



**THE CORPORATION OF THE
MUNICIPALITY OF KINCARDINE**

Subject: Municipal Accommodation Tax – Introductory Report

Director: Chief Administrative Officer

Manager: Financial Services

Report Number: CAO General-2022-02

Meeting Date: Monday, June 6, 2022

Recommendation: THAT Council receives report CAO General-2022-02
Municipal Accommodation Tax – Introductory Report for information;

AND THAT Council consider an implementation plan in 2023.

Date to be considered by Council: Monday, June 20, 2022

Report Summary:

The purpose of this report is to provide Council with information on the Municipal Accommodation Tax (MAT) legislation for transient accommodation and the process that would be required to implement a MAT within the Municipality of Kincardine.

Origin: Resolution 02/23/22-03; Economic Development Strategy Action #3.5.2

Existing Policy: Ontario Municipal Act, 2001, Section 400.1; O. Reg 435/17

Background/Analysis: At its meeting on February 23, 2022, Council approved the following motion:

“THAT Staff be directed to bring a report to Council by the end of the third quarter regarding a hotel accommodation tax that could be put in a fund allocated to attainable housing and/or Strategic Initiatives/Tourism”

The Economic Development Strategy also includes *Action 3.5.2 - Investigate a Municipal Accommodation Tax as an option to develop a dedicated budget for marketing and promotion.*

The purpose of this report is to provide the requisite information for Council regarding the applicable legislation and associated considerations, in order to

make a decision on whether to establish a Municipal Accommodation Tax (MAT) on transient accommodation in Kincardine. Specifically, this report will cover:

- 1) What is a Municipal Accommodation Tax (MAT)
- 2) What can the taxes collected be used for
- 3) Eligible Not-for-Profit Tourism Entity
- 4) Licensing of Short-Term Rental Accommodation and Zoning By-Law considerations
- 5) Collection of the MAT
- 6) Consultation with stakeholders
- 7) Estimated revenue potential
- 8) Next Steps

Analysis:

1) What is a Municipal Accommodation Tax (MAT)

The Ontario Municipal Act, 2001, Section 400.1 provides that a local municipality may, by by-law, impose a tax in respect of the purchase of transient accommodation in the municipality (see sample by-law attached). Ontario Regulation 435/17 – Transient Accommodation Tax outlines the necessary provisions for municipalities to implement the MAT. Municipalities have the flexibility to determine the design, administration, and collection of the MAT.

A MAT is a fee or tax levied on short-term and overnight accommodation. It applies to transient accommodation which includes hotels, motels, short-term rentals (i.e. Airbnb) as well as campgrounds for stays up to 30 days.

A MAT is charged as a percentage of the rental fee of the accommodation. The industry standard has been established at 4% of the purchase price, excluding other services (i.e. food, beverages, room service, meeting rooms).

The legislation includes exemptions for colleges, universities, the Crown, Educational Boards, hospitals, and long-term care homes. The municipality may also include other exemptions within its by-law including but not limited to:

- Retirement homes and hospices
- Treatment centres that receive provincial aid under the Ministry of Community and Social Services Act
- Accommodation provided:
 - in a house of refuge or lodging for the reformation of offenders
 - by charitable, non-profit philanthropic corporations organized as shelters for the relief of the poor or for emergency
 - by an employer to its employees in premises operated by the employer;

2) What can the MAT funds collected be used for

The provincial regulation stipulates that the Municipality can retain up to 50% of the MAT revenue, with the remainder distributed to be shared with a not-for-profit eligible tourism entity and used exclusively to promote tourism in the area. The 50% municipal portion of funds can be used by the municipality at its discretion for services and infrastructure, however typically these funds are used to enhance tourism and benefit local residents including parks, beaches, trails, facilities, etc.

The MAT enables municipalities to increase investment in tourism marketing without further contributions from local taxpayers. The MAT is a revenue source that would see visitors contribute towards the use of infrastructure, programs and services in the municipality.

The final determination of the 50% would be determined by a not-for-profit entity.

3) Eligible Not-For-Profit Tourism Entity

Fifty percent of the funds generated through the MAT program are to be shared with an eligible not-for-profit tourism entity. An “eligible tourism entity” is a not-for-profit entity whose mandate includes the promotion of tourism in Ontario or in a municipality. The municipality is required to enter into an agreement with the eligible tourism entity that receives a portion of the MAT. This agreement must include reasonable financial accountability measures to ensure amounts paid to the entity are used for the exclusive purpose of promoting tourism.

If such an entity does not already exist, the municipality may form its own not-for-profit corporation. The Town of South Bruce Peninsula will be creating a new third-party entity as its not-for profit corporation, while the Municipality of Northern Bruce Peninsula will be entering into an agreement with their local Chamber of Commerce.

Staff would need to investigate this issue further to determine the most appropriate and suitable solution.

4) Licensing of Short-Term Rental Accommodation and Zoning By-Law considerations

In order to establish a MAT that would apply equitably to hotels and motels that pay a commercial tax rate with other short-term rentals such as online home-sharing platform providers, most communities enacting MAT also implement licencing to regulate the use. Licencing short-term rentals will have the added benefit of helping the Municipality understand the housing supply dedicated to short-term rentals which removes supply from the housing market.

Additionally, an update to the Comprehensive Zoning By-law would be required in order to define the use for short-term rental accommodation and create provisions relating to usage. The Municipality's Zoning By-law is currently in the process of being updated, and further consideration would be required to determine how to incorporate this into the updated Zoning By-law.

