

RURAL MUNICIPALITY OF GIMLI
ACCOMMODATION TAX BY-LAW NO. 23-0012

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF GIMLI TO IMPOSE A TAX ON ACCOMMODATION OF SHORT DURATION WHICH WILL GENERATE REVENUE TO PROMOTE AND SUPPORT LOCAL TOURSIM INTIATIVES AND DEVELOP AND IMPROVE THE RM OF GIMLI WATERFRONT AREA PURSUANT TO *THE MUNICIPAL TAXATION AND FUNDING ACT* C.C.S.M. C M265.

WHEREAS Section 3 of *The Municipal Taxation and Funding Act* provides that a council of a municipality may pass by-laws imposing such forms of taxes as it deems advisable within the municipality including taxes on persons who purchase or consume hotel and motel accommodation, or meals at a restaurant or dining room, or liquor, or on the transfer of land.

AND WHEREAS a tax on accommodation of short duration within the Rural Municipality of Gimli is intended to generate revenue to be placed in a reserve fund for the specific purpose of promoting and supporting local tourism initiatives and developing and improving the municipal waterfront areas.

AND WHEREAS Section 168(1) of *The Municipal Act* (the "Act") provides that a council of a municipality may pass by-laws establishing reserve funds for a specific purpose.

NOW THEREFORE, Council of the Rural Municipality of Gimli, in meeting duly assembled, enacts as a by-law the following:

TITLE

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

DEFINITIONS

2. Unless the context otherwise requires, wherever used in this By-law,

"accommodation" means lodging, and the right to use lodging, that is provided for consideration, in an establishment, whether or not the lodging is actually used.

"accommodation tax" means the tax imposed by Section 3 of this By-law.

"Waterfront development and Tourism Reserve fund" means the Rural Municipality of Gimli reserve fund, which was established for the specific purpose of collecting the accommodation tax for promoting and supporting local tourism initiatives and developing and improving the municipal waterfront areas and expending such funds for eligible costs arising from the specific purpose.

"dwelling unit" means one or more rooms in a building designed for one or more persons in a single housekeeping unit with cooking, eating, living, sleeping and sanitary facilities and includes a single-family dwelling, seasonal cottage, secondary suite, condominium unit, apartment unit, and mobile home.

“establishment” means a business that provides accommodation at a particular location, and includes a hotel, motel, inn, housekeeping unit, lodging house, boarding house, rooming house, bed and breakfast facility, resort, hostel, dormitory, a dwelling unit, or any place in which accommodation is provided.

“lodging” includes:

- a) the use of a bedroom, a suite of rooms containing a bedroom or the use of a bed within a bedroom;
- b) the use of one or more additional beds or cots in a bedroom or suite;
- d) the use of a dwelling unit as a STR; and
- e) food, drink, entertainment, use of equipment or facilities, and other amenities and benefits where these are included in the purchase price without additional charge to the purchaser.

“municipality” means the Rural Municipality of Gimli.

“operator” means a person or entity that sells, offers for sale, or otherwise provides accommodation.

“person” means an individual and includes a corporation, firm, partnership, club, association, or company.

“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.

“purchaser” means a person who purchases accommodation.

“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 for a period of less than 30 days.

“tax collector” means any employee of the municipality appointed to administer or enforce all or part of this By-law, under the oversight of the Director of Finance of the municipality.

“taxation period” means the quarterly period for the remittance of accommodation tax to the tax collector.

APPLICATION OF TAX

3. Subject to this section, a purchaser shall, at the time of purchasing accommodation, pay an accommodation tax in the amount of 5% of the purchase price of accommodation provided in an establishment for a continuous period of 30 nights or less.
4. For greater certainty, a continuous period is not disrupted by the purchase of different rooms, suites, beds, or other lodging in the same establishment during the continuous period.
5. The accommodation tax does not apply to:
 - a) Any facility operated by a registered charity.

TAX COLLECTED BY OPERATOR

6. An operator shall, as an agent for the tax collector, collect the accommodation tax from the purchaser at the time accommodation is purchased.
7. The amount of the accommodation tax shall be shown as a tax of the municipality and listed as a separate item or charge on a bill, receipt, invoice, or similar document issued to the purchaser by the operator in respect of accommodation on which the tax is imposed.

