

Madawaska Maliseet First Nation

SHORT-TERM ACCOMMODATION LEVY LAW

– in accordance with –

*Madawaska Maliseet First Nation Land Code and the
Framework Agreement on First Nation Land Management*

February 01, 2024




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PREAMBLE

Whereas in regard to Indigenous peoples, it is essential for Canada to reject colonialism and engage in a contemporary approach based on good faith and the principles of justice, democracy, equality, non-discrimination and good governance;

And Whereas Madawaska Maliseet First Nation (“MMFN”) has and recognizes its inherent right and duty to protect its homeland in respect of all generations past, present and future to the full extent of its ability, which includes exercising control over its Lands for the use and benefit of its Members;

And Whereas MMFN has and recognizes its inherent right to regulate economic activities on MMFN Land to preserve and promote the well-being of its community through measures such as this Short-Term Accommodation Levy Law;

And Whereas Madawaska Maliseet First Nation has jurisdiction, authority, control and management over its Lands, resources, and interests for the use and benefit of its Members pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Madawaska Maliseet First Nation Land Code* effective the 1st day of January 2018;

And Whereas section 7 of the *Madawaska Maliseet First Nation Land Code* provides the Madawaska Maliseet First Nation with the authority to enact Land Laws in relation to Reserve Land;

And Whereas Madawaska Maliseet First Nation has and continues to exercise an inherent Aboriginal and Treaty right to govern its citizens and lands that is recognized and affirmed by, *inter alia*, Articles 3, 4, 20, 24, and 35 of the *United Nations Declaration on the Rights of Indigenous Peoples* and Section 35 of the *Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK), 1982, c 11*;

And Whereas Madawaska Maliseet First Nation intends that this Short-Term Accommodation Levy Law as a step towards its assertion of jurisdiction over all aspects of taxation and revenue collection on MMFN Land, tailored to its current capacity and aspirations within its broader framework of governance;

And Whereas the Council of Madawaska Maliseet First Nation deems it necessary to enact a Short-Term Accommodation Levy Law to deal with the collection of revenue from an Accommodation Levy to support the continued comfort, safety, and protection of people, lands, buildings, and resources on MMFN Land;

NOW THEREFORE, this Madawaska Maliseet First Nation Short-Term Accommodation Levy Law is hereby enacted as a Land Law of Madawaska Maliseet First Nation.


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1. TITLE

1.1 This Law may be cited as the “*Madawaska Maliseet First Nation Short-Term Accommodation Levy Law.*”

2. INTERPRETATION

2.1 The following definitions apply in this Law:

“Accommodation” means the provision of lodging in hotels, motels, inns, bed and breakfasts, resorts, or hotels;

“Accommodation Levy” means the tax imposed on the purchase of Short-Term Accommodation on MMFN Land;

“Council” means the Council of Madawaska Maliseet First Nation;

“Day” means a calendar Day;

“Madawaska Maliseet First Nation” or “MMFN” means the Madawaska Maliseet First Nation and its Members;

“MMFN Land” means any reserve Land subject to the *Madawaska Maliseet First Nation Land Code*;

“Operator” means a Person who, in the normal course of the Person’s business, sells, offers to sell, provides, or offers to provide Accommodation on MMFN Land;

“Person” means an individual or any other entity having a separate personality or style for carrying out business recognized in Law, such as a corporation of any type, partnership, society, or association, whether or not incorporated;

“Purchaser” means a Person who purchases Accommodations from an Operator; and

“Short-Term Accommodations” means Accommodations provided for a period not exceeding thirty-one (31) Days.

3. APPLICATION OF ACCOMMODATION LEVY

3.1 A Purchaser shall, at the time of purchasing Short-Term Accommodation, pay an Accommodation Levy in the amount of 3% of the purchase price of the Accommodation before other taxes are applied.

3.2 Where the purchase of Short-Term Accommodation is made through an online booking platform or other third-party means, the Accommodation Levy imposed


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under Section 3 shall be paid to MMFN by the Operator.

- 3.3 An Operator shall include on every invoice or receipt for the purchase of Short-Term Accommodations a separate item for the amount of Accommodation Levy imposed on the purchase, and the item shall be identified as “Accommodation Levy.”

4. EXEMPTIONS

- 4.1 The Accommodation Levy imposed under Section 3 shall not apply to:
- (a) a Person who is accommodated in a room for more than thirty-one (31) consecutive Days;
 - (b) Accommodations provided by MMFN or its agents for emergency shelter accommodation purposes;
 - (c) a Person possessing a valid Certificate of Indian Status, as issued by the Government of Canada; and
 - (d) a Person who is a registered Member of Madawaska Maliseet First Nation.