The short-term rental market has grown over the last few years, and at any given time there are 45+ short-term rentals advertised on Airbnb in Kincardine. While short-term accommodations provide many benefits to the local economy, they can also impact the character and quality of neighbourhoods. Licencing these accommodations would bring Short-Term Rental Accommodations into conformity with the Municipality's Zoning Bylaw and ensure that they will not adversely impact neighbouring property owners. Licencing will also ensure that occupants are provided with safe accommodations under the Ontario Building Code.

Several surrounding lakefront municipalities have either begun regulating, or will soon be regulating, short-term accommodations including Northern Bruce Peninsula, South Bruce Peninsula, and Lambton Shores.

Many communities use a third-party service provider to administer and enforce this by-law, given the significant resources that would be required to implement such a program. Harmari STR is used by Northern Bruce Peninsula and Grey-Highlands to assist in compliance and collections for licencing short-term accommodations. If outsourcing is not pursued, additional full-time staff would be required for implementation, online registration, customer service, complaints and monitoring.

If regulating short-term accommodations is deemed desirable by Council, then implementation of the program including developing a licencing by-law and related licencing fees would be required and would need to be investigated further by staff.

5) Collection of the MAT

The MAT is a mandatory fee once a by-law is approved and collection details are established in the by-law. The fee must be paid to the accommodation provider when paying for a booking. The fee collected must then be remitted to the municipality. The municipal Treasurer is responsible for administering the by-law to collect the MAT and establish related procedures and documents.

The accommodation provider will be required to include on every invoice or receipt for the purchase of transient accommodation a separate item identified as the Municipal Accommodation Tax, and will be required to collect this tax and remit it to the municipality. The provider would be required to remit a report (monthly or quarterly) stating the MAT collected for the previous period, and remit within 15 days the amount to be charged and collected. The

applicable remittance forms would be available on the municipal website and could be submitted electronically.

Failure to pay would result in the unpaid amounts added to the tax roll for collection.

The MAT can be administered and collected either:

- Directly by the Municipality
- By a third-party contracted to collect the tax (e.g. ORHMA, Harmari)
- By the not-for-profit tourism entity

Several local municipalities, including the Town of South Bruce Peninsula, have contracted the collection of the MAT to Ontario Restaurant Hotel & Motel Association (ORHMA). ORHMA provides for the collection of the MAT with an administration fee charged on the overall collection. The Municipality of Northern Bruce Peninsula has partnered with Harmari for payment collection.

6) Consultation and Public Engagement

Prior to establishing a MAT, public consultation with local accommodators should be undertaken, along with industry stakeholders such as Bruce County, Regional Tourism Organization 7 (RT07), Kincardine Chamber of Commerce, realtors association, and the BIA.

7) Estimated revenue potential

Staff have reviewed hotel and motel statistics in the Municipality of Kincardine in order to estimate (at a high level) the revenue potential of the MAT. Using the regional tourism profile for Region 7 (Bruce, Grey, Simcoe) from the Ministry of Heritage, Sports, Tourism and Culture, the pre-pandemic occupancy rate was ~ 60% at an average daily rate of \$135. (It should be noted 60% is a conservative number, and due to the local transient workforce occupancy rates can often approach 100%).

There are approximately 400 hotel/motel rooms in Kincardine, therefore total accommodation revenues are estimated at ~ \$12 million. After applying a 4% MAT, the total MAT revenues would amount to \$480,000 annually.

After deducting a 5% collection fee, this would provide a net amount of \$456,000, to be split 50/50 between the Municipality and the non-profit tourism entity leaving \$228,000 each.

Note: This calculation does not account for any additional operating costs including third party operating costs associated with overseeing Short Term Accommodation licencing or additional staffing costs. The amount also does not include any projected revenues from licenced short-term accommodations or campgrounds.

8) Next Steps

If Council would like to move forward in obtaining further information on the implementation of a MAT in Kincardine, this will require a cross-functional team of staff resources from all municipal departments.

Next steps would include:

- Stakeholder consultations with hotels, motels, County of Bruce, Chamber of Commerce, RTO7, etc.
- Undertake research to establish a licencing by-law for short-term accommodations and developing a licencing by-law, including assessment of third party resources required for developing these by-laws
- Undertake research to determine zoning by-law implications for short-term accommodations
- Undertake research regarding administration of the MAT through a third-party
- Undertake research for eligible not-for-profit corporations, and possible creation of a new legal entity
- Preparation of a draft MAT by-law
- Preparation of MAT remittance policies and collection processes, and assessment of third party resources required for collection
- Enact MAT by-law

This undertaking will require significant staff resources as well as have additional budgetary implications which can span over multiple years before a MAT by-law could be enacted.

Integrated Strategy 2020 – 2025: Economic Development Strategic Plan Action 3.5.2

Financial Implications: As contained in this report. Further research and review is required in understanding collection and administration costs and short-term accommodations licencing.

Attachments: Ontario Regulation 435/17; MAT Sample By-law – Town of South Bruce Peninsula

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Municipal Act, 2001

ONTARIO REGULATION 435/17

TRANSIENT ACCOMMODATION TAX

Consolidation Period: From December 1, 2017 to the e-Laws currency date.

No amendments.

This is the English version of a bilingual regulation.

Interpretation

1. (1) In this Regulation,

“destination marketing program” means a program under which one or more providers of transient accommodation in a municipality agree to pay a portion of their revenue to a non-profit entity (for which the providers of transient accommodation may or may not charge fees to purchasers of transient accommodation to recover that revenue) to be used by an eligible tourism entity in promoting tourism; (“programme de marketing de destinations”)

“eligible tourism entity” means a non-profit entity whose mandate includes the promotion of tourism in Ontario or in a municipality; (“entité touristique admissible”)

“Ontario’s total tourism receipts” means, in respect of a year, the amount set out in the column titled “Total” for that year in the table titled “Ontario’s Tourism Receipts by Origin” that is published by the Ministry of Tourism, Culture and Sport on the Government of Ontario website. (“recettes touristiques totales de l’Ontario”)

(2) For greater certainty, the expressions “promotion of tourism” and “promoting tourism” include the development of tourism products.

