

The Corporation of the Town of The Blue Mountains

By-Law Number 2024-XX

A By-law of the Corporation of the Town of The Blue Mountains to establish a Municipal Accommodation Tax (MAT) and a Municipal Accommodation Tax Reserve Fund

WHEREAS section 400.1 (1) of the Municipal Act 2001, S.O. 2001 c. 25, as amended (the “Municipal Act”), provides that a municipality may pass by-laws imposing a tax in respect of the purchase of transient accommodation within the municipality; and

AND WHEREAS section 400.1 (2) of the Municipal Act and O. Reg. 435/17 Transient Accommodation Tax provides that 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

AND WHEREAS section 400.1 (3) of the Municipal Act provides that the by-law may include penalties for failing to comply with the by-law, interest on outstanding taxes or penalties, the assessment of outstanding taxes, penalties or interest and may establish enforcement measures as Council considers appropriate if an amount assessed for outstanding tax, penalties or interest remains unpaid after it is due; and

AND WHEREAS Council wishes to add the arrears of the MAT, interest and penalties to the tax roll for the properties in the Town of The Blue Mountains registered in the name of the Provider to be collected in like manner as property taxes and such arrears 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; and

AND WHEREAS The Corporation of The Town of The Blue Mountains is desirous of implementing a municipal accommodation tax as provided in the Municipal Act and regulation thereto; and

AND WHEREAS on DATE, Town Council passed Resolution No. directing staff to bring forward the subject by-law for approval, in consideration of staff report number presented to the Committee of the Whole on DATE;

NOW THEREFORE the Council of The Corporation of The Town of The Blue Mountains hereby enacts as follows:

1. INTERPRETATION

1.1 Short Title

This By-law may be cited as the “Municipal Accommodation Tax By-law” or “MAT By-law”.

1.2 Application

This By-law applies to impose a tax in respect of the purchase of transient accommodation within the geographic boundaries of Town of The Blue Mountains.

In the event of any conflict between the provisions of this By-law and the provisions of any other statute or By-law, the provisions that are most restrictive will prevail.

1.3 Headings

The insertion of headings and the division of this By-law into sections and subsections are for convenience or reference only and shall not affect the interpretation thereof.

1.4 Schedules

The insertion of schedules and the division of this By-law into sections and subsections are for convenience or reference only and shall not affect the interpretation thereof.

1.5 Definitions

In this By-law the definitions and interpretations given in this section shall govern.

“Accommodation” means Lodging, whether in a hotel, motel, campground, motor hotel, lodge, inn, resort, bed and breakfast, Short-Term Rental Accommodation, Commercial Resort Unit or other establishment providing lodging, and the right to use Lodging, that is provided for consideration, whether or not the lodging is actually used for for a continuous period of (twenty-eight) 30 days or less;

“Agent” means the person or entity authorized and delegated the authority by the Treasurer to fulfill administrative duties regarding the implementation of the MAT.

“Commercial Resort Unit” means one room or a group of rooms in a building used or designed or intended to be used as a single, independent and separate housekeeping establishment:

- a. In which food preparation and sanitary facilities are provided for the exclusive use of such occupants; b) Which has a private entrance from a common hallway either inside or outside the building;
- b. Which is part of a rental or lease management program which consists of a minimum of ten commercial resort units in one or more buildings;
- c. In which the maximum habitation per housekeeping unit is restricted to 120 days per year; and,
- d. Which has been established to provide accommodation for gain or profit, but does not mean or include a residential dwelling unit, a hotel unit, a motel unit, an inn unit, a lodge unit, a short term accommodation unit, a dormitory unit or a hostel unit.

“Council” means the Council of the Corporation of the Town of The Blue Mountains.

“County of Grey” means the Corporation of the County of Grey.

“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 Accommodation or Short-Term Rental Accommodation;

“Lodging” includes:

- a) the use of a bedroom, a suite of rooms containing a bedroom, or the use of a bed within a room;
- b) the use of one or more additional beds or cots in a bedroom or suite; and
- c) the use of a hotel room, motel room, campsite, campground, motor hotel/motel, lodge, inn, Commercial Resort Unit and Short-Term Rental Accommodation, or any part thereof.

“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 Accommodation and includes agents, hosts or others who sell, offers for sale or otherwise provides Accommodation;

“Purchaser” means a person who purchases 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, but 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 Accommodation;

“Room Nights” means the total number of individual Lodging units occupied by guests for a specific duration.

