THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER 033-2021

A By-law of The Corporation of the City of Vaughan to amend Municipal Accommodation Tax, Short-Term Rental By-law 183-2019.

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;

AND WHEREAS the Council of The Corporation of the City of Vaughan has determined that it is desirable to make amendments to By-law 183-2019, as amended;

NOW THEREFORE the Council of The Corporation of the City of Vaughan ENACTS AS FOLLOWS:

1. That Section 3.0(1) of Short-Term Rental By-law 183-2019, be amended by:

    (a) Amending the definition for Person so that it reads as follows:

    “Person” means an *Individual Person*, a partnership, or a corporation (including any of such corporation’s affiliates, subsidiaries or parent corporations, as the case may be) to which the context can apply and “Person” shall also include multiple *Persons* who, acting together, carry on the business of a *Short-Term Rental* business, despite the fact that no single one of those *Persons* carries on the activity in its entirety;

    (b) Amending the definition of Short-Term Rental Brokerage so that it reads as follows:

    “Short-Term Rental Brokerage” means any *Person* who facilitates or

brokers or *Markets* or causes to be *Marketed* or assists in any capacity in the booking process of a *Short-Term Rental* reservation for others, whether directly or indirectly, including, without limitation, via the internet or other electronic platform, of a *Short-Term Rental*, provided such *Person* collects, handles or receives a payment, fee, compensation or other financial benefit as a result of, or in connection with, the *Short-Term Rental*;

(c) Adding the following definition for “Market” in alphabetical sequence and correspondingly renumbering the subsequent definitions:

“Market”, “Marketed” or “Marketing” means offering, facilitating, or causing or permitting to offer or facilitate, directly or indirectly, the sale, promotion, canvassing, solicitation, advertising, or marketing of a *Short-Term Rental*, and includes placing, posting or erecting advertisements physically or online, provided that the *Marketing* activity is the *Person’s Primary Business*;

(d) Adding the following definition for “Operate” in alphabetical sequence and correspondingly renumbering the subsequent definitions:

“Operate”, “Operated” or “Operating” means means to rent out, provide, offer to rent out or provide, or facilitate or broker or *Market* or cause to be *Marketed*, the offer or rental, whether directly or indirectly, including, without limitation, via the internet or other electronic platform, of a *Short-Term Rental* and shall include a *Person* collecting a fee or handling payments in respect of a *Short-Term Rental*;

(e) Adding the following definition for “Primary Business” in alphabetical sequence and correspondingly renumbering the subsequent definitions:

“Primary Business” means a business undertaken by any *Person* that generates at least fifty percent (50%) or more of its revenues, directly or indirectly, from *Operating* a *Short-Term Rental*;

(f) Adding the following definition for “Director, Financial Services” in alphabetical sequence and correspondingly renumbering the subsequent definitions:

“Director, Financial Services” means the Director, Financial Services and

Deputy City Treasurer of the City of Vaughan, or his or her successor, and his or her designate.

2. That Section 5.0(1) of Municipal Accommodation Tax, Short-Term Rental By-law 183-2019, be amended by replacing it with the following:

(1) All *Short-Term Rental Owners* and *Short-Term Rental Brokerages* are required to register with the *City* for the purpose of *Collection*, if applicable.

3. That Section 6.0(1) of Municipal Accommodation Tax, Short-Term Rental By-law 183-2019, be replaced with the following:

(1) All *Short-Term Rental Owners* are required to register with the *City* for the purpose of *Collection*.

4. That Municipal Accommodation Tax, Short-Term Rental By-law 183-2019, be amended by adding Section 6.0(1.1) as follows:

(1.1) Despite 6.0(1), a *Short-Term Rental Brokerage* may be appointed as a *Designated Agent* by a *Short-Term Rental Owner* for the sole and exclusive purpose of *Collection* pursuant to this By-law and for no other purpose, and such appointment shall be in writing and shall be reported to the *Director, Financial Services* within seven (7) days of such appointment being made.

5. That Municipal Accommodation Tax, Short-Term Rental By-law 183-2019, be amended by adding Section 6.0(1.2) as follows:

(1.2) A *Designated Agent* is required to register with the *City* for the purpose of *Collection*.

6. That Section 6.0(2) of Municipal Accommodation Tax, Short-Term Rental By-law 183-2019, be amended by replacing it with the following:

(2) The *Designated Agent(s)* shall not exercise any apparent authority, other than that provided for in section 6.0(1.1), unless such authority is expressly provided for in writing by the *City*.

7. That Section 6.0(4) of Municipal Accommodation Tax, Short-Term Rental By-law 183-2019, be amended by replacing it with the following:

(4) In acting as a *Designated Agent* in accordance with section 6.0(1.1), 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.

8. That Section 6.0(5) of Municipal Accommodation Tax, Short-Term Rental By-law 183-2019, be amended by replacing it with the following:

(5) Where *Short-Term Rental Brokerage* has been appointed a *Designated Agent*, the *Short-Term Rental Brokerage* is required to *Collect* and is considered the *Provider*.

9. That Section 6.0(6) of Municipal Accommodation Tax, Short-Term Rental By-law 183-2019, be amended by replacing it with the following:

(6) Where a *Short-Term Rental Accommodation* is not a *Purchase* 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*.

10. That Municipal Accommodation Tax, Short-Term Rental By-law 183-2019, be amended by adding Section 6.0(7) as follows:

(7) Despite the requirements under sections 6.0(1) through to and including 6.0(4), the *Director, Financial Services*, on behalf of the *City*, may enter into a voluntary collection agreement with a *Short-Term Rental Brokerage* for the purposes of *Collection*, as required under this By-law.

11. That Section 10.0(3) of Municipal Accommodation Tax, Short-Term Rental By-law 183-2019, be replaced with the following:

(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, and, in the case of a corporation, such service shall include delivery personally, by electronic communication, registered mail or by a courier service delivered to any *Individual Person* who acts or appears to act for the benefit of such corporation, including a sales or customer service representative or an *Individual Person* employed or contracted by such

corporation who is located at the premises of such corporation or any of such corporation's affiliates, subsidiaries or parent corporations, as the case may be.

Enacted by City of Vaughan Council this 10th day of March, 2021.

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Hon. Maurizio Bevilacqua, Mayor

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Todd Coles, City Clerk

Authorized by Item No. 6 of Report No. 44
of the Committee of the Whole
Adopted by Vaughan City Council on
October 21, 2020.

Authorized by Item No. 9 of Report No. 8
of the Committee of the Whole
Adopted by Vaughan City Council on
March 10, 2021.