Application

2. This Regulation applies if a municipality imposes a tax in respect of the purchase of transient accommodation in the municipality under section 400.1 of the Act.

Limit re imposition of tax

3. A municipality is not authorized to impose taxes under section 400.1 of the Act in respect of the purchase of transient accommodation at a university or a college of applied arts and technology or post-secondary institution whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating operating grants entitlements from the Crown.

Revenue sharing — destination marketing program exists when tax imposed

4. (1) This section applies if a destination marketing program exists in the municipality on the day before the tax comes into effect.

(2) For each full or partial fiscal year of the municipality that the tax is in effect, the municipality shall make one or more payments to the eligible tourism entity that received revenue, directly or indirectly, from providers of transient accommodation in the municipality under a destination marketing program that existed immediately before the tax came into effect, the total of which must be at least equal to the amount determined under this section.

(3) Any amounts paid to the eligible tourism entity under subsection (2) shall be used by the eligible tourism entity for the exclusive purpose of promoting tourism.

(4) The amount referred to in subsection (2) in respect of a fiscal year of the municipality is the lesser of,

(a) the total amount of revenue from the tax received by the municipality in respect of the fiscal year; and

(b) the amount determined under subsection (5), (6), (8) or (9) for the fiscal year.

(5) If, for the first fiscal year of the municipality in which the tax takes effect, the tax is in effect for the entire fiscal year, the amount referred to in subsection (2) in respect of that fiscal year is the amount determined using the formula,

$$A - B$$

in which,

“A” is the total amount of revenue that was collected on transient accommodation provided in the municipality under the destination marketing program in respect of the eligible tourism entity’s last fiscal year that ended before the tax came into effect and that was received by the entity under the program in respect of that year, and

“B” is any revenue that was collected on transient accommodation provided in the municipality under a destination marketing program at any time when the tax was in effect and that was received by the entity under the program in the first fiscal year of the municipality in which the tax takes effect.

(6) If, for the first fiscal year of the municipality in which the tax takes effect, the tax is not in effect for the entire fiscal year, the amount referred to in subsection (2) in respect of that fiscal year is the amount determined under subsection (5), as if the amount determined under the definition of “A” in that subsection were multiplied by the amount determined using the formula,

$$C/D$$

in which,

“C” is the number of days that the tax is in effect in the fiscal year, and

“D” is the total number of days in the fiscal year.

(7) Subsections (8) and (9) apply with respect to fiscal years of the municipality other than the first fiscal year in which the tax takes effect.

(8) For a particular fiscal year of the municipality in which the tax is in effect for the entire year, the amount referred to in subsection (2) in respect of that particular fiscal year is the greater of the following amounts:

1. The total amount of revenue that was collected on transient accommodation provided in the municipality under the destination marketing program in respect of the last fiscal year of the eligible tourism entity that ended before the tax came into effect and that was received by the entity under the program in respect of that year,
2. The amount determined by applying the following steps:
 - i. Determine the amount paid by the municipality to the eligible tourism entity under this section in respect of the fiscal year that precedes the particular fiscal year. If the tax was not in effect for the entire fiscal year that preceded the particular fiscal year, the amount referred to in paragraph 1 is deemed to be the amount determined under this subparagraph.
 - ii. Determine the average annual percentage change in Ontario's total tourism receipts over the 10-year period between the second year immediately preceding the particular fiscal year and the 12th year immediately preceding the particular fiscal year.
 - iii. Multiply the percentage change determined under subparagraph ii by the amount determined under subparagraph i.
 - iv. If the percentage change determined under subparagraph ii is positive, add the amount determined under subparagraph iii to the amount determined under subparagraph i. If the percentage change determined under subparagraph ii is negative, subtract the amount determined under subparagraph iii from the amount determined under subparagraph i.
 - v. From the amount determined under subparagraph iv, subtract the amount of any revenue that was collected on transient accommodation provided in the municipality under the destination marketing program at any time when the tax was in effect and that was received by the eligible tourism entity under the program in the particular fiscal year of the municipality.

(9) For a particular fiscal year of the municipality in which the tax is not in effect for the entire year, the amount referred to in subsection (2) in respect of that particular fiscal year is the amount determined under subsection (8), as if subparagraph 2 v of that subsection did not apply, multiplied by the amount determined using the following formula,

$$(E/F) - G$$

in which,

“E” is the number of days that the tax is in effect in the particular fiscal year,

“F” is the total number of days in the particular fiscal year, and

“G” is the amount of any revenue that was collected on transient accommodation provided in the municipality under the destination marketing program at any time when the tax was in effect and that was received by the eligible tourism entity under the program in the particular fiscal year of the municipality.

(10) At the municipality’s request, the eligible tourism entity shall give the municipality evidence, to the municipality’s satisfaction, of the amounts of revenue collected and received under a destination marketing program as referred to in the definitions of “A” and “B” in subsection (5), in paragraph 1 and subparagraph 2 v of subsection (8) and in the definition of “G” in subsection (9).

(11) The deadline for paying the amount required under subsection (2) in respect of a fiscal year is 60 days after the end of the fiscal year.

(12) Despite subsection (11), the municipality is not required to pay an amount to the eligible tourism entity until it has complied with a request from the municipality under subsection (10).

