

**Town of Swan River**  
**By-law No. 11/2023**

Being a By-law of the Town of Swan River for the purpose of imposing a Tax on Accommodations.

**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 hotel, motel, or short-term rental Accommodations.

**WHEREAS** The Municipal Act C.C.S.M. c. M225 reads in part as follows:

- 239 (1) If this or any other Act or a by-law authorizes or requires anything to be inspected, remedied, enforced or done by a municipality, a designated officer of the municipality may, after giving reasonable notice to the owner or occupier of land or the building or other structure to be entered to carry out the inspection, remedy, enforcement or action,
- (a) enter the land or structure at any reasonable time, and carry out the inspection, enforcement or action authorized or required by the Act or by-law;
  - (b) request that anything be produced to assist in the inspection, remedy, enforcement or action; and
  - (c) make copies of anything related to the inspection, remedy, enforcement or action.

**AND WHEREAS** a Tax on Accommodations within the Town of Swan River is intended to generate revenue to be placed in existing or new reserves for specific purposes to be determined by the council of the Town of Swan River.

**NOW THEREFORE** the Council of the Town of Swan River enacts as follows:

**Short Title**

1. The By-law may be referred to as the Accommodation Tax By-law.

**Definitions**

2. In this By-law:
  - a) “Accommodation” — defined as Lodging, and the right to use Lodging, that is provided for consideration, whether or not the Lodging is actually used.
  - b) “Accommodation Tax” – The tax imposed by section 4 of this By-law.
  - c)
  - d) “Billet” - a civilian's residence where athletes may be lodged temporarily.
  - e) “Establishment” — means a business that provides Accommodation at a particular location. and includes STR.
  - f) “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,
    - ii. the use of one or more additional beds or cots in a bedroom or suite,

- iii. the use of a building that contains a bed(s) or a cot(s), or
- iv. Short Terms Rental accommodations.
- g) “Net Proceeds” — means the gross revenue received from the Accommodation Tax less any refunds and any administrative costs of the Town.
- h) “Operator” — means a person who sells, offers for sale, or otherwise provides Accommodations.
- i) “Purchase Price” – means the price for which Accommodation is purchased,
  - i. 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,
  - ii. including all fees charged to a STR Purchaser by the STR Operator or STR platform operator, such as service or cleaning fees, and
  - iii. 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.
- j) “Purchaser” — means a person who purchases Accommodations.
- k) “Quarterly” — means three-month periods as follows:
  - i. Quarter 1: January 1 — March 31 inclusive;
  - ii. Quarter 2: April 1 — June 30 inclusive;
  - iii. Quarter 3: July 1 — September 30 inclusive;
  - iv. Quarter 4: October 1 — December 31 inclusive.
- l) “Reasonable Notice” — is fourteen calendar days. This notice will be mailed via regular mail and will be considered delivered to the recipient seven days after it was mailed.
- m) “Short Term Rental” or “STR” – means the use, offer, or advertising for lease, rent or barter, of all or part of a dwelling unit to provide temporary Accommodation and includes bed and breakfasts.
- n) Tax Collector — means the Chief Financial Officer, or designate, of the Town who administers or enforces all or part of this By-law.
- o) Town — means the Town of Swan River.

### **Appointment of the Tax Collector**

3. In administering the By-Law, the Tax Collector may issue such interpretation bulletins and guidelines as the Tax Collector, from time to time determines as necessary or advisable.

### **Application of the Accommodation Tax**

4. Subject to this section, a Purchaser must, at the time of purchasing Accommodation, pay an Accommodation Tax in the amount of 5% for the Purchase Price of the Accommodation whether provided in an inn, housekeeping unit, lodging house, boarding house, rooming house, bed and breakfast, resort, hostel, club, condo, hotel, dormitory, portion of large multi-use complex used as a hotel, a STR, or any place in which Accommodation is provided.
5. The Accommodation Tax imposed by section 4 does not apply to the following situations:
  - a) 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.
  - b) Accommodation provided to a student by a registered University or College of applied arts and technology or post secondary institution while the student is registered at and attending the institution.

