THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER 183-2019

A By-law to enact a Municipal Accommodation Tax on the sale of Short-Term Rental Accommodation(s) within the City of Vaughan.

WHEREAS section 400.1 of the *Municipal Act, 2001, S.O 2001, c.25*, (the "*Act*") provides that the Council of a local municipality may, by By-law, impose a tax in respect of the *Purchase* of transient *Accommodation* within the municipality;

AND WHEREAS pursuant to section 400.1 of the *Act* and the Ontario Regulation 435/17, the Council of the Corporation of the City of Vaughan wishes to establish the tax rate and to levy the tax on the *Purchase* of transient *Accommodation* on the *Purchase of Short-Term Rental(s)* within the City of Vaughan;

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

AND WHEREAS pursuant to section 400.1(2) and 400.1(4) of the *Act*, a municipality may require certain *Persons* or entities to *Collect* the tax as agents for the municipality;

AND WHEREAS section 8(1) of the *Act* provides that the powers of a municipality shall be interpreted broadly as to confer broad authority on a municipality to (a) enable it to govern its affairs as it considers appropriate; and (b) enhance its ability to respond to municipal issues;

AND WHEREAS section 11(2) of the *Act* provides that a lower-tier municipality may pass By-laws respecting health, safety and well-being of *Persons* and protection of *Persons* and *Property*, including consumer protection;

AND WHEREAS section 391 of the *Act* provides for the municipality to impose fees or charges on *Persons* for services or activities provided or done by or on behalf of it;

AND WHEREAS section 425 of the *Act* provides for a municipality to pass By-laws providing that a *Person* who contravenes a By-law of the municipality passed under the *Act* is guilty of an offence;

AND WHEREAS section 426 of the *Act* provides that no *Person* shall hinder or obstruct, or attempt to hinder or obstruct, any *Person* who is exercising a power or performing a duty under this *Act* or under a By-law passed under the *Act*;

AND WHEREAS section 434.1 of the *Act* provides for the municipality to require a *Person*, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the *Person* has failed to comply with a By-law of the municipality passed under this *Act*,

AND WHEREAS sections 444 and 445 of the *Act*, respectfully, provide for the municipality to make an order requiring a *Person* who contravenes a By-law or who causes or permits the contravention or the owner or occupier of land on which a contravention occurs to discontinue the contravening activity or do work to correct a contravention;

AND WHEREAS the Council of the Corporation of the City of Vaughan deems the *Collection* of the *Municipal Accommodation Tax* of *Short-Term Rentals* to be in the interest of active, safe and diverse communities, and economic prosperity, investment and social capital;

NOW THEREFORE the Council of the Corporation of the City of Vaughan ENACTS as follows:

1.0 AUTHORITY AND SHORT TITLE

- This By-law was authorized by Item No. 5 of Report No. 7 of the Finance, Administration and Audit Committee and passed by City Council on May 14, 2019.
- (2) The By-law shall be known and referenced as the "Municipal Accommodation Tax, Short-Term Rental By-law".

2.0 DEFINITIONS AND INTERPRETATION

- (1) In this By-law:
 - (a) "Accommodation" means the lodging in a room containing one or more beds in a *Dwelling Unit* for a period of a minimum of 4 hours and a maximum of 29 consecutive days;
 - (b) "Bed-and-Breakfast Establishment" means an owner-occupied establishment in a commercial zone, operated as an accessory use to a single detached *Dwelling Unit* where temporary sleeping accommodation

and sanitary facilities are made available to guests and where meals are provided to guests. A *Bed-and-Breakfast Establishment* shall not include a hotel, motel or *Short-Term Rental*;

