

THE CORPORATION OF THE TOWN OF AJAX

BY-LAW NUMBER 09-2025

A By-Law to establish a Municipal Accommodation Tax

WHEREAS subsection 400.1(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 ("Municipal Act") provides that a local municipality may, by by-law, impose a direct tax in respect of the purchase of transient accommodation within the municipality;

AND WHEREAS pursuant to section 400.1 of the Municipal Act and Ontario Regulation 435/17 (Transient Accommodation Tax) under the Municipal Act, the Council of the Corporation of the Town of Ajax ("Council") wishes to establish a municipal accommodation tax

AND WHEREAS pursuant to subsection 400.1(3) and 400.4 of the Municipal Act, Council may establish and use such enforcement measures as Council considers appropriate if an amount assessed for outstanding tax, penalties or interest remains unpaid after it is due;

NOW THEREFORE, the Council of the Corporation of the Town of Ajax enacts as follows:

1. In this by-law:

- (a) "Accommodation" means Lodging, and the right to use Lodging, that is provided for consideration, whether or not the Lodging is actually used.
- (b) "Books and Accounts" includes books, accounts, bills, receipts, invoices, financial statements, and records in any format.
- (c) "By-Law" means this by-law and any amendments made thereto.
- (d) "Chief Administrative Officer" means the Chief Administrative Officer, or their designate.
- (e) "Eligible Tourism Entity" has the meaning given to it in Ontario Regulation 435/17, as amended.
- (f) "Establishment" means the physical location, a building or part of a building that provides Accommodation.
- (g) "Lodging" includes:
 - i. the use of a bedroom, a suite of rooms containing a bedroom, or the use of a bed within a bedroom, domicile, or other physical location; and
 - ii. the use of one or more additional beds or cots in a bedroom or suite.
- (h) "Multiple Offence" means an offence in respect to two (2) or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-Law.
- (i) "Municipal Accommodation Tax" means a tax imposed under this By-Law.
- (j) "Person" includes an individual, a corporation, a partnership, a sole proprietorship, a trust, a joint venture, an association or any other organization or entity of any kind and their respective heirs, executors, administrators, successors, assigns or other legal representatives of a person to whom the context can apply according to law.
- (k) "Provider" means a Person who sells, offers for sale, or otherwise provides Accommodation, and includes agents, hosts or any others who sell, offer for sale or otherwise provide Accommodation. Where a Provider cannot be easily determined, the owner of a property providing Accommodation is deemed to be the Provider.
- (l) "Purchase Price" means the price for which Accommodation is purchased, including the price paid and other consideration accepted by the Provider in return for the Accommodation provided, including all fees and surcharges for additional occupants

and beds, but does not include the harmonized sales tax imposed by the Government of Canada or by the Province of Ontario.

- (m) "Purchaser" means a Person who purchases Accommodation.
- (n) "Town" means The Corporation of the Town of Ajax.
- (o) "Treasurer" means the Director of Finance / Treasurer, or their designate.

Application

2. Subject to the exemptions set out in Section 3 of this By-law, a Purchaser shall, at the time of purchasing Accommodation, pay the Municipal Accommodation Tax in the amount of five per cent (5%) of the Purchase Price, where the Accommodation is purchased for a period of twenty-eight (28) consecutive days or less, but greater than four (4) hours, in [an Establishment](#) which Accommodation is provided, including in the event of cancellation where the Purchase Price is payable.
 - (a) 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.

Exemptions

3. The Municipal Accommodation Tax does not apply to Accommodation provided by:
 - (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) every university in Ontario and every 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) 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 licence issued under the *Private Hospitals Act*;
 - (e) every long-term care home as defined in subsection 2(1) of the *Fixing Long-Term Care Act, 2021* and every hospice;
 - (f) a hotel or motel used by the Town or its service providers for shelter purposes;
 - (g) a treatment centre that receives private funding or provincial aid under the *Ministry of Community and Social Services Act*;
 - (h) a house of refuge or Lodging for the reformation of offenders;
 - (i) a charitable, non-profit philanthropic corporation organized as shelter for the relief of the poor or for emergency;
 - (j) a tent or trailer site supplied by a campground, tourist camp or trailer park;
 - (k) employers to their employees in premises operated by the employer; a hospitality room in an establishment that may or may not contain a bed and is used for displaying merchandise, holding meetings or entertaining; or,
 - (l) group bookings with contracts that are entered into prior to the date that this By-law takes effect.

