

BY-LAW NO. 13-8613

BEING A BY-LAW of the City of Portage la Prairie to impose a tax on accommodations of short duration within the City of Portage la Prairie, to be known as the "Accommodation Tax By-law."

WHEREAS The Municipal Taxation and Funding Act, C.C.S.M. c. M265 provides that the council of a municipality may pass by-laws imposing such forms of taxes as it deems advisable within the municipality including, without restricting the generality of the foregoing, taxes on persons who purchase overnight hotel and motel accommodation;

AND WHEREAS a tax on accommodations of short duration within the City of Portage la Prairie is intended to generate revenue to be placed in reserve funds for the specific purpose of economic development, tourism and marketing and Saskatchewan Avenue upgrades and development within the city;

NOW THEREFORE the Council of The City of Portage la Prairie, in open session, duly assembled, enacts as follows:

1. SHORT TITLE

This by-law may be referred to as the Accommodation Tax By-law.

2. DEFINITIONS

- (a) "ACCOMMODATION" means use of overnight lodging that is provided for consideration, whether or not the lodging is actually used.
- (b) "ACCOMMODATION TAX" means the tax imposed by Section 3 of this by-law.
- (c) "CITY" means the City of Portage la Prairie.
- (d) "COUNCIL" means the Council of the City of Portage la Prairie.
- (e) "PURCHASE PRICE" means the price for which accommodation is purchased, including the price paid in money, the value of goods provided or services rendered or other consideration accepted by the operator in return for the accommodation provided, but does not include the goods and services tax imposed by the Government of Canada nor the retail sales tax imposed by the Province of Manitoba.
- (f) "ESTABLISHMENT" means a business that provides accommodation at a particular location.
- (g) "LODGING" includes a fee paid for:
  - (i) the use of a bedroom, a suite of rooms containing a bedroom, or the use of a bed within a bedroom; and
  - (ii) the use of one or more additional beds or cots in a bedroom or suite.
- (h) "MOTEL/HOTEL" includes an inn, housekeeping unit, lodging house, boarding house, rooming house, bed and breakfast establishment, resort hostel, dormitory or any place in which accommodation is provided.
- (i) "OPERATOR" means a person who sells, offers for sale, or otherwise provides accommodation.
- (j) "PURCHASER" means a person who purchases accommodation.
- (k) "TAX COLLECTOR" means the Director of Finance of the City of Portage la Prairie and any employee of the City appointed by the Director to administer or enforce all or part of this by-law.

3. APPLICATION OF TAX

- 3.1 Subject to this section, a purchaser must, at the time of purchasing accommodation, pay an accommodation tax in the amount of 5% of the purchase price of accommodation provided for a continuous period of 30 nights or less whether provided in a hotel, motel, inn, housekeeping unit, lodging house, boarding house, rooming house, bed and breakfast establishment, resort, hostel, dormitory or any place in which accommodation is provided.
- 3.2 For greater certainty, the continuous period referred to in subsection 3.1 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.
- 3.3 The accommodation tax imposed by subsection 3.1 does not apply to:
  - (a) accommodation where the purchase price is \$30.00 or less per night;
  - (b) accommodation provided to patients or residents in a hospital, a sanatorium, a facility

designated by regulations under *The Mental Health Act*, a personal care home licensed under *The Health Services Insurance Act*, or a residential care facility licensed under *The Social Services Administration Act* or a residence or accommodation supplied to patients and/or family of patients while attending for medical care and treatment;

- (c) accommodation provided to a student by a registered educational institution while the student is registered at and attending the institution;
- (d) accommodation supplied for a person undertaking an apprenticeship or trade certification;
- (e) accommodation supplied by employers to their employees in premises owned and/or operated by or on behalf of the employer;
- (f) accommodation provided to evacuees or as provided on a temporary basis by the provincial or federal government, or any other agency;
- (g) tent or trailer sites supplied by a campground, tourist camp or trailer park;
- (h) a hospitality room in an establishment that
  - (i) does not contain a bed;
  - (ii) is not a suite that contains a bed; and
  - (iii) is used for displaying merchandise, holding meetings, or entertaining;
- (i) accommodation provided in establishments in which fewer than four (4) bedrooms are available for rent.

#### 4. TAX COLLECTED BY OPERATOR

- 4.1 An operator must, as an agent for the tax collector, collect the accommodation tax from the purchaser at the time the accommodation is purchased.
- 4.2 The amount of the accommodation tax shall be shown as a tax by the City of Portage la Prairie, and must be shown as a separate item or charge on a bill, receipt, invoice or similar document issued by the operator in respect of accommodation on which the tax is imposed.