- (c) "Chief Financial Officer and City Treasurer" means the *Person(s)* appointed and designated as the City Treasurer;
- (d) "Chief Licensing Officer" means the Director and Chief Licensing Officer, By-law and Compliance, Licensing and Permit Services or a designate;
- (e) "City" means the Corporation of the City of Vaughan;
- (f) "Collect" or "Collection" means charging, receiving, accounting for, and remitting to the *City* the *Municipal Accommodation Tax;*
- (g) "Confidential Information" means any information that is particular to the *City* or a *Person* or their *Personally Identifiable Information*;
- (h) "Designated Agent" means a Short-Term Rental Brokerage that is appointed to act as an agent for the City pursuant to section 400.1(2) or section 400.1(4) of the Act and in accordance with section 6.0 of this Bylaw;
- (i) "Dwelling Unit" means a room or series of rooms of complementary use, used by a *Person(s)* to live under a single tenancy, in which cooking, eating, living, sleeping and sanitary facilities are provided;
- (j) "Eligible Tourism Entity" has the meaning given to it in the Ontario Regulation 435/17, as amended.
- (k) "Lien" means a monetary charge upon *Property* for the satisfaction of some debt or duty ordinarily arising by operation of law, including this By-law;
- (I) "Municipal Accommodation Tax" or "MAT" means the tax imposed under this By-law, as may be amended from time to time, or its successor by-law;
- (m) "Officer" means a Provincial Offences Officer or Municipal Law Enforcement
 Officer of the *City*, or any other *Person* appointed by or under the authority
 of a *City* by-law to enforce this By-law;
- (n) "Operate" means to rent out, provide, offer to rent out or provide, or facilitate the offer or rental, whether directly or indirectly, of *Short-Term Rental(s)*;

- (o) "Person" means an individual person, or a partnership, or a corporation to which the context can apply;
- (p) "Personally Identifiable Information" or "PII" means any data that could potentially identify a specific *Person*, or any information that can be used to distinguish one *Person* from another;
- (q) "Property" means a building, and includes the lands and premises appurtenant thereto, and includes vacant *Property*;
- (r) "Property Tax Account" means an account on the *City's* Collectors' Roll whereby property taxes are paid on *Property*, either tangible or intangible, by the *Registered Owner*,
- (s) "Provider" means either the Short-Term Rental Brokerage or Short-Term Rental Owner who is required to Collect pursuant to section 6.0 of this Bylaw.
- (t) "Purchase(s)" or "Purchase Price" means the price for which Short-Term Rental Accommodation is purchased, including the price paid, and/or other consideration accepted by the Provider in return for the Short-Term Rental Accommodation provided. Purchase Price does not include the harmonized sales tax imposed by the Government of Canada or by the Province of Ontario. Purchase Price also does not include fees and surcharges for ancillary services including cleaning, food, beverages, entertainment, internet and telephone usage, unless such ancillary charges have not been separately itemized on the invoice for Short-Term Rental Accommodation;
- (u) "Purchaser" means a *Person* who *Purchases Short-Term Rental Accommodation;*
- (v) "Registered Owner" means the name or names on the *Property Tax Account* as specified on the Deed registered in the provincial land registry office and will be accorded a *MAT* registration number;
- (w) "Short-Term Rental" or "STR" means a *Dwelling Unit,* or part thereof, used to provide temporary *Accommodation(s)* for a rental period of not more than 29 consecutive days and shall not include a hotel, motel or *Bed-and-Breakfast Establishment*;

- (x) "Short-Term Rental Brokerage" means any *Person* who facilitates or brokers *Short-Term Rental(s)* reservations for others, and who:
 - (i) receives payment, compensation, or any financial benefit due to, as a result of, or in connection with a *Person* making or completing reservations of those *Short-Term Rental(s)*; and/or
 - (ii) collects, accesses, or holds information on the number of nights that reservations of those *Short-Term Rental(s)* are made or completed;
- (y) "Short-Term Rental Operator" means a *Person* who has care and control, at any time and for any length of time, of a *Dwelling Unit*, or part thereof, that is used as *Short-Term Rental(s)*, but who is not the *Short-Term Rental Owner*,
- (z) "Short-Term Rental Owner" means any *Person* who *Operates Short-Term Rental(s)* and is either:
 - (i) a Registered Owner of the Property, or part thereof, that is being Operated as Short-Term Rental(s); or
 - (ii) a tenant of the *Property*, or part thereof, that is being *Operated* as Short-Term Rental(s).