- c) Accommodation provided to a student by any First Nation group to enable them to attend Primary or Secondary School.
- d) Billet provided to an athlete who is actively participating with a sports club within Swan Valley.
- e) Tent or trailer sites supplied by a campground, tourist camp, or trailer park.
- f) Every Accommodation which is supplied and operated by employers for their employees.
- g) 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.
- h) Accommodation provided by a registered homeless shelter.
- i) A time-share arrangement.
- j) Accommodation provided for stays longer than 60 days.
- k) Elements of an all-inclusive vacation package that:
  - i. Do not take place in, or on the grounds of, the Establishment providing the Accommodation, and
  - ii. Can be reasonably distinguished from the elements of the all-inclusive vacation package that are related to the Accommodation.

#### **Accommodation Tax Collected by Operator**

- 6. An Operator must, as an agent for the Tax Collector, collect the Accommodation Tax from the Purchaser at the time the Accommodation is purchased.
- 7. The amount of the Accommodation Tax shall be shown as a tax by the Town and must be shown as a separate clause or charge on the bill, receipt, invoice, or similar document issued by the Operator in respect of Accommodation on which the tax is imposed.

#### **Accommodation Tax Remitted and Statement Submitted Quarterly by Operator**

- 8. An Operator must remit to the Tax Collector within 30 days of the end of the previous quarter for each Establishment the Operator operates the amount of the Accommodation Tax that was collected by the Operator during that period. It will be as a Quarterly statement on a form provided by the Tax Collector which must contain information reasonably required by the Tax Collector to administer or enforce this By-law including:
  - a) The total cost of Accommodations sold by the Establishment during the quarter;
  - b) The total cost of Accommodations during the quarter that are not subject to the Accommodation Tax;
  - c) The total cost of Accommodations during the quarter that are subject to the Accommodation Tax;
  - d) The total Accommodation Tax collected; and
  - e) The total Accommodation Tax remitted.
- 9. Unless otherwise permitted by the Tax Collector, the obligation to provide a Quarterly statement applies even when no Accommodation Tax has been collected.
- 10. An Operator shall be permitted to keep up to \$50 per quarter as compensation for administering the Accommodation Tax. The compensation amount shall be clearly outlined on the form. This compensation shall be permitted each quarter, to accommodate expenses an Operator may incur as a result of administering the collection of the Accommodation Tax. Note that if an Operator's total

remittance in any one quarter is equal to or less than \$50, the form still needs to be submitted to the Tax Collector, but no fees need to be submitted to the Tax Collector.

### **Refunds**

11. The Tax Collector shall refund to an Operator all or a portion of an amount that was collected as if it were the Accommodation Tax if, within one year of the collection and remittance of the amount, the Operator provides proof that:
  - a. the amount was collected notwithstanding that it was not payable as an Accommodation Tax; and
  - b. the amount was remitted to the Tax Collector; and
  - c. the amount has been refunded by the Operator to the Purchaser.
  
12. Where an Operator 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 refused, the Tax Collector, or any person authorized by the Tax Collector, shall cause to be delivered to such person by mail or registered mail or deliver by hand personally, a statement of disallowance in such form as the Tax Collector shall require. The statement shall specify the amount of the disallowance and the reason for the disallowance.

### **Inspection, Audit, and Collection**

13. Every Operator shall retain all records, books, and documentation in respect of all Accommodation transactions and all Accommodation Tax paid, payable and remitted for a period of no less than three years.
  
14. The Tax Collector or his designate, as authorized by Section 239(1) of the Municipal Act and for the purpose of enforcing this By-law, after giving Reasonable Notice, may enter any Establishment to:
  - a) Collect the Accommodation 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 Accommodation 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.
  
15. The Tax Collector, for the purpose relating to the administration of this By-Law, may serve any person, a written demand for information for the production on oath of record documents as the Tax Collector considers necessary to determine compliance with this By-law.
  
