-law must state the subject of the tax to be imposed, state the tax rate or the amount of tax payable, and state the manner in which the tax is to be collected; and

Whereas at its April 2, 2024 meeting, the Planning and Development Committee directed the establishment of a Municipal Accommodation Tax (MAT) to be imposed on stays of less than 30 days in the City of Pembroke; and

Whereas at its May 7, 2024 meeting, the Planning and Development Committee passed Municipal By-law 2024-29 – A By-law to establish a Municipal Accommodation Tax in the City of Pembroke; and

Whereas The Ontario Restaurant, Hotel, and Motel Association (ORHMA) has been engaged as the third-party administrator to collect and remit MAT revenues on behalf of the City.; and

Whereas ORHMA has extensive experience managing MAT revenues in municipalities across Ontario and based on best practices, ORHMA has indicated that collection and remittance of MAT revenues be conducted on a monthly basis for efficient financial administration, improved cash flow management, and streamlined processes for accommodation providers and the City;

Now Therefore the Municipal Council of the Corporation of the City of Pembroke enacts as follows:

Definitions

For the purpose of this By-law:

Accommodation means the use or possession or the right to the use or possession, for dwelling, 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, bed and breakfast, or other establishment providing lodging, in all or part of a dwelling unit;

City means the geographic area of the Corporation of the City of Pembroke;

Chief Administrative Officer means the person appointed by Council as the Chief Administrative Officer for the City and includes their authorized designate;

Council means the Council of the Corporation of the City of Pembroke;

MAT Remittance Report means the form established by the Treasurer for reporting Municipal Accommodation Tax collected and to be paid to the City for a reporting period, in accordance with Sections 2 and 3 of this By-law;

Municipal Accommodation Tax (hereinafter referred to as MAT) means the tax imposed under this By-law;

Person includes an individual, sole proprietorship, a partnership, an unincorporated association, a trust, and a corporation;

Provider of transient accommodation means a person that sells, offers for sale, or otherwise provides accommodation, and includes agents, hosts or others who sell, offer for sale by any means, including through an online platform or otherwise provide accommodation;

Purchaser means a person who, for a purchase price, uses, possesses, or has the right to the use or possession of any 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.

Short-term rental means a temporary accommodation in all or part of a dwelling that is provided in exchange for payment, including but not limited to properties rented through online platforms (Airbnb/Vrbo);

Tourism Officer means the person appointed by Council as the Tourism Officer for the City and includes their authorized designate; and

Treasurer means the person appointed by Council as the Treasurer for the City and includes their authorized designate.

1. Application of Tax

- a. A provider of transient accommodation shall charge the MAT, plus applicable taxes, to every purchaser at the time of purchase.
- b. A purchaser shall, at the time of purchasing accommodation, pay a MAT 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, short-term rental, campground, or any place in which accommodation is provided.
- c. The MAT shall only be imposed on the room rate and not be applied to any other charges or ancillary fees of the accommodation.

2. Tax Collected by Service Provider

- a. 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".
- b. Providers of transient accommodation shall collect the MAT from the purchaser at the time the accommodation is purchased and shall remit the MAT Remittance Form to the municipality within the time prescribed in any MAT notice and shall include statements in the form required by the municipality detailing the number of rooms sold, purchase price, and levy collected in the applicable timeframe.
- c. MAT collected by providers shall be remitted to the City on a monthly basis. MAT remittance is due one month following the end of the previous month. Deadlines for remittance shall be January 31, February 28, March 31, April 30, May 30, June 30, July 31, August 31, September 30, October 31, November 30, and December 31. When a due date falls on a Saturday, Sunday, or public holiday recognized by the Canada Revenue Agency, the payment is considered on time if received on the next business day.

- d. The Treasurer in conjunction with the Tourism Officer shall establish notices, forms, and remittance statements, past due notices, and monitor collection for the service providers.
- e. The Harmonized Sales Tax (HST) is to be applied to the all-in accommodation price, including the MAT. The provider is responsible for remitting the HST applied in their regular tax returns, only the MAT is to be remitted to the City.
- f. The provider shall give the City notice of any changes of ownership of the accommodation. Any amounts owing shall be paid to the City prior to the change in ownership. In the event the provider ceases operations, the provider is required to advise the City.

3. Administration

- a. The Chief Administrative Officer is provided authority to deem the most suitable methods of administration and collection required under this by-law. The Chief Administrative Officer is delegated authority to:
 - i. Establish and amend as necessary interpretation guidelines, protocols, procedures, forms, documents, agreements, and schedules needed to successfully implement and administer this by-law,
 - ii. Enter into agreements with another person or entity as agent for the City to provide for implementation and collection of the MAT,
 - iii. Enter into agreements with any eligible tourism entity designated to receive revenues from the MAT.

4. Offences and Penalties

- a. Every person is guilty of an offence under this by-law who:
 - i. Makes, participates in, assents to, or contributes in the making of false or misleading statements or entries in a report, statement, form, or other document prepared, submitted, or filed under or for the purposes of this by-law;
 - ii. Destroys, alters, hides, or otherwise disposes of any records in order to evade payment or remittance of the tax;
 - iii. Interferes with any audit or inspection conducted by the City or its agent;
 - iv. Willfully, in any manner, evades or attempts to evade:
 - 1. Paying tax;
 - 2. Remitting tax;
 - 3. Otherwise complying with his by-law;
 - v. Conspires with any person to commit an offense described in this by-law.
- b. Any provider who is guilty of an offence is liable as follows:
 - i. Upon a first conviction, a written notice informing of the violation and steps to avoid future convictions shall be issued;

- ii. Upon a second or subsequent conviction for the same offence, a fine of not less than \$500 and not more than \$100,000 shall be issued as provided in subsection 429(3) of the Act;
 - iii. A person who is convicted of a subsequent offence under this by-law is liable for each day that the offence continues. A fine of not less than \$500 and not more than \$10,000 shall be imposed and the total of all daily fines for the offence is not limited to \$100,000, as provided in subsection 429(3) of the Act.
 - c. 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, issue an order:
 - i. Prohibiting the continuation or repetition of the offence by the person convicted;
 - ii. Requiring the person convicted to correct the contravention in the manner and within the period the court considers appropriate.
- 5. Interest and Liens
 - a. Interest charged at 1.25% 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 provider unless the actual amount of the MAT owing can be determined by the City. In that case, the interest rate of 1.25% of the actual amount of the MAT will be charged.
 - b. An interest charge of 1.25% each month of the amount of the MAT due and unpaid shall be imposed for the non-payment of taxes on the first day of each month and subsequent months following the first day of default.
 - c. The City, at its discretion, may automatically assess the MAT collected by the provider for the purpose of determining the amounts owing and the interest to be charged in the event the provider has not provided statements in accordance with section 2 of this by-law.
 - d. All MAT penalties 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 of Pembroke 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 property 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.
- 6. Audit and Inspections
 - a. The provider shall keep books of account, records, and documents sufficient to provide the City, or its agent, with the necessary particulars of sales of accommodations, amount of MAT collected, and remittance.
 - b. The City, or its agent, 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.
- 7. General
 - a. The MAT shall come into effect on January 1, 2025 and be applied to each accommodation purchase beginning on this date.

Passed and enacted this 17th Day of December, 2024



Ron Gervais
Mayor



Victoria Charbonneau
Clerk