3.0 APPLICABILITY AND SCOPE

- (1) This By-law applies to all:
 - (a) Purchaser(s) of Short-Term Rental Accommodation(s) within the jurisdictional boundaries of the City;
 - (b) Short-Term Rental Brokerages that Operate within the jurisdictional boundaries of the City;
 - (c) Short-Term Rental Owners that Operate a Short-Term Rental within the jurisdictional boundaries of the City;
 - (d) Persons acting as Short-Term Rental Operator(s) within the jurisdictional boundaries of the City; and
 - (e) *Properties* used as *Short-Term Rentals* within the jurisdictional boundaries of the *City*.
- (2) This By-law does not apply to:
 - (a) hotels, motels or inns;

- (b) Bed-and-Breakfast Establishments;
- (c) Accommodation(s) as rented out to tenants in accordance with the Residential Tenancies Act, 2006, S.O. 2006, c. 17 for a period greater than 29 consecutive days;
- (d) retirement homes licensed under the *Retirement Homes Act, 2010*, S.O.
 2010, c. 11;
- (e) 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;
- (f) Every board as defined in subsection 1(1) of the Education Act;
- (g) Every university or a college of applied arts and technology or postsecondary institution whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating operating grants entitlements from the Crown;
- (h) 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 license issued under the *Private Hospitals Act*;
- Every long-term care home as defined in subsection 2(1) of the Long- Term
 Care Homes Act, 2007 and hospices;
- (j) Accommodation(s) provided by a treatment centre that receives provincial aid under the *Ministry of Community and Social Services Act*,
- (k) Accommodation(s) provided by house of refuge, or lodging for the reformation of offenders;
- (I) Accommodation(s) provided by a charitable or non-profit philanthropic corporation organized as shelters for the relief of the poor or for emergency;
- (m) Every hotel or motel room used by the *City*, or any *Person* authorized to act on behalf of the *City*, for shelter purposes; and

(n) Accommodation(s) supplied by employers to their employees in premises
 operated by the employer.

4.0 APPLICATION OF TAX

(1) A Purchaser shall, at the time of Purchase of Short-Term Rental Accommodation(s), pay the MAT in the amount of four percent (4%) of the Purchase Price of Short-Term Rental Accommodation(s).

5.0 REQUIREMENT TO REGISTER

- (1) All Short-Term Rental Owners and Short-Term Rental Brokerages are required to register with the *City* for the purpose of *Collection*.
- (2) All *Short-Term Rental Brokerages* and *Short-Term Rental Owners* that register with the *City* for the purpose of *Collection* must provide a valid Canadian address.

6.0 AUTHORITY TO COLLECT

- (1) All Short-Term Rental Brokerages shall be appointed as a Designated Agent for the sole and exclusive purpose of Collection pursuant to this By-law and for no other purpose, and the receiving of payment, compensation, or any financial benefit as a result of making or compelling reservations for Short-Term Rentals by a Short-Term Rental Brokerage shall be evidence of acceptance of such appointment.
- (2) The *Designated Agent(s)* shall not exercise any apparent authority, other than that provided for in section 6.0(1), unless such authority is expressly provided for in writing by the *City*.
- (3) The Designated Agent(s) shall only Collect when receiving payment, compensation, or any financial benefit as a result of making or completing reservations for Short-Term Rental(s).
- (4) In acting as a *Designated Agent* in accordance with section 6.0(1), the *Short-Term Rental Brokerage(s)* acknowledges that it owes a fiduciary duty to the *City* for the limited purpose of *Collection* pursuant to this By-law.
- (5) Where Short-Term Rental Accommodation(s) is Purchased through Short-Term Rental Brokerage(s), the Short-Term Rental Brokerage(s) is required to Collect as the Designated Agent(s) and is considered the Provider.