Revenue sharing — no destination marketing program exists when tax imposed

5. (1) This section applies if a destination marketing program does not exist in the municipality on the day before the tax comes into effect.

(2) For each full or partial fiscal year of the municipality that the tax is in effect, the municipality shall make one or more payments to one or more eligible tourism entities, the total of which must be at least equal to the amount determined under subsection (4).

(3) Any amounts paid to an eligible tourism entity under subsection (2) shall be used by the eligible tourism entity for the exclusive purpose of promoting tourism.

(4) The amount referred to in subsection (2) is 50 per cent of the amount determined using the formula,

$$A - B$$

in which,

“A” is the revenue from the tax received by the municipality in respect of the fiscal year, and

“B” is the municipality’s reasonable costs of collecting and administering the tax that are attributable to the fiscal year.

(5) The deadline for paying the amount required under subsection (2) in respect of a fiscal year is 60 days after the end of the fiscal year.

Requirement to enter into agreement

6. (1) The municipality and each eligible tourism entity that receives an amount under section 4 or 5 shall enter into an agreement respecting reasonable financial accountability matters in order to ensure that amounts paid to the entity are used for the exclusive purpose of promoting tourism, and the agreement may provide for other matters.

(2) For clarity, a requirement that an amount paid by a municipality under subsection 4 (2) or 5 (2) be used in a particular manner in promoting tourism is not a reasonable financial accountability matter for the purpose of subsection (1) of this section.

Receipt for transient accommodation tax

7. A provider of transient accommodation in a municipality that is required to collect the tax shall include on every invoice or receipt for the purchase of transient accommodation a separate item for the amount of tax on transient accommodation imposed on the purchase, and the item shall be identified as “Municipal Accommodation Tax” or as the name of the municipality followed by “Accommodation Tax”.

8. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION).

The Corporation of the Town of South Bruce Peninsula

By-Law Number 30-2021

**Being a By-Law to Establish a Municipal
Accommodation Tax in the Town of South
Bruce Peninsula**

Whereas Section 400.1 (1) of the *Municipal Act 2001*, S.O. 2001 c. 25, as amended, provides that a municipality may pass by-laws imposing a tax in respect of the purchase of transient accommodation within the municipality;

And whereas Section 400.1 (2) of the *Municipal Act 2001*, S.O. 2001 c. 25, as amended and Ontario Regulation 435/17 provides that the by-law must state the subject of the tax to be imposed, state the tax rate or the amount of tax payable and state the manner in which the tax is to be collected;

And whereas Section 400.1 (3) of the *Municipal Act 2001*, S.O. 2001 c. 25, as amended, provides that the by-law may include penalties for failing to comply with the by-law, interest on outstanding taxes or penalties, the assessment of outstanding taxes, penalties or interest and may 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 Section 400.4 (2) of the *Municipal Act 2001*, S.O. 2001 c. 25, as amended provides that outstanding taxes, interest or penalties cannot have priority lien status and any lien will not have a higher priority than it would otherwise have in law in relation to other claims, liens or encumbrances;

And whereas the Corporation of the Town of South Bruce Peninsula is desirous of implementing a municipal accommodation tax as provided in the *Municipal Act 2001*, S.O. 2001 c. 25, as amended and regulation thereto.

Now therefore, the Council of the Corporation of the Town of South Bruce Peninsula enacts as follows:

1. Definitions

For the purposes of this by-law:

"Accommodation" means the use or possession or the right to the use or possession, for dwelling, lodging or sleeping purposes:

- in a room or suite of rooms containing one or more beds or cots, whether in a hotel, motel, boarding, lodging, or rooming house, bed and breakfast or other establishment providing lodging, or in all or part of a dwelling unit; and

- in a tent, trailer, vehicle, recreational vehicle or other structure on a campsite or in a campground, regardless of whether the tent/trailer/vehicle/recreational vehicle/structure is brought to the campsite/campground by the patron or if it is existing on the campsite or in the campground and available for rent or use otherwise;

and whether or not additional amenities, services or the right to use additional space in the establishment, dwelling unit or campground/campsite are provided, where such rights are acquired for a purchase price.

"Accounts Receivable Collection Policy" means the by-law adopted by Council which establishes the procedures regarding the collection of fees and charges, as amended or replaced from time to time.

"Agent" means the person or entity authorized and delegated the authority by the Treasurer to fulfill administrative duties regarding the implementation of the MAT.

"Council" means those individuals elected to govern the Corporation of the Town of South Bruce Peninsula.

"Treasurer" means the person appointed by Council from time to time to act in the legal capacity as authorized by the *Municipal Act 2001, S.O. 2001 c. 25*, as amended, and includes his or her authorized designate.

"Establishment Information Sheet" means the form established by the Treasurer to provide information about an establishment which provides Accommodation.

"MAT Remittance Report" means the form established by the Treasurer for reporting MAT collected and to be paid to the Town or its Agent for a reporting period.

"Municipal Accommodation Tax" means the tax imposed under this by-law and where applicable, includes the tax assessed by the Treasurer. The Municipal Accommodation Tax may be referred to as the acronym MAT.

"Person" includes an individual, a sole proprietorship, a partnership, an unincorporated association, a trust and a corporation.

"Provider" means a Person that sells, offers for sale, or otherwise provides Accommodation, and includes agents, hosts or others who sell, offer for sale by any means including through an on-line platform, or who otherwise provide Accommodation.

"Purchaser" means a Person who, for a Purchase Price, uses, possesses or has the right to the use or possession of any Accommodation.