“Short-Term Rental Accommodation” means a building or structure, or any part thereof being used for the habitation of tenants of that temporary residence, lodging or occupancy by way of concession,

permit, lease, License, rental agreement, or similar commercial arrangement for any period less than thirty (30) consecutive calendar days, throughout all or any part of a calendar year.

“Tax Collection Agents” means a person or entity as appointed by Town Council from time to time.

"Treasurer" means the person appointed by Council from time to time to act in the legal capacity as authorized by the Municipal Act 2001, S.O. 2001 c. 25, as amended, and includes his or her authorized designate.

“Town” means the Corporation of the Town of The Blue Mountains and its employees.

"Treasurer" means the person appointed by Council from time to time to act in the legal capacity as authorized by the Municipal Act 2001, S.O. 2001 c. 25, as amended, and includes his or her authorized designate.

2. ADMINISTRATION

- 2.1 The Treasurer is delegated the 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, procedures, forms and documents, as the Treasurer may determine are required to implement and administer this by-law and to collect the MAT;
 - b. perform all administrative functions referred to herein and deemed 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. designate tax collection agents for the Town; and
 - d. carry out all duties assigned to the Treasurer under this by-law.
- 2.2 The Treasurer may delegate the performance of any one or more of his or her 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.
- 2.3 Except as expressly provided to the contrary in this by-law, the decisions of the Treasurer are final.

3. MUNICIPAL ACCOMMODATION TAX (MAT) IMPOSED

- 3.1 Except as provided in section 4 of this by-law, every Purchaser shall, at the time of paying for Accommodation, pay to the Provider, Municipal Accommodation Tax in the amount of four percent (4%) of the Purchase Price of any Accommodation provided to the Purchaser.
- 3.2 For greater certainty, the continuous period referred to in section 17 is not disrupted by the purchase of different rooms, suites, beds, campsites or other Accommodation by the same Purchaser from the same Provider in the course of the continuous period.
- 3.3 The Municipal Accommodation Tax will be administered in accordance with a Municipal Accommodation Tax Agreement entered into with an Eligible Tourism Entity.

4. EXEMPTIONS

- 4.1 Despite section 3, the Municipal Accommodation Tax imposed under this by-law does not apply to:
- a. the Crown, any agency of the Crown in right of Ontario or any 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. any Board as defined in subsection 1(1) of the Education Act;
 - c. 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. 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 and every private hospital operated under the authority of a license issued under the Private Hospitals Act and upon proclamation of the Lieutenant Governor of the amendment to Paragraph 4 of subsection 400.2 of the Municipal Act, to any community health facility within the meaning of the Oversight of Health Facilities and Devices Act 2017 that was formerly licensed under the Private Hospitals Act;
- e. any long-term care home as defined in subsection 2(1) of the LongTerm Care Home Act, 2007;
- f. any retirement home as defined in the Retirement Home Act, 2010;
- g. any home for special care within the meaning of the Homes for Special Care Act, 1990;
- h. 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;
- i. any Person or entity as prescribed by regulation under the Municipal Act, as exempt from payment of Municipal Accommodation Tax;
- j. any treatment centre that receives provincial aid under the Ministry of Community and Social Services Act; or
- k. 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 Town or County of Grey or its contractors or agents for the purpose of providing or operating a shelter or emergency shelter; 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. by an employer to its employees in premises operated by the employer.

5. COLLECTION AND REMITTANCE

- 5.1 A Provider shall collect the MAT from the Purchaser at the time the Accommodation is purchased.
- 5.2 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 Accommodation on which the tax is imposed and the item shall be identified as “Municipal Accommodation Tax”.
- 5.3 A Provider shall, remit to the Town, or its agent, for the amount of the MAT collected for the previous month and submit the monthly statements in the form required by the Town, or its agent, detailing the number of the Room Nights, the total purchase price of all Room Nights for the applicable previous month, the total MAT collected and any other information as required by the Town (the “MAT Remittance Report”), or its agent, for the purposes of administrating and enforcing this By-law.

The MAT Remittance Report shall be due to the Town on or before the last day of every month.
- 5.4 A Provider shall, within 15 days after the MAT Remittance Report due date, pay to the Town or its Agent an amount equal to the MAT required to be charged to and collected from Purchasers during the period reported in the MAT Remittance Report.
- 5.5 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.
- 5.6 Despite section 5.3, a Provider may apply in writing for quarterly filing of MAT Remittance Reports and payment of MAT charged and collected. If quarterly filing is approved by the Treasurer and while any such approval is in good standing, the Provider shall:
 - a. on or before January 31, April 30, July 31 and October 31, in each year, file a MAT Remittance Report with the Town or its Agent setting out the MAT required to be charged and collected for the three month period prior to the month in which the MAT Remittance Report is due; and
 - b. within 15 days after the MAT Remittance Report due date, pay to the Town or its Agent an amount equal to the MAT required to be charged and collected for the period reported in the MAT Remittance Report.
- 5.7 The Provider shall ensure that the MAT Remittance Reports required this Section 5 are:
 - a. in the form established by the Treasurer from time to time;

- b. filed with the Town or its Agent in the manner established by the Treasurer from time to time;
- c. filed with the Town or its Agent in the timelines established in this bylaw;
- d. fully completed when submitted; and
- e. signed by an authorized officer to confirm the accuracy of the report.