TAX REMITTED AND STATEMENT SUBMITTED BY OPERATOR

8. An operator shall remit to the tax collector, at the end of every taxation period, for each establishment the operator operates:
 - a) the amount of the accommodation tax collected by the operator during the taxation period.
 - b) the amount of the accommodation tax that should have been collected by the operator during the taxation period.
 - c) the amount collected in error by the operator, during the taxation period, which has not been refunded to the purchaser.
9. An operator shall, on a form provided by the tax collector, submit to the tax collector, at the end of every taxation period, a statement for each establishment the operator operates, which shall include the following information:
 - a) the total revenue earned by the establishment from the sale of accommodations during the taxation period.
 - b) the amount of revenue earned from the sale of accommodations during the taxation period that is not subject to the accommodation tax.
 - c) the amount of revenue earned from the sale of accommodations during the taxation period that is subject to the accommodation tax.
 - d) the total accommodation tax collected.
 - e) the total accommodation tax remitted.
10. Unless otherwise permitted by the tax collector, an operator shall submit a statement at the end of every taxation period even when no accommodation taxes have been collected.
11. An operator shall remit accommodation taxes and submit a statement no later than the 20th day of the month following the taxation period for which the taxes were payable and for which the statement is applicable.
12. The quarterly intervals shall be based on a fiscal year running from January 1 to December 31 inclusive as follows: ***Is this the RM's fiscal year?***
 - a) January 1 to March 31, inclusive.
 - b) April 1 to June 30, inclusive.
 - c) July 1 to September 30, inclusive.
 - d) October 1 to December 31, inclusive.

13. An operator shall be entitled to a one-time hold-back of \$500, from accommodation taxes collected in the first taxation period, to assist with costs to set up their accounting systems to collect the accommodation tax.
14. The municipality may from time to time, by council resolution, authorize accommodation tax discounts or commissions for operators.

REFUNDS

15. 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;
 - b) the amount was remitted to the tax collector; and
 - c) the amount has been refunded by the operator to the purchaser.
16. The tax collector may deduct the amount of the refund payable to the operator from the amount of the tax that the operator is required to remit under this By-law.
17. 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, if the purchaser applies for the 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; and
 - b) the operator has refused to refund the amount to the purchaser.

so long as the amount was remitted by the operator to the tax collector and has not been refunded to the operator by the tax collector.

RESERVE FUND

18. The tax collected by the operator, remitted to the tax collector, and not refunded under this By-law, shall be deposited into the Waterfront development and Tourism Reserve fund.

INSPECTION, AUDIT, AND COLLECTION

19. The tax collector has the powers, duties, and functions of a designated officer under the Act for the purposes of administering and enforcing this By-law and, without restricting any other powers the tax collector may have, he or she, or agents acting under his or her authority, may, for the purpose of enforcing this By-law, upon reasonable notice enter any establishment:
 - a) to collect the accommodation tax imposed by this By-law, if necessary.
 - b) to audit the books, records, including electronic records, and accounts of the operator for the purpose of ascertaining the amount of accommodation tax to be collected and remitted.
 - c) to place in the lobby or other part of the establishment such notices regarding the accommodation tax as the tax collector may consider necessary.

- d) to 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.
- e) make and remove copies of any documents or records required in the administration of this By-law.

APPEALS

- 20. A person affected by a decision made by the tax collector may appeal the decision to Council, by giving the chief administrative officer written notice, within 21 days of the date of the decision, and stating the grounds upon which the appeal is based.
- 21. The chief administrative officer shall refer the matter to Council, on its next regular Council meeting agenda, and shall provide the person who filed the appeal with written notice of:
 - a) the time, place, and purpose of the hearing; and
 - b) a statement that, if the person does not attend the hearing, the matter will be dealt with in their absence and there will be no further notice of this proceeding.
- 22. Council shall convene to hold a hearing to consider the appeal and shall hear evidence from the tax collector and the person who filed the appeal, in person or by counsel.
- 23. If the person who filed the appeal does not attend the hearing, the matter will be dealt with in their absence.
- 24. Upon completion of the hearing, Council may confirm, vary, or cancel the tax collector's decision and shall provide the person who filed the appeal with its written decision.
- 25. The decision of the Council on an appeal under this By-law shall be final.

ADDRESS FOR SERVICE

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

INTEREST PENALTIES

- 27. A penalty, equivalent to the product of 5% and the amount of unremitted accommodation taxes, shall be applied to accommodation taxes imposed by Section 3, required to be remitted by Section 8, but have not been remitted by the date specified in Section 11.
- 28. The penalty shall be compounded monthly on the 20th day of each succeeding month.

29. Once compounded, the penalties form part of the unremitted accommodation taxes and, in subsequent months, penalties shall be charged upon the previous month's compounded amount until the taxes are remitted.

OTHER PENALTIES

30. A 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 interest penalty imposed by this By-law, is liable on summary conviction to:

- a) for failing to collect or remit the tax, to a fine that is not less than double the amount of the accommodation tax that should have been collected and remitted to the tax collector.
- b) for failing to comply with other provisions of this By-law:
 - i. if an individual, to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.
 - ii. if a corporation, to a fine not exceeding \$5,000 (Winnipeg, Thompson, The Pas use \$50,000).

31. An amount owing under Section 30 may be collected by the municipality in any manner by which a tax may be collected or enforced under the Act.

DONE AND PASSED in Council duly assembled at the Rural Municipality of Gimli Council Chamber in Gimli, in the Province of Manitoba this _____ day of _____, 2023.

RURAL MUNICIPALITY OF GIMLI

Kevin Chudd, Mayor

Kelly Cosgrove, CAO

Read a first time this 15th day of November, 2023.

Read a second time this _____ day of _____, 2023.

Read a third time this _____ day of _____, 2023.