16. A person in receipt of a demand under section 15 shall comply with the demand within the specified time in the demand. No person shall hinder or interfere with any person doing anything that is authorized by this section, and despite any other By-Law of the Town, every person shall, unless unable to do so, comply with everything the person is required by this section to do.

### **Assessments**

17. In the case a person fails to pay or remit the Accommodation Tax as required, the Tax Collector may make assessments of an amount of Accommodation Tax required to be paid or remitted under this By-Law, together with any interest imposed on any Accommodation Tax outstanding.
18. The Tax Collector may assess any person for any Accommodation Tax payable by the person under this By-Law, within two years from the day the Accommodation Tax was remittable. Where the Tax Collector established that a person has made any misrepresentation, neglect, carelessness, default or fraud in supplying any information under this By-Law, the Tax Collector may at anytime he/she considers reasonable, assess or reassess the amount payable.
19. The Tax Collector shall provide notice in writing of the assessment or reassessment made under sections 17 and 18 of this By-Law, which shall include the amount of the assessment or reassessment and must provide the amount is payable forthwith by the person and within 30 days of delivery of the notice of assessment or reassessment.
20. The Tax Collector is not bound by any information delivered by or on behalf of a person responsible for the payment of Accommodation Tax under this By-Law and may assess the Accommodation Tax at his/her discretion.
21. The assessment, subject to being varied or vacated on an objection or appeal shall be deemed valid and binding despite error, defect or omission in the assessment or in any proceeding related to it. The amount of any assessment is payable within the time required regardless of whether an objection or appeal from the assessment is taken or made.

### **Appeals**

22. An appeal may be made under this part within 60 days after the Tax Collector has served notice as required to have the assessment, reassessment, or disallowance vacated or varied, reassessed, or a fresh statement of disallowance issued.
23. When an order or decision under this By-law is subject to appeal, the appeal may be made in accordance with the Municipal Act to the Town's Committee of Council.
24. The power to hold a hearing, which is not mandatory, shall be delegated to the Committee.

### **Address for Service**

25. 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, then the street address or mailing address of the Establishment of which he or she is the Operator; or
  - b) If the person to be served is not the Operator, then the address provided by that person in communication with the Tax Collector.

### **Late Payments and other Penalties**

26. A penalty equivalent to the product of 1.25% and the amount of unremitted taxes shall be applied to Accommodation Tax issued as per section 8 that have not been remitted by the date specified.
27. The penalty imposed by section 26 shall be compounded on the 20th day of each succeeding month.
28. Once compounded, the penalties form part of the unremitted taxes and in subsequent months, penalties shall be charged upon the previous month's compounded amount until the taxes are remitted.
29. In any Quarter that an Operator does not remit their taxes by the due date specified in section 8, the Operator forfeits their compensation, as granted by section 10, for that Quarter.

**Other Penalties**

30. Notwithstanding any other remedies available to the Town under this By-law or any other By-law, any person who contravenes, disobeys, refuses to or neglects to obey any provision of this By-law may be subject to a Penalty Notice as administrated by the Town's Enforcement By-law 13/2022.
31. That By-law 13/2022 - Schedule A be amended to add an offense for the contravention of this By-law.
32. That the Fee Schedule be amended to add a fine for the contravention of this By-law in the amount of \$1,000.
33. Where the contravention of this By-law continues for more than one day, the person or corporation is guilty of a separate offence for each day it continues.

**Use of the Accommodation Tax Funds**

34. In any given year, the Accommodation Tax's Net Proceeds will be placed in a reserve to be used for Recreation and Active Living— providing well maintained recreation and active living assets.

**Effective Date**

35. This By-law shall come into force on January 1, 2025.

Done and passed as a by-law of the Town of Swan River in the Province of Manitoba this \_\_\_\_\_

Lance Jacobson  
Mayor

Derek Poole  
Chief Administrative Officer

Read a first time this 19th day of September, 2023

Read a second time this    day of

Read a third and final time this    day of