5.8 Every Provider shall file a MAT Remittance Report with the Town or its Agent for a reporting period whether or not any MAT was collected during the reporting period.

6. INTEREST PENALTIES

6.1 A charge of 1.25 per cent each month will be applied as a penalty on outstanding balances for the non-payment of MAT. The amount due shall be based on full occupancy unless the actual amount of the MAT owing can be determined by the Town, in that case, the percentage charge of 1.25 per cent of the actual amount of the MAT will be imposed.

6.2 An interest charge of 1.25 per cent 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.

7. AUDIT AND INSPECTION

7.1 The Provider shall keep books of account, records, and documents sufficient to furnish the Town, or its agent, with the necessary particulars of sales of Accommodations, amount of MAT collected and remittance

7.2 The Town, 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.

7.3 The Provider shall retain such books of account, records and documents required under section 7.1, for a period of no less than six years.

7.4 The Provider shall co-operate with the Town or its Agent in the conduct of an inspection or audit under section 7.2 and cause its employees, agents and contractors to comply as required.

7.5 Where the Treasurer determines as a result of audit of the Provider's records that MAT which accrued within a period of four 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 Town records appropriately to reflect the adjustment, and:

- a. notify the Provider in writing:
 - i. of the period for which MAT was adjusted;
 - ii. of the basis for the adjustment;
 - iii. of the amount of MAT actually paid and the amount payable for the period of adjustment;
 - iv. of the amount now owing to the Town or overpaid to the Town; and
 - v. where applicable, that payment of any amount owing to the Town is due within 15 days of the date of the notice.
- b. in the event that an audit reveals an overpayment, the Treasurer will provide a refund of the amount of MAT overpaid. No interest shall be paid on the amount of the overpayment.

7.6 The Town 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 Town considers necessary to determine compliance with this By-law.

8. LIENS AND COLLECTION

8.1 All MAT 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 of The Blue Mountains 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.

- 8.2 The Town may refer the collection of any tax payable or required to be remitted to a bailiff or collection agency.
- 8.3 Bringing an action in the name of the City for the recovery of the amount in the court of appropriate jurisdiction; and
- 8.4 Exercising any other remedy available pursuant to the Municipal Act, 2001, or otherwise available at law.

9. FAILURE TO FILE REMITTANCE OR PAY

- 9.1 Where a Provider has filed a MAT Remittance Report but failed to pay all or part of the MAT owing to the Town, the Treasurer or his or her Agent may assess the amount of MAT payable to the Town based on the MAT Remittance Report.
- 9.2 Where a Provider has failed to file a MAT Remittance Report, the Treasurer shall assess the amount of MAT payable to the City by multiplying the MAT rate of 4% X room rate X 100% occupancy.
- 9.3 The Treasurer or his or her Agent shall mail an invoice to the Provider setting out the amount of MAT assessed by the Treasurer under section 9.2, as payable by the Provider, and in the case of an invoice related to an amount assessed under section 9.2, advise the Provider of the rights to reassessment under section
- 9.4 The Provider shall pay the assessed amount to the Town or its Agent within 14 days from the date of the invoice, whether or not the assessed amount was actually collected by the Provider and whether or not the assessment reflects the amount of MAT actually payable.
- 9.5 Despite section 9.4, where the Treasurer or the Agent has assessed MAT in accordance with section 9.2, the Provider may, within two months of the date of the invoice sent pursuant to section 9.3, apply to the Treasurer in writing for a re-assessment of the MAT owing to the Town for the assessed period. No request for a re-assessment will be considered by the Treasurer unless the Provider also:
 - a. submits or has submitted a completed MAT Remittance Report for the period to which the assessment applied;
 - b. paid the amount of the MAT assessed by the Treasurer, in accordance with section 9.2 and set out in the invoice sent in accordance with section 9.3; and
 - c. has paid any applicable interest or penalties on the amount of MAT assessed by the Treasurer or its Agent under Section 6 of this By-law.
- 9.6 Upon a re-assessment by the Treasurer based on the MAT Remittance Report for the period, the Treasurer shall adjust the City records, if necessary, to reflect the reassessment of the MAT and of any interest or penalties thereon.
- 9.7 In the event that the re-assessment by the Treasurer reveals an overpayment by the Provider, the Treasurer, will notify the Provider in writing and will provide a refund of the amount overpaid. No interest shall be paid on the amount of the overpayment.
- 9.8 Where the Provider who is entitled to do so, fails to apply for a reassessment in accordance with section 9.5, the amount assessed by the Treasurer in accordance with section 9.2 shall be final, except as may be determined to the contrary by way of audit.