Collection and Remittance

4. A Provider shall collect the Municipal Accommodation Tax from the Purchaser at the time the Accommodation is purchased.
5. A Provider shall identify the amount of the Municipal Accommodation Tax as a separate item on the bill, receipt, invoice or similar document issued by the Provider in respect of the Accommodation on which the tax is imposed and shall identify the item as "Municipal Accommodation Tax".
6. A Provider shall, on or before the fifteenth (15th) day of the month, remit to the Town, or its tax collection agent, the amount of the Municipal Accommodation Tax collected for the previous month and shall submit monthly statements in a form required by the Town which details the number of Accommodations sold, including a breakdown of room nights, the Purchase Price of each Accommodation, the amount of the Municipal Accommodation Tax collected and any other information as required by the Town for the purposes of administering and enforcing this By-law.

Delegation of Authority and Administration

7. The Director of Public and Strategic Affairs or their designate shall be responsible for the overall administration of this by-law.
8. The Treasurer or their designate shall be responsible for collection, remittance to the eligible tourism entity, general record keeping, appeals, enforcement, and legal action as may be considered appropriate.
9. The Treasurer, in consultation with the Chief Administrative Officer, may elect to designate tax collection agents for the Town and is delegated the authority to enter into agreements with such designated tax collection agents to collect the Municipal Accommodation Tax as an agent for the Town.
10. The Chief Administrative Officer is hereby delegated the authority to enter into agreements, including all necessary documents ancillary thereto, with each Eligible Tourism Entity that receives an amount of the Municipal Accommodation Tax respecting reasonable financial accountability matters in order to ensure that amount paid to the entity is used for the exclusive purpose of promoting tourism in Ajax, and the agreements may provide for other matters, all in a form satisfactory to the Chief Administrative Officer as required by section 6 of Ontario Regulation 435/17.
11. The Director of Public and Strategic Affairs or their designate shall be responsible for defining activities which promote tourism, evaluating the success of such activities and ensuring, with the Eligible Tourism Entity, that goals, outcomes and project plans are established and reported to council.

Interest

12. Penalties and interest at the rate applicable to overdue property taxes shall be payable by the Provider on the non-payment of the full amount of the Municipal Accommodation Tax by the due date set out in Section 6 and interest may be added on the first day of default and on each month thereafter in which the default continues.
13. The Treasurer shall charge a fee for all payment remittances that are not honoured by the financial institution upon which it is drawn in accordance with the Town's Fees and Charges by-law, as amended.

Liens

14. All Municipal Accommodation Tax, interest, and penalties that are past due will be deemed to be in arrears and may be added to the tax roll for any real property in the Town that is registered in the name of the Provider to be collected in the same manner as property taxes and will constitute a lien upon the lands, but such lien will not be a priority lien for the purposes of subsections 1(2.1), (2.2) and (3) of the Municipal 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.