"Purchase Price" means the price for which Accommodation is purchased, and where

applicable, any other consideration accepted by the Provider in return for the Accommodation and includes all fees and charges for additional occupants, for provision of additional beds or cots, and unless separately itemized on the invoice, bill or similar document, all fees and surcharges for ancillary services including food, beverages, entertainment, internet usage, telephone usage and similar charges. Purchase Price does not include the goods and services tax imposed by the Government of Canada or by the Province of Ontario.

"Town" means the geographic area of the Town of South Bruce Peninsula or the municipal corporation as the context requires.

2. Interpretation

- 2.1 Whenever this by-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the by-law with the gender applicable to the circumstances.
- 2.2 References to items in the plural include the singular, as applicable.
- 2.3 The words "include", "including" and "includes" are not to be read as limiting the phrases or descriptions that precede them. Any examples provided are intended to be representative examples and not intended to be an exhaustive list.
- 2.4 Headings are inserted for ease of reference only and are not to be used as interpretation aids.
- 2.5 Specific references to laws and regulations are meant to refer to the current laws applicable as at the time the by-law was enacted and shall include the laws as they are amended, restated or replaced from time to time.
- 2.6 Where a day or where the last day of a period of time, referenced in this by-law by a number of days, falls on a Saturday, Sunday or statutory or civic holiday, the day or last day as the case may be shall be deemed to be the next following business day.
- 2.7 The obligations imposed by this by-law are in addition to obligations otherwise imposed by law or contract.
- 2.8 Terms with capitals shall be read with the meaning in Section 1 hereto, and other words shall be given their ordinary meaning.

3. Severability / Conflict

- 3.1 If any section, subsection, part or parts of this by-law is/are declared by any court of competent jurisdiction to be bad, illegal or ultra vires, such section, subsection,

part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

- 3.2 Nothing in this by-law relieves any person from complying with any provision of any Federal or Provincial legislation or any other by-law of the Town.
- 3.3 This by-law shall supersede and rescind any by-law found to be inconsistent with the provisions contained herein.

4. Administration / Delegation

- 4.1. The Treasurer is delegated the authority to implement and administer this by-law, to collect the MAT and to take all actions and make all decisions required of the Treasurer under this by-law. Without limiting the generality of the foregoing, the Treasurer is delegated the authority to:
 - (a) establish and amend from time to time, procedures, forms and documents, as the Treasurer may determine are required to implement and administer this by-law and to collect the MAT;
 - (b) perform all administrative functions referred to herein and deemed necessary for the due administration, implementation and enforcement of this by-law and collection of monies owing hereunder and authorize refunds in accordance with this by-law;
 - (c) carry out all duties assigned to the Treasurer under this by-law.
- 4.2 The Treasurer may delegate the performance of any one or more of his or her functions under this by-law to one or more persons from time to time as the occasion requires and may impose conditions upon such delegation and may revoke any such delegation. The Treasurer may continue to exercise any function delegated during the delegation.
- 4.3 Except as expressly provided to the contrary in this by-law, the decisions of the Treasurer are final.

5. Municipal Accommodation Tax (MAT) Imposed

- 5.1 Except as provided in Section 6 of this by-law, every Purchaser shall, at the time of paying for Accommodation, pay to the Provider, Municipal Accommodation Tax in the amount of four per cent (4%) of the Purchase Price of any Accommodation provided to the Purchaser for a continuous period of 30 days or less.
- 5.2 For greater certainty, the continuous period referred to in Subsection 5.1 is not disrupted by the purchase of different rooms, suites, beds or other

Accommodation by the same Purchaser from the same Provider in the course of the continuous period.

6. Exemptions

Despite Subsection 5.1, the Municipal Accommodation Tax imposed under this by-law does not apply to:

- (a) the Crown, any agency of the Crown in right of Ontario or any 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;
- (b) any Board as defined in subsection 1 (1) of the *Education Act*;
- (c) any university in Ontario or any college of applied arts and technology and post-secondary institution in Ontario whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating operating grants entitlements from the Crown;
- (d) any 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* and upon proclamation of the Lieutenant Governor of the amendment to Paragraph 4 of Subsection 400.2 of the *Municipal Act, 2001*, to any community health facility within the meaning of the *Oversight of Health Facilities and Devices Act 2017* that was formerly licensed under the *Private Hospitals Act*;
- (e) any long-term care home as defined in subsection 2(1) of the *Long-Term Care Home Act*;
- (f) any retirement home as defined in the *Retirement Home Act, 2010*;
- (g) any home for special care within the meaning of the *Homes for Special Care Act*;
- (h) any non-profit hospice occupying land for which there is an exemption from taxation determined in accordance with section 23.1 of Ontario Regulation 282/98 made under the *Assessment Act*;
- (i) any Person or entity as prescribed by regulation under the *Municipal Act, 2001*, as exempt from payment of Municipal Accommodation Tax;

(j) any treatment centre that receives provincial aid under the *Ministry of Community and Social Services Act*; or

(k) Accommodation provided:

- (i) in a house of refuge or lodging for the reformation of offenders;
- (ii) by charitable or not-for-profit corporations or by the Town or its contractors or agents for the purpose of providing or operating a shelter or emergency shelter for the relief of the poor; or for the benefit of persons who are fleeing situations of physical, financial, emotional or psychological abuse; or for other persons who are suffering from homelessness;
- (iii) by an employer to its employees in premises operated by the employer; or
- (iv) in premises owned or operated by the Town of South Bruce Peninsula.

7. Invoice to Purchaser

7.1 Every Provider shall include on every bill, receipt, invoice or similar document for the purchase of Accommodation, a separate item identified as Municipal Accommodation Tax showing the rate at which the MAT is calculated, and the amount of the MAT imposed and collected.

