

CONTINUING CONSOLIDATION OF
BY-LAW NO. 7014

AS AMENDED BY BY-LAW NOS. 7120 AND 7143.

BEING A BY-LAW of the City of Brandon to impose a tax on accommodations of short duration in order to support event acquisition and retention, capital repairs/upgrades related to same, and non-event capital projects undertaken by the Keystone Centre that will support economic development and encourage tourism to the City of Brandon, to be known as the "Accommodation Tax By-law."
[AM. B/L 7120]

WHEREAS *The Municipal Revenue (Grants and Taxation) Act*, R.S.M. 1987 c. T5 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 Brandon is intended to generate revenue to promote and support new event acquisition and retention, capital repairs/upgrades related to same, and non-event capital projects undertaken by the Keystone Centre that will support economic development and encourage tourism within the City of Brandon;
[AM. B/L 7120]

NOW THEREFORE the Council of The City of Brandon, 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 Brandon.
- (d) "**CITY-WIDE EVENT**" means a meeting, convention, tradeshow or special event that brings a large number of people into the City requiring the simultaneous usage of many hotels, restaurants and other venues in the City.
- (e) "**COUNCIL**" means the Council of the City of Brandon.
- (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 Brandon 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 \$3.00 for each night 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 Brandon, 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 number of nights of accommodation sold by the establishment during the 3 month period;
 - (b)** the total number of nights of accommodations during the 3 month period that is not subject to the accommodation tax;
 - (c)** the total number of nights of accommodations 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 20th 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.

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, 85% of the total net proceeds from this tax shall be deposited to the Accommodation Tax Reserve Fund and shall only be used for the purpose of funding event acquisition/ retention within the City of Brandon, capital repairs/upgrades related to same, or non-event capital projects undertaken by the Keystone Centre that will support economic development and encourage tourism within the City of Brandon, and 15% of the total net proceeds from this tax shall be deposited to the Large Event Acquisition Reserve Fund to be used specifically for the acquisition of one off large city-wide events.
[AM. B/L 7120]
- 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.
- 7.3 An application for funding from the Accommodation Tax Reserve Fund or Large Event Acquisition Reserve Fund in an amount of Twenty Thousand Dollars (\$20,000) or more shall be made to City Council whereby Council shall render the final decision on approval of such event and capital grants. Decisions on funding applications for below \$20,000 shall be made by City Administration following an internal review and assessment solely by the Director of Economic Development or in the case of a conflict, the City Treasurer, devoid of any assistance from any outside advisory groups or committees. City Administration will notify City Council of all pending grant approvals prior to notification of the applicant.
[AM. B/L 7143]
- 7.4 A decision by City Administration with respect to the approval or denial of an application and/or the amount of funding awarded may be appealed to City Council for final decision.
[EN. B/L 7143]
- 7.5 All funded events/projects will be required to submit a final report in a form satisfactory to the City, and shall agree to public reporting of the funds received.
- 7.6 Events or capital projects eligible for funding shall receive a maximum of 40% in advance of hosting an event or completing the project with the remaining 60% to be paid out after the receipt of the final report, which is satisfactory to the City.
- 7.7 If the final report does not reflect the original parameters forecasted by the applicant for funding at the time of approval of the application, the amount of the approved funding shall be adjusted by the City accordingly.

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;

- 8.1 (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 be 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 1st 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 Brandon;
- (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. BY-LAW REVIEW

- 12.1 The City's Administration shall prepare an annual report for review by Council including, but not limited to:
- (a) the balance of the Accommodation Tax Reserve Fund and the Large Event Acquisition Reserve Fund at the beginning of the fiscal year;
- (b) the total amount of accommodation tax collected for the year;
- (c) the number of applications made to utilize funding from these reserves;
- (d) the amount of funding approved during the year;
- (e) a review of the matrix criteria used to determine funding;
[EN. B/L 7143]
- (f) the current balances of the reserve funds; and
- (g) a recommendation on whether to decrease, maintain or increase the existing accommodation tax.

13. COMING INTO FORCE

13.1 This by-law shall come into force and take effect on July 1, 2012.

DONE AND PASSED by the Council of The City of Brandon in a meeting duly assembled this 5th day of March A.D. 2012.

"S. Decter Hirst"
MAYOR

"H. Ewasiuk"
A/CITY CLERK

Read a first time this	21 st	day of	February	A.D. 2012
Read a second time this	5 th	day of	March	A.D. 2012
Read a third time this	5 th	day of	March	A.D. 2012

I, Heather Coreen Ewasiuk, Clerk of the City of Brandon, DO HEREBY CERTIFY the above within to be a true and correct copy of By-law No. 7014, as amended by By-law Nos. 7120 and 7143.

"*H. Ewasiuk*"
H. Ewasiuk, City Clerk