(6) Where Short-Term Rental Accommodation(s) is not Purchased through a Short-Term Rental Brokerage, the Short-Term Rental Owner is required to Collect and is considered the Provider. This obligation shall not be affected or diminished by virtue of the fact that the Short-Term Rental Owner utilizes a Short-Term Rental Operator.

7.0 TAX COLLECTION

- (1) A *Provider* shall *Collect* from the *Purchaser* at the time the of *Purchase* of the *Short-Term Rental Accommodation(s)*.
- (2) The amount of the MAT shall be identified as a separate item or charge on a bill, receipt, invoice, or similar document issued by the Provider in respect of the Short-Term Rental Accommodation(s) on which the MAT is imposed and the item shall be identified as "Municipal Accommodation Tax" or "MAT".
- (3) A *Provider* shall transmit the *Collection* on a quarterly basis.
- (4) For the quarterly transmission, the *Provider* shall, on or before April 30, July 31, October 31, and January 31 (of the following year), transmit to the *City* the amount of the *Collection* for the previous three (3) months and submit quarterly statements in the form required by the *Chief Financial Officer and City Treasurer* detailing the number of the *Short-Term Rental Accommodation(s)* sold, the *Purchase Price* of each *Short-Term Rental Accommodation(s)*, the *Collection* amount, and any other information as required by the *Chief Financial Officer and City Treasurer* for the purposes of administrating and enforcing this By-law.

8.0 INTEREST, PENALTIES AND FEES

(1) A charge of 1.25 percent (1.25%) of the MAT amount due and unpaid by the Provider shall be imposed as a penalty for the non-payment of taxes on the first day of default based on the full occupancy of the Short-Term Rental(s) (where Short-Term Rental Owner(s) is in default of payment) or full occupancy of all Short-Term Rental(s) registered with the Short-Term Rental Brokerage(s) (where a Short-Term Rental Brokerage(s) is in default of payment) unless the actual amount of the MAT owing can be determined by the City, in which case, the charge of 1.25% of the actual amount of the MAT owing to the City shall be imposed.

- (2) Interest at the rate of 1.25% of the amount of the *MAT* due and unpaid, shall be imposed monthly for the non-payment of taxes on the first day of each and every month and subsequent months following the first day of default until the *MAT*, including all charges and interest owing, is paid in full.
- (3) A fee shall be charged in respect of all payments that are not honoured by the financial institution upon which it is drawn in an amount as set out in the *City of Vaughan User Fee By-law, 396-2002*, as amended.

9.0 ENFORCEMENT & LIENS

- (1) Upon default of payment, the *City* may bring an action for the recovery of the amount in any court in which a debt or money demand of a similar amount may be collected and every such action shall be brought and executed in and by the name of the *City*.
- (2) The use of any of the remedies provided by this section does not bar or affect any of the other remedies herein provided, and the remedies provided by this By-law for the recovery and enforcement of the payment of any amount required under this By-law are in addition to any other remedies existing at law, and no action or other proceeding in any way prejudices, limits or affects any *Lien* or priority existing under this By-law or at law in favour of the *City*.
- (3) The City may refer the Collection of any tax payable or owing, or required to be Collected, to a bailiff or collection agency.
- (4) The *City* may register a *Lien* on any *Property* in which the *Short-Term Rental Accommodation(s)* has been provided and for which tax under this By-law remains owing.

10.0 AUDIT AND INSPECTION

- (1) Every Short-Term Rental Owner(s), Short-Term Rental Operator(s), and Short-Term Rental Brokerage(s) shall keep books of account, records, and documents sufficient to furnish the City with the necessary particulars of sales of Short-Term Rental Accommodation(s) and amount of Collection for a period of no less than seven (7) years.
- (2) The *City*, or its designate, may inspect and audit all books, documents, transactions, and accounts of *Short-Term Rental Owner(s), Short-Term Rental*

Operator(s), and *Short-Term Rental Brokerage(s)* and require them to produce copies of any documents or records required for the purposes of administering and enforcing this By-law.