8. Duty to Collect

8.1 Every Provider shall collect the MAT from the Purchaser at the time the Accommodation is paid for.

9. Duty to Report / Duty to Remit

9.1 Every Provider shall file annually, an Establishment Information Report with the Town or its Agent, on or before the 31st of January each year..

9.2 Except as provided to the contrary in Subsection 9(3) every Provider shall:

- (a) on or before the last day of each month, file a MAT Remittance Report with the Town or its Agent, setting out the MAT required to be charged and collected in the prior month; and
- (b) within 15 days after the MAT Remittance Report due date, pay to the Town, or its Agent an amount equal to the MAT required to be charged to and collected from Purchasers during the period reported in the MAT Remittance Report.

9.3 Despite Subsection 9.2, a Provider may apply in writing for quarterly filing of MAT Remittance Reports and payment of MAT charged and collected. If quarterly filing is approved and while any such approval is in good standing, the Provider shall:

- (a) on or before January 31, April 30, July 31 and October 31, in each year, file a MAT Remittance Report with the Town or its Agent setting out the MAT required to be charged and collected for the three-month period prior to the month in which the MAT Remittance Report is due; and
- (b) within 15 days after the MAT Remittance Report due date, pay to the Town or its Agent an amount equal to the MAT required to be charged and collected for the period reported in the MAT Remittance Report.

9.4 The Provider shall ensure that the MAT Remittance Reports required under Subsection 9.2 or 9.3 are:

- (a) in the form established by the Treasurer from time to time;
- (b) filed with the Town or its Agent in the manner established by the Treasurer from time to time;
- (c) filed with the Town or its Agent in the timelines established in this by-law;
- (d) fully completed when submitted; and
- (e) signed by an authorized officer to confirm the accuracy of the report.

9.5 Every Provider shall file a MAT Remittance Report with the Town or its Agent for a reporting period whether or not any MAT was collected during the reporting period.

10. Assessment- Failure to File Remittance Report or to Pay

10.1 Where a Provider has filed a MAT Remittance Report but failed to pay all or part of the MAT owing to the Town, the Treasurer or his or her Agent may assess the amount of MAT payable to the Town based on the MAT Remittance Report.

10.2 Where a Provider has failed to file a MAT Remittance Report, the Treasurer shall assess the amount of MAT payable to the Town by multiplying the MAT rate of 4% X room rate X 100% occupancy.

10.3 The Treasurer or his or her Agent shall mail an invoice to the Provider setting out the amount of MAT assessed by the Treasurer under Subsection 10.2, as payable by the Provider, and in the case of an invoice related to an amount assessed under Subsection 10.2, advise the Provider of the rights to re-

assessment under Subsection 10.4. The Provider shall pay the assessed amount to the Town or its Agent within 14 days from the date of the invoice whether or not the assessed amount was actually collected by the Provider and whether or not the assessment reflects the amount of MAT actually payable.

- 10.4 Despite Subsection 10.3, where the Treasurer or his or her Agent has assessed MAT in accordance with Subsection 10.2, the Provider may, within two months of the date of the invoice sent pursuant to Subsection 10.3, apply to the Treasurer in writing for a re-assessment of the MAT owing to the Town for the assessed period. No request for a re-assessment will be considered by the Treasurer unless the Provider also:
- (a) submits or has submitted a completed MAT Remittance Report for the period to which the assessment applied;
 - (b) paid the amount of the MAT assessed by the Treasurer, in accordance with Subsection 10.2 and set out in the invoice sent in accordance with Subsection 10.3; and
 - (c) has paid any applicable interest or penalties on the amount of MAT assessed by the Treasurer or its Agent under Subsection 13.1.
- 10.5 Upon a re-assessment by the Treasurer based on the MAT Remittance Report for the period, the Treasurer shall adjust the Town records if necessary, to reflect the reassessment of the MAT and of any interest or penalties thereon.
- 10.6 In the event that the re-assessment by the Treasurer reveals an overpayment by the Provider, the Treasurer, will notify the Provider in writing and will provide a refund of the amount overpaid. No interest shall be paid on the amount of the overpayment.
- 10.7 Where the Provider who is entitled to do so, fails to apply for a re-assessment in accordance with Subsection 10.4, the amount assessed by the Treasurer in accordance with Subsection 10.2 shall be final, except as may be determined to the contrary by way of audit.

11. Audit and Inspection

- 11.1 Every Provider shall keep books of account, records and documents sufficient to furnish the Town or its Agent with the necessary particulars, as of any point in time, to verify the accuracy and completeness of the amount of MAT collected and paid to the Town.
- 11.2 Every Provider shall retain such books of account, records and documents required under Subsection 11.1, for a period of no less than 7 years.

11.3 Any Person authorized by the Town for any purpose related to the administration or enforcement of this by-law may at all reasonable times enter into any premises or place where business of a Provider is carried on or any property is kept or where anything is done in connection with any business of a Provider or where any books of account, records and documents are required under Subsection 11.1 are or should be kept and:

- (a) audit or examine the books and records and any account, voucher, letter, facsimile, electronic or other document that relates or may relate to the information that is or should be in the books or records or to an amount payable under this by-law; and
- (b) require a person who is liable or possibly liable to pay MAT under this by-law, an officer, director, Agent or representative of that person or any person on the premises to:
 - (i) give him or her all reasonable assistance with his or her audit or examination;
 - (ii) answer all questions relating to the audit or examination either orally or, if he or she requires, in writing, on oath or by statutory declaration; and
 - (iii) attend at the premises or place with him or her for the purposes of giving reasonable assistance and answering questions relating to the audit or examination.