10. REFUNDS

- 10.1 Where a person has paid or remitted an amount that is not payable under this By-law, the Town may, upon receipt of satisfactory evidence, make determination that the amount was wrongly paid or remitted, and if such a determination is made, the Town 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.

- 10.2. 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.

11. ENFORCEMENT

- 11.1 A municipal law enforcement officer, provincial offences officer, police officer, or other individual duly appointed by the Town for such purpose shall enforce the provisions of this by-law.
- 11.2. No person shall obstruct, hinder, or otherwise interfere with a municipal law enforcement officer, provincial offenses officer, police officer, or other duly appointed individual in the lawful carrying out of their duties and responsibilities under the provisions of this by-law.

12. FINE – FOR CONTRAVENTION

- 12.1 Every person who contravenes any provision of this By-law and, if the person is a corporation, every director or officer of the corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and on conviction is liable to any penalty as provided in the Provincial Offences Act, R.S.O. 1990, c. P. 33.

13. CONTINUATION – REPETITION – PROHIBITED – BY ORDER

- 13.1 The court in which the conviction has been entered and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

14. RECOVERY OF COSTS

- 14.1 In this By-law where the Town or its employee, agent, or contractor is given the power to direct or require a person to do a matter or thing, the Town may do the matter or thing at the person's cost if the person defaults in doing it and the Town may recover the costs of doing the matter or thing by action or in accordance with section 446 of the Municipal Act.

15. PENALTIES

- 15.1 Every person who contravenes any provision of this By-law is guilty of an offence under the provisions of the Provincial Offences Act, R.S.O 1990, c P.33, as amended, and is liable on conviction to a penalty not exceeding \$5,000, exclusive of costs, subject to the provisions of the Act.
- 15.2 Every person who contravenes any provision of this By-law, and every director or officer of a corporation, who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 15.3 Every person who contravenes the provisions of any section of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 15.4 For the purpose of continuous offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per day or part thereof, exclusive of costs, under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 15.5 Notwithstanding Section 6.3.3, and in accordance with the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, the total of all fines for the continuous offences or multiple offences is not limited to \$100,000.

16. RECOVERY OF COSTS

16.1 For the purposes of investigation of Non-Compliance with this By-law, and, where the Town, its employees or authorized agents have performed the work required to bring the Eligible Property into compliance with the By-law, all expenses incurred by the Town in doing the work as well as any related fees, shall be deemed to be taxes and may be collected by action or the costs may be added to the tax roll for the property on which the Accommodation is located and collected in the same manner as taxes.

17. SEVERABILITY

17.1 Should any section of this by-law be declared by a Court of competent jurisdiction to be ultra vires or illegal for any reason, the remaining parts shall nevertheless remain valid and binding, and shall be read as if the offending section or part had been struck out.

18. DELEGATION OF AUTHORITY

18.1 The Mayor and Town Clerk, or designate, is hereby delegated the authority to enter into agreements, including all necessary documents ancillary thereto, with another person or entity as agent for the Town, providing for the implementation and collection of the Municipal Accommodation Tax, all in a form satisfactory to the Town’s Solicitor.

18.2 The Mayor and Town Clerk, or designate, is hereby delegated the authority to enter into agreements, including all necessary documents ancillary thereto, with Eligible Tourism Entity(ies) that receive(s) an amount of the MAT respecting reasonable financial accountability matters in order to ensure that 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 Town’s Solicitor.

18.3 The Treasurer or designate, shall be responsible for the administration of this By-law, including but not limited to approvals, appeals, enforcement, collection, and for instructing the Town’s Solicitor to take such legal action as may be considered appropriate.

19. TRANSITION

19.1 THAT this By-law shall come into force and effect at 12:01 a.m. on January 6, 2025.

READ a first and second time this TBD day of September, 2023.

READ a third time and finally passed this TBD day of October, 2023.