- (3) The *City* may, for any purpose relating to the administration or enforcement of this By-law, serve on any *Person* personally, by electronic communication, registered mail or by a courier service, a written demand for information or for the production on oath or otherwise of books, letters, accounts, invoices, financial statements, electronic and such other documents as the *City* considers necessary to determine compliance with this By-law.
- (4) Where it appears from an inspection, audit or examination of the books of account, records or documents that this By-law has not been complied with, the *Person* making the inspection, audit or examination shall calculate the amount payable in such manner and form and by such procedure as the *City* considers adequate and expedient, and the *City* shall assess the amount payable.
- (5) A *Person* in receipt of such a demand shall comply within the time specified on the demand.

11.0 DETERMINATION OF AMOUNT

- (1) The City may make a determination of the required amount of tax Collection, together with any interest imposed upon any tax outstanding, if a Provider responsible for the payment of tax fails to pay, as required.
- (2) The *City* may assess or reassess for any tax payable by the *Provider* within three (3) years from the day the tax was payable, except that where the *City* establishes that a *Provider* has made any misrepresentation that is attributable to neglect, carelessness or willful default, or has committed any fraud in supplying any information under this By-law, or in omitting to disclose any information, then the *City* may assess or reassess, for any time the *City* considers reasonable, the tax payable.
- (3) The City shall send by mail or registered mail or deliver by hand, a notice of the calculation made under section 11.0(1) or 11.0(2) to the *Provider* at the *Providers'* last known address, and that the amount determined is payable within thirty (30) days from the date of mailing or delivery of the notice.

- (4) Liability to pay an amount is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.
- (5) The *City* is not bound by any information delivered by or on behalf of a *Provider* responsible for the payment of tax and may, notwithstanding any information that has been delivered or if no information has been delivered, assess the tax payable.
- (6) This calculation, subject to being varied or adjusted due to an objection or appeal and subject to a recalculation, shall be deemed to be valid and binding despite any error, defect or omission in the assessment or in any proceeding related to it.

12.0 REFUNDS

- (1) Where a *Person* has paid an amount that is not payable under this By-law, the *City* may, upon receipt of satisfactory evidence, make determination that the amount was wrongly paid, and if such a determination is made, the *City* shall refund or credit all or part of the amount, but no refund shall be made unless an application for such refund is made within 24 months after the payment date.
- (2) Where a *Person* 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 denied, the *City* shall deliver to such *Person* by mail, a statement as such and the statement shall specify the denied amount and the reasons.

13.0 OFFENCES AND PENALTIES

- (1) Every Person is guilty of an offence under this By-law who:
 - Makes, participates in, assents to or contributes in the making of false or deceptive statements in a report, statement, form or other document prepared, submitted or filed under or for the purposes of this By-law;
 - (b) Destroys, alters, mutilates, hides or otherwise disposes of any records or books of account, in order to evade payment of tax;
 - (c) Makes, assents to or contributes in the making of false or deceptive entries, or assents to or contributes in the omission to enter a material, in any records or books of account;
 - (d) Hinders or obstructs, or attempts to hinder or obstruct, any *Person* exercising a power or performing a duty under this By-law;
 - (e) Willfully, in any manner, evades or attempts to evade:

- (i) Collecting tax; or
- (ii) Otherwise complying with this By-law; or
- (f) Fails to provide documents or information requested by the *Chief Financial* Officer and City Treasurer, Chief Licensing Officer, or an Officer,
- (g) Conspires with any person to commit an offence described in Subsection 13.0(1) (a) through (f).
- (2) Any *Person* who contravenes or fails to comply with any provision of this By-law, is guilty of an offence.
- (3) Upon conviction, any *Person* who is guilty of an offence shall be liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, C. P.33, and as set out below:
 - (a) Upon a first conviction, to a fine of not less than \$300 and not more than
 \$50,000 if the *Person* is an individual, and \$500 and not more than
 \$100,000 if the *Person* is a corporation.
 - (b) Upon a second or subsequent conviction for the same offence, to a fine of not less than \$500 and not more than \$100,000.
 - (c) Upon conviction for a continuing offence, to a fine of not less than \$100 and not more than \$100,000 for each day or part of a day that the offence continues. The total of the daily fines may not exceed \$100,000.
 - (d) Upon conviction for multiple offences, for each offence included in the multiple offences, to a fine of not less than \$100 and not more than \$10,000.
 The total of all fines for each included offence is not limited to \$100,000.