11.4 Every Provider shall co-operate with the Town or its Agent in the conduct of an inspection or audit under Subsection 11.3 and cause its employees, agents and contractors to comply as required.

11.5 The Treasurer may for any purpose relating to the administration or enforcement of this by-law serve on any Person personally, by mail or courier service, a written demand for information and for the production on oath or otherwise of books, records and documents as the Treasurer or any other person authorized by the Town to make the demand, considers necessary to determine compliance with this by-law.

11.6 Every Person served with a demand under Subsection 11.5 shall comply with the demand within the time specified in the demand.

12. Adjustment by Treasurer - Result of Audit

12.1 Where the Treasurer determines as a result of audit of the Provider's records that MAT which accrued within a period of two years prior to the date of the audit, was not reported and paid by that Provider in accordance with this by-law, the

Treasurer may make a determination of the amount of MAT properly payable for that period, adjust the Town records appropriately to reflect the adjustment, and:

- (a) notify the Provider in writing:
 - (i) of the period for which MAT was adjusted;
 - (ii) of the basis for the adjustment;
 - (iii) of the amount of MAT actually paid and the amount payable for the period of adjustment;
 - (iv) of the amount now owing to the Town or overpaid to the Town; and
 - (v) where applicable, that payment of any amount owing to the Town is due within 15 days of the date of the notice.
- (b) in the event that an audit reveals an overpayment, the Treasurer will provide a refund of the amount of MAT overpaid. No interest shall be paid on the amount of the overpayment.

12.2 In the event the Treasurer establishes that a Person has made any misrepresentation that is attributable to neglect, careless or willful default or has committed a fraud in supplying any information under this by-law, the Treasurer's right to adjust the MAT is not restricted to a two-year period, despite Subsection 12.1.

13. Interest / Penalty

13.1 Interest at the rate set out in the Accounts Receivable Collection Policy as the rate payable on overdue amounts owing to the Town, shall be charged on the amount of any MAT owing to the Town under this by-law including any MAT assessed under Section 10 or adjusted under Subsection 12.1, from the day following the date on which the MAT was due and payable up to and including the date on which the MAT is paid in full.

13.2 Where the amount of any MAT owing to the Town is determined in accordance with Section 12, interest shall start to accrue fifteen (15) days from the date of the invoice.

13.3 The Provider shall pay any fee or charge established in accordance with the Accounts Receivable Collection Policy for any late filings, dishonored payments, or other matters.

14. Application for Refund

- 14.1 A Provider who has paid an amount as MAT which was not payable under this by-law and not addressed through a re-assessment in accordance with Subsection 10.4 or through an adjustment in accordance with Section 12, may, within two years of the date the Provider becomes aware that the MAT may have been overpaid, apply in writing to the Treasurer to review the application for a refund and where a form has been established, shall use the prescribed form. The onus of proof shall be on the Provider, who shall provide to the Treasurer such information as the Provider intends to rely on in support of the application. No application for a refund will be accepted if the applicant is not current in filing of MAT Remittance Reports.
- 14.2 The Treasurer shall review the application, the supporting material provided by the applicant and any other information available to the Treasurer, make a determination of whether all or part of an amount of MAT was wrongly paid, and notify the applicant of his or her decision in writing.
- 14.3 Where, as a result of the review in Subsection 14.2, the Treasurer is satisfied:
- (a) there has been an overpayment of MAT, the Treasurer will notify the Provider and will refund the overpaid amount. No interest shall be paid on the amount of the overpayment; or
 - (b) that no overpayment has been made, the Treasurer shall notify the Provider of the decision in writing and shall provide particulars for disallowing all or part of the refund claimed.
- 14.4 Any refund authorized under Subsection 14.3 shall be limited to the amount overpaid by the Provider during the two-year period prior to the date of the application and while the Provider owned the establishment which provided the accommodation.

15. Collection

- 15.1 All MAT, including MAT assessed under Section 10 or adjusted under Section 12 and related penalties and interest that are past due shall be deemed to be in arrears and a debt owing to the Town. The Treasurer is authorized to employ any remedy available to the Town to collect any such amount including without limitation:
- (a) adding the amount to the tax roll for any real property in the Town registered in the name of the Provider to be collected in like manner as property taxes and constituting a lien upon the lands;
 - (c) bringing an action in the name of the Town for the recovery of the amount in the court of appropriate jurisdiction;

- (d) referring the collection of the amount to a collection agency; and
- (e) exercising any other remedy available pursuant to the *Municipal Act, 2001*, or otherwise available at law.

15.2 The remedies provided 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.

16. Repayment Agreements

16.1 Where the Treasurer, in his or her discretion, determines that it is in the best interests of the Town to do so, the Treasurer will recommend to Council, a repayment arrangement with any Provider, providing for terms of payment of any MAT and interest and penalties thereon, which were not paid in accordance with this by-law. The Treasurer will recommend to Council, terms to be included in the repayment agreement. While the repayment agreement is in good standing, no further collection efforts shall be taken, despite Section 15. Council is not obligated to authorize a repayment agreement.

16.2 The repayment agreement shall terminate automatically upon breach of any provision thereof.

16.3 Interest shall continue to accrue on the amount of MAT outstanding during the term of the repayment agreement.

17. False Statement

17.1 No Person shall:

- (a) make a false, inaccurate or intentionally misleading statement or representation in any document, statement or request provided for by this by-law; or
- (b) file a document, statement or request provided for in this by-law where such Person knows or believes it contains a false, inaccurate or intentionally misleading statement or representation, whether or not such statement or representation was made by the Person filing the document or application.