#### 5. TAX REMITTED AND STATEMENT SUBMITTED BY OPERATOR QUARTERLY

- 5.1 An operator must remit to the tax collector at the end of every 3 month period for each establishment the operator operates, the amount of the accommodation tax that was collected by the operator during that period, and a quarterly statement on a form provided by the tax collector, which statement must contain information reasonably required by the tax collector to administer or enforce this by-law including:
  - (a) the total room revenue sold by the establishment during the 3 month period;
  - (b) the total room revenue sold during the 3 month period that is not subject to the accommodation tax;
  - (c) the total room revenue during the 3 month period that is subject to the accommodation tax;
  - (d) the total accommodation tax collected; and
  - (e) the total accommodation tax remitted.
- 5.2 Unless otherwise permitted by the tax collector, the obligation to provide a quarterly statement applies even when no taxes have been collected.
- 5.3 The obligation under subsection 5.1 to remit taxes and to submit a quarterly statement must be met no later than the 20<sup>th</sup> day of the month following the 3 month period in which the taxes were payable and for which the quarterly statement is applicable. The quarterly intervals will be based on a fiscal year running from January 1 to December 31, and will include January 1 to March 31 inclusive, April 1 to June 30 inclusive, July 1 to September 30 inclusive, and October 1 to December 31 inclusive.
- 5.4 An operator shall be permitted to a holdback of accommodation fees collected in the first quarter in the amount of \$500.00. The holdback amount shall be clearly outlined on the accommodation tax form. This holdback shall be permitted one time only, to accommodate expenses an operator may incur as a result of setting up their accounting systems to collect the aforesaid accommodation tax.

#### 6. REFUNDS

- 6.1 The tax collector shall refund to a purchaser all or a portion of an amount that was paid as if it were the accommodation tax (excluding any applicable GST or PST) if the purchaser applies for a refund within one year of the payment of the tax and provides evidence that:

- (a) the amount was paid notwithstanding that it was not payable as an accommodation tax; and
- (b) the amount was remitted to the tax collector by the operator.

## 7. USE OF ACCOMMODATION TAX FUNDS

- 7.1 In any given year, 50% of the total net proceeds from this tax shall be deposited to the Economic Development, Tourism and Marketing Reserve and the remaining 50% of the total net proceeds from this tax shall be deposited to the Saskatchewan Avenue upgrades and development Reserve and shall only be used for their purpose as stated in their reserve names within the City of Portage la Prairie, or capital repairs/upgrades related to same.
- 7.2 The net proceeds from the Accommodation Tax shall be defined as the gross revenue received from said tax less any refunds and any administrative costs of the City.

## 8. INSPECTION, AUDIT AND COLLECTION

- 8.1 The tax collector or his designate may for the purpose of enforcing this by-law, enter any establishment to:
  - (a) collect the tax imposed by this by-law, if necessary;
  - (b) audit the books, records and accounts of the operator for the purpose of ascertaining the amount of tax to be collected and remitted;
  - (c) require the operator to produce for inspection any book, contract, agreement, letter, paper or document relating to the establishment, the accommodation provided, or any other matter relating to this by-law; and
  - (d) make and remove any copies of any documents or records required in the administration of this by-law.

## 9. ADDRESS FOR SERVICE

- 9.1 Where an address for service under this by-law is required, one of the following shall be used:
  - (a) if the person to be served is an operator, the street address of the establishment of which he or she is the operator;
  - (b) if the person to be served is not an operator, the address provided by that person in communication with the tax collector.

## 10. INTEREST PENALTIES

- 10.1 A penalty equivalent to the product of 5.0%, and the amount of the unremitted taxes shall be applied to taxes imposed by Section 3 that are required to be remitted by subsection 5.1 but have not been remitted by the date specified in subsection 5.3.
- 10.2 Additional penalties will be imposed at a rate of 1.25% per month on the 1<sup>st</sup> day of each succeeding month.

## 11. OTHER PENALTIES

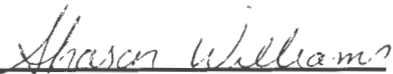
- 11.1 Every person who fails to comply with the provisions of this by-law is guilty of an offence and, in addition to being liable for payment of the penalty imposed by Section 10, is liable on summary conviction,
  - (a) for failing to collect or remit the tax, to a fine that is not less than double the amount of the tax that should have been collected and remitted to the City of Portage la Prairie;
  - (b) for failing to comply with other provisions of this by-law,
    - (i) if an individual, to a fine not exceeding one thousand dollars (\$1,000.00);
    - (ii) if a corporation, to a fine not exceeding five thousand dollars (\$5,000.00).

## 12. COMING INTO FORCE

- 12.1 This by-law shall come into force and take effect on April 1, 2014.
- 12.2 By-Law No. 13-8605 be hereby repealed.

DONE AND PASSED by the Council of The City of Portage la Prairie in a meeting duly assembled this  
*4<sup>th</sup>* day of *December*, A.D. 2013.

  
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MAYOR

  
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Manager of Administration

Read a first time this *12<sup>th</sup>* day of *November*, 2013

Read a second time this *9<sup>th</sup>* day of *December*, 2013

Read a third time this *9<sup>th</sup>* day of *December*, 2013