14.0 ADMINISTRATIVE MONETARY PENALTIES

- (1) Instead of laying a charge under the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended, for a breach of any provisions of this By-law, an *Officer* may issue an administrative monetary penalty to the *Person* who has contravened this By-law.
- (2) If an administrative monetary penalty is issued to a *Person* under section 14.0, no charge shall be laid against that same *Person* for the same breach.
- (3) The amount of the administrative monetary penalty for a breach under this By-law is \$250.00.

- (4) Subject to section 14.0(5), a *Person* who is issued an administrative monetary penalty shall be subject to the procedures provided for in the *Administrative Monetary Penalties By-law*, as amended or its successor by-law.
- (5) An administrative monetary penalty imposed on a *Person* that becomes a debt to the *City* under the *Administrative Monetary Penalties By-law*, as amended or its successor by-law, may not be added to the *Property Tax Account* and collection may not be in the same manner as municipal taxes.

15.0 DELEGATION OF AUTHORITY

- (1) The City Clerk, or designate, is hereby delegated the authority to enter into agreements, including all necessary documents ancillary thereto, with an *Eligible Tourism Entity(ies)* that receives an amount of the *MAT*, respecting reasonable financial accountability matters, in order to ensure that the amount paid to the entity is used for the exclusive purpose of promoting tourism, and the agreements may provide for other matters, all in a form satisfactory to the City Solicitor.
- (2) The *Chief Financial Officer and City Treasurer*, or a designate, shall be responsible for the administration of this By-law, including but not limited to approvals, appeals, enforcement, *Collection*, and for instructing legal counsel to take such legal action as may be considered appropriate.
- (3) Without limiting section 15.0(2), the *Chief Licensing Officer*, or a designate, and any *Officer* may enforce any provision of this By-law.
- (4) In administering this By-law, the *Chief Financial Officer and City Treasurer*, or a designate, may issue such interpretation bulletins and guidelines as he or she, from time to time, determines necessary or advisable.
- (5) In administering this By-law, the Chief Financial Officer and City Treasurer, or a designate, may request and use information from the Chief Licensing Officer related to any Short-Term Rental Owner(s), Short-Term Rental Operator(s), and Short-Term Rental Brokerage(s) for any purpose in administering this By-law, including enforcement.

16.0 CONFIDENTIAL INFORMATION

(1) All information submitted to and amassed by the *City*, will, except as otherwise provided in this By-law, be available for disclosure to the public in accordance with,

and subject to, the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56 ("MFIPPA").

- (2) In the event that any Person, Short-Term Rental Brokerage(s), Short-Term Operator(s), or Short-Term Rental Owner(s) submits information to the City in any form, as required under this By-law, and where such information is identified as Confidential Information or otherwise proprietary in nature at the time of submission, such information may be exempt from disclosure under MFIPPA, provided that sufficient details as to the reason for its purported exemption from disclosure are also provided at the time of submission.
- (3) All Person(s), Short-Term Rental Brokerage(s), Short-Term Operator(s), and Short-Term Rental Owner(s) shall be solely and absolutely responsible to retain and maintain Confidential Information in a safe and secure manner.

17.0 GENERAL

- (1) This By-law shall come into force and effect on the 1st day of January of 2020.
- (2) The obligation to *Collect* shall come into force on the 1st day of April of 2020.
- (3) If any section or portion of this By-law is found by a court of competent jurisdiction to be invalid, it is the intent of Council for the *City* that all remaining sections and portions of this By-law continue to be in force and effect.

Enacted by City of Vaughan Council this 17th day of December, 2019.

Hon. Maurizio Bevilacqua, Mayor

Todd Coles, City Clerk