5. COLLECTION AND REMITTANCE BY OPERATOR

- 5.1 Operators shall collect the Accommodation Levy from the Purchaser at the time the Accommodation is purchased.
- 5.2 Operators shall remit the Accommodation Levy to MMFN within thirty (30) Days after the end of the month in which the Accommodation Levy is collected unless otherwise agreed to in writing by MMFN.

6. REPORTING

- 6.1 Subject to the provisions of Section 6.2 and Section 6.3, unless otherwise provided, all Operators shall make separate monthly reports to MMFN, on the prescribed report form, of Accommodation sales and Accommodation Levy collected.
- 6.2 MMFN may agree in writing to allow Operators to make reports to MMFN at another frequency other than monthly.
- 6.3 MMFN may at any time require an Operator to provide a report of Accommodation sales and Accommodation Levy collected to cover any period or periods.
- 6.4 A separate report shall be made for each place of business unless a consolidated report has been approved by MMFN.
- 6.5 The Operators’ reports shall be presented to MMFN on the first Day of the month following the collection of the Accommodation Levy by the Operator.



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- 6.6 If an Operator during the preceding period has collected no Accommodation Levy, he shall nevertheless make a report to that effect on the prescribed report form.
- 6.7 Where an Operator ceases to carry on or disposes of their business, they shall make the report and remit the Accommodation Levy collected within thirty (30) Days of the date of discontinuance or disposal.

7. RECORDS

- 7.1 Every Operator shall keep books of account, records and documents sufficient to furnish MMFN with the necessary particulars of:
- (a) sales of Accommodation;
 - (b) amount of Accommodation Levy collected; and
 - (c) remittances of Accommodation Levy.
- 7.2 All entries concerning the Accommodation Levy in such books of account, records and documents shall be separate and distinguishable from other entries made therein.
- 7.3 Every Operator shall retain any book of account, records, or other document referred to in this section for a minimum period of the current year plus six (6) years.
- 7.4 MMFN may inspect and audit all books, documents, transactions, and accounts of Operators and require Operators to produce copies of any documents or records as are necessary for the purposes of administering and enforcing this Law.

8. INTEREST

- 8.1 Overdue remittances and fines payable under this Law are subject to interest payable at the Bank of Canada's prime interest rate plus 2%.

9. ENFORCEMENT

- 9.1 Every Person duly appointed by Council as an enforcement officer is hereby authorized to carry out any inspection that is necessary for the administration or enforcement of this Law.
- 9.2 The staff of the MMFN Finance Department is authorized to assist Council in the enforcement of this Law by reviewing and auditing the reports provided by the Operators.
- 9.3 Any enforcement officer is hereby authorized to take such actions, exercise such powers and perform such duties as may be set out in this Law as they may deem to be necessary to enforce any provisions of this Law.


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10. OFFENCES

10.1 Any Person who contravenes or fails to comply with any provision of this Law commits an offence and is subject to a fine of not less than two hundred dollars (\$200.00) and not more than five thousand dollars (\$5000.00) per offence.

11. COMING INTO FORCE


11.1 This Law shall be enacted pursuant to the *Madawaska Maliseet First Nation Land Code Regulation No. 1* (Land Law Consultation and Enactment Regulations.)

11.2 This Law shall come into effect thirty (30) Days after the date on which it is enacted.

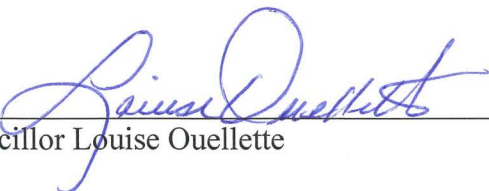
THIS LAW IS HEREBY approved at a duly convened meeting of the Council of Madawaska Maliseet First Nation this 15th day of April, 2024.



Chief Patricia Bernard



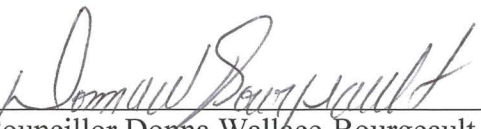
Councillor Alex Bernard



Councillor Louise Ouellette



Councillor Diane Pelletier



Councillor Donna Wallace-Bourgeault

The quorum of Council is three members.