18. No Interference

18.1 No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Person exercising a power or performing a duty under this by-law.

19. Offence

- 19.1 Every person who contravenes any provision of this by-law and any director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.
- 19.2 For the purposes of Subsection 19.1, each day on which a person contravenes any of the provisions of this by-law shall be deemed to constitute a separate offence under this by-law.
- 19.3 A Person who is convicted of an offence under this by-law is liable, for each day or part of a day that the offence continues, to a minimum fine of \$500.00 and a maximum fine of \$10,000.00 and the total of all daily fines for the offence is not limited to \$100,000.00 as provided for in Subsection 429(3)2 of the *Municipal Act, 2001*.
- 19.4 The levying and payment of any fine as provided for under the *Provincial Offences Act* shall not relieve a person from the necessity of compliance with the obligations under this by-law or from the obligation for payment of the MAT or any interest or penalty imposed by Section 13 of this by-law or such other penalties as may be provided for under the *Municipal Act, 2001* as amended or replaced.

20. Enforcement

- 20.1 This by-law may be enforced by any Municipal By-Law Enforcement Officer, properly appointed by Council.

21. Confidential Information

- 21.1 All information submitted to and collected by the Town, will, except as otherwise provided in this section, be available for disclosure to the public in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56 (MFIPPA), as amended.
- 21.2 In the event that any Person in submitting information to the Town or to the Treasurer in any form, as required under this by-law, where such information is confidential or proprietary or otherwise may be exempt from disclosure under the MFIPPA, the Person submitting the information shall so identify that information upon its submission to the Town or the Treasurer and shall provide sufficient details as to the reason for its purported exemption from disclosure.


22. Short Title

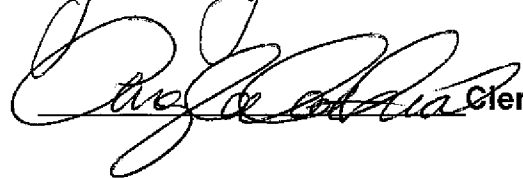
- 22.1 This by-law may be referred to as the "Municipal Accommodation Tax By-Law" or "MAT By-Law"

23. Effective Date

23.1 This by-law shall come into full force and effect upon January 1, 2022.

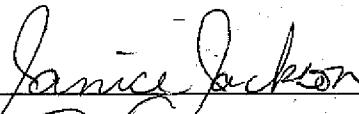
Read a first and second time this 16th day of March, 2021.

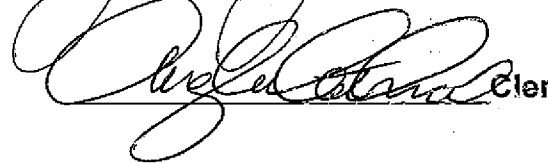


Janice Jackson Mayor


Clerk

Read a third time and finally passed this 16th day of March, 2021.



Janice Jackson Mayor


Clerk

Part I Provincial Offences Act
The Corporation of the Town of South Bruce Peninsula
Set Fine Schedule
By-Law Number 30-2021: Municipal Accommodation Tax By-Law

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fines
1	Failed to include Municipal Accommodation Tax as a separate item on invoice or similar document	Section 7, Sub 7.1	\$500.00
2	Failed to collect the MAT from the Purchaser at the time the Accommodation was paid for	Section 8, Sub 8.1	\$1000.00
3	Failed to file an annual Establishment Information Report with the Town or its agent.	Section 9, Sub 9.1	\$500.00
4	Failed to file a MAT Remittance Report with the Town or its agent	Section 9, Sub 9.2 (a)	\$1000.00
5	Failed to pay the Town or its Agent an amount equal to the MAT required to be charged and collected	Section 9, Sub 9.2 (b)	\$1000.00
6	Failed to keep books of account, records and documents sufficient to furnish to the Town or its agent	Section 11, Sub 11.1	\$500.00
7	Failed to keep books of account, records and documents for seven years	Section 11, Sub 11.2	\$500.00
8	Failed to cooperate with the Town or its agent in the conduct of an inspection or audit	Section 11, Sub 11.4	\$1000.00

9	Failed to comply with demand	Section 11, Sub 11.6	\$1000.00
10	Failed to pay any fee or charge	Section 13, Sub 13.3	\$1000.00
11	Provided False, inaccurate or intentionally misleading statement or representations	Section 17, Sub 17.1 (a)	\$1000.00
12	Filed document, statement or request containing false, inaccurate or intentionally misleading statements or representations	Section 17, Sub 17.1 (b)	\$1000.00
13	Hindered or obstructed or attempted to hinder or obstruct a person exercising a power or performing a duty	Section 18, Sub 18.1	\$1000.00

Note: The penalty provisions for the offence(s) indicated above are Section 19 of By-Law Number 30-2021, of which a certified copy has been filed.

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6	Failed to keep books of account, records and documents sufficient to furnish to the Town or its agent	Section 11, Sub 11.1	
7	Failed to keep books of account, records and documents for seven years	Section 11, Sub 11.2	

8	Failed to cooperate with the Town or its agent in the conduct of an inspection or audit	Section 11, Sub 11.4	
9	Failed to comply with demand	Section 11, Sub 11.6	
10	Failed to pay any fee or charge	Section 13, Sub 13.3	
11	Provided False, inaccurate or intentionally misleading statement or representations	Section 17, Sub 17.1 (a)	
12	Filed document, statement or request containing false, inaccurate or intentionally misleading statements or representations	Section 17, Sub 17.1 (b)	
13	Hindered or obstructed or attempted to hinder or obstruct a person exercising a power or performing a duty	Section 18, Sub 18.1	

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