Audit and Inspection

15. A Provider shall keep all Books and Accounts that are sufficient to furnish the Town, or its agent, with the necessary particulars of sales of Accommodations and the amount of the Municipal Accommodation Tax collected, payable and remitted, for no less than seven (7) years from the date of the sale of the Accommodation.
16. A Provider shall permit the Town, or its agent, at all reasonable times, entry into any premises where any business is carried on, where any property is kept, where anything is done in connection with any business, or where any Books and Accounts are or should be kept and shall permit the Town or its agent to audit and inspect all Books and Accounts that may be required by the Town or its agent for the purposes of administering and enforcing this By-law.
17. A Provider shall:
 - (a) give the Town or its agent all reasonable assistance with the audit or inspection;
 - (b) answer all questions relating to the audit or inspection either orally or, if the Town requires, in writing, on oath or by statutory declaration; and,
 - (c) attend at the premises with the Town or its agent for the purposes of giving reasonable assistance and answering questions relating to the audit or inspection.
18. A Provider shall comply with a written demand from the Town or its agent for information or for the production on oath or otherwise of any Books and Accounts as the Town or its agent considers necessary to determine compliance with this By-law. A Provider in receipt of such a demand shall comply with the demand within the time specified in the demand.
19. No Person shall make, participate in, assent to or contribute to the making of false or deceptive statements or entries in a report, statement, form, Books and Accounts, or other document that is prepared, submitted or filed under or for the purposes of the By-law.
20. No Person shall destroy, alter, mutilate, hide or otherwise dispose of any Books or Accounts in order to evade payment or remittance of any amounts owing under this By-law.

Assessment

21. The Treasurer may make an assessment of an amount of the Municipal Accommodation Tax that is required to be paid or remitted, together with any interest imposed upon any Municipal Accommodation Tax that is outstanding, if a Provider who is responsible for the payment or remittance of the Municipal Accommodation Tax fails to pay or remit as required by this By-law.
22. The Treasurer may assess or reassess for any Municipal Accommodation Tax that is payable by the Provider within three (3) years from the day the Municipal Accommodation Tax was remittable, except that where the Treasurer establishes that a Provider has made any negligent or wilful misrepresentation or has committed any fraud in supplying, or omitting to supply, any information under this By-law, then the Treasurer may assess or reassess, for any time that the Treasurer considers reasonable, the Municipal Accommodation Tax payable.

Offences and Penalties

23. Every Person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine provided for by the *Provincial Offence Act*, R.S.O. 1990, c. P.33, as amended.
24. Every Person who hinders or obstructs, or attempts to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law is guilty of an offence and upon conviction is liable to a fine provided for by the *Provincial Offence Act*, R.S.O. 1990, c. P.33, as amended.
25. Every Person who contravenes any provision of this by-law is guilty of an offence, and all such offences are designated as continuing offences as provided for in subsection 429(2)(a) of the Municipal Act.

26. Any Person who is guilty of an offence under this By-law is liable as follows:

- (a) upon a first conviction, a fine of not less than \$300.00 and not more than \$50,000.00 if the Person is not a corporation, and not less than \$500.00 and not more than \$100,000.00 if the Person is a corporation;
- (b) upon a second or subsequent conviction for the same offence, a fine of not less than \$500.00 and not more than \$100,000.00;
- (c) upon conviction for a continuing offence, a fine of not less than \$500.00 and not more than \$10,000.00 for each day or part of a day that the offence continues and the total of all of the daily fines for the offence is not limited to \$100,000.00; and
- (d) upon conviction for a Multiple Offence, for each offence included in the Multiple Offence, a fine of not less than \$500.00 and not more than \$10,000.00 and the total of all fines for each included offence is not limited to \$100,000.00.

27. Where a Person has been convicted of an offence under this By-law, the court in which the conviction has been entered or any court of competent jurisdiction thereafter may, in addition to any penalty imposed on the Person convicted, issue an order prohibiting the continuation of repetition of the offence by the Person convicted.

28. 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

29. If any section or portion of this By-law is found by a court of competent jurisdiction to be invalid, illegal, unenforceable or of no force and effect, then it is the intention of Council that all remaining sections and portions of this By-law continue in force and effect to the fullest extent possible according to law.

30. This By-law may be referred to as the "Municipal Accommodation Tax By-law".

Effective Date

31. This By-law shall come into force and take effect on April 1, 2025.

READ a first and second time this
Twentieth day of January, 2025.

READ a third time and passed this
Twentieth day of January, 2025.



Shaun Collier (Jan 21, 2025 17:58 EST)

Mayor and CEO



Clerk