



Municipality of Northern Bruce Peninsula Council Report

Report Number: TR 23-08

Subject: Proposed Amendments to By-Law 2021-83 Transient Municipal Accommodation Tax Within Municipality of Northern Bruce Peninsula

From: Tony Houad, Interim Treasurer

Date: March 27, 2023

Recommendation:

THAT Council **RECEIVES** report TR 23-08 "Proposed Amendments to By-Law 2021-83 Transient Municipal Accommodation Tax" and

THAT the report be uploaded to Let's Talk NBP – Public Comment Corner for thirty (30) days for public comment, and

THAT a subsequent report is brought back to Council for discussion and amendments to By-Law 2021-83, Municipal Accommodation Tax

Background:

Bill 127, Stronger, Healthier Ontario Act, 2017 provided municipalities with the authority to levy transient accommodation tax. On September 27, 2021, Council passed By-Law 2021-83 which imposed a transient Municipal Accommodation Tax effective January 1, 2022. The Municipal Accommodation Tax (MAT) is set at a rate of 4% and requires the municipality to provide half of the net MAT revenue to the Tobermory Chamber of Commerce to support local tourism. In 2021, the Municipality implemented a Short-Term Accommodation (STA) By-law to regulate and license the short-term rental properties within the municipality.

Council further approved a 3rd party provider (Harmari STR) to assist in administering the program through address identification, compliance monitoring, web portal services, online registration, complaint service and tax collection.

Comments:

On January 9, 2023, Council requested a report from Administration on the expansion Municipal Accommodation Tax. Under the current program, a hotel, motel, hostels, cabins, cottages, bed and breakfast are not included in the MAT program. Expansion of the MAT program would expand the definition of accommodation to include the above accommodation providers.

Administration in collaboration with the Ontario Restaurant, Hotel and Motel Association have summarized other municipal MAT programs.

#	Region/Municipality	MAT Start Date	RATE	B&B	Hostels	STR/Cottages	Trailer Parks	Camp Grounds	Collector
1	Barrie	01-Jan-19	4%	TBD	YES	YES	EXEMPT	EXEMPT	Tourism Barrie
2	Belleville	01-Jul-19	4%	YES	YES	YES	EXEMPT	EXEMPT	City
3	Brockville	01-May-19	4%	YES	YES	YES	TBD	TBD	Town
4	City of Burlington	01-Oct-22	4%	YES	YES	YES	EXEMPT	EXEMPT	ORHMA
5	City of Dryden	01-Jan-20	4%	YES	YES	YES	EXEMPT	EXEMPT	ORHMA
6	City of Guelph	2022-09-01	4%	in talks	in talks	in talks	in talks	in talks	ORHMA
7	City of Orillia	06-Apr-20	4%	YES	YES	YES	EXEMPT	EXEMPT	Ontario's Lake County
8	City of Quinte West	01-Jul-19	4%	YES	YES	YES	TBD	TBD	City
9	Cochrane	01-Jul-19	4%	TBD	YES	TBD	EXEMPT	EXEMPT	Town
10	Cornwall	01-Jun-18	4%	YES	YES	YES	EXEMPT	EXEMPT	Town
11	Fort Frances	01-Jan-19	4%	YES	YES	YES	EXEMPT	EXEMPT	Town
12	Gravenhurst	01-Feb-23	4%	YES	YES	YES	EXEMPT	EXEMPT	ORHMA
13	Grey Highlands	31-Mar-20	TBD	TBD	TBD	TBD	TBD	TBD	TBD
14	Hamilton	01-Jan-23	7%	YES	YES	YES	EXEMPT	EXEMPT	ORHMA
15	Huntsville	01-Apr-19	4%	YES	YES	YES	EXEMPT	EXEMPT	City
16	Kenora	20-Oct-20	4%	YES	YES	YES	EXEMPT	EXEMPT	Kenora Hospitality Alliance
17	Kingston	01-Aug-18	4%	YES	YES	YES	EXEMPT	EXEMPT	CKKAP
18	Lambton County	TBD	4%	YES	YES	YES	EXEMPT	EXEMPT	TBD
19	London	01-Oct-18	4%	EXEMPT	YES	YES	EXEMPT	EXEMPT	ORHMA
20	Markham	01-Jan-19	4%	YES	YES	YES	EXEMPT	EXEMPT	City
21	Mississauga	01-Apr-18	4%	YES	YES	YES	EXEMPT	EXEMPT	City
22	Niagara Falls	01-Jan-19	\$2/room night	TBD	YES	TBD	EXEMPT	EXEMPT	City
23	Niagara on the Lake	No existing DMF – revisiting MAT	2% to 4%	TBD	TBD	TBD	EXEMPT	EXEMPT	Town
24	North Bay	01-Feb-19	4%	YES	YES	YES	EXEMPT	EXEMPT	Town

25	North Bruce Peninsula	01-Jan-22	4%	YES	YES	YES	TBD	TBD	Harmari Visit
26	Oakville	01-Jan-19	4%	YES	YES	YES	EXEMPT	EXEMPT	Oakville
27	Oshawa	01-Oct-22	4%	YES	YES	YES	EXEMPT	EXEMPT	ORHMA
28	Ottawa	01-Jan-18	4%	EXEMPT	YES	YES	EXEMPT	EXEMPT	OGHA
29	Peterborough	01-Oct-19	4%	EXEMPT	YES	EXEMPT	EXEMPT	EXEMPT	ORHMA
30	Point Edward (part of Lambton County)	01-Jan-20	4%	YES	YES	YES	EXEMPT	EXEMPT	ORHMA
31	Prince Edward County	01-Feb-21	4%	YES	YES	YES	EXEMPT	EXEMPT	County
32	Red Lake	01-Jan-20	4%	YES	YES	YES	EXEMPT	EXEMPT	ORHMA
33	Region of Waterloo	01-Jul-19	4%	YES	YES	YES	EXEMPT	EXEMPT	ORHMA
34	Sarnia	01-Jul-20	4%	YES	YES	YES	EXEMPT	EXEMPT	ORHMA
35	Sault Ste. Marie	01-Sep-18	4%	YES	YES	YES	EXEMPT	EXEMPT	City
36	Sioux Lookout	01-Jan-21	4%	YES	YES	YES	EXEMPT	EXEMPT	City
37	South Bruce Peninsula	2022-01-01	4%	YES	YES	YES	YES	YES	ORHMA
38	Stratford	2023-07-01	4%	YES	YES	YES	YES	YES	ORHMA
39	Sudbury	01-Sep-18	4%	YES	YES	YES	EXEMPT	EXEMPT	City
40	Thunder Bay	01-Sep-18	4%	YES	YES	YES	EXEMPT	EXEMPT	City
41	Timmins	01-May-19	4%	YES	YES	YES	EXEMPT	EXEMPT	City
42	Toronto	01-Apr-18	4%	YES	YES	YES	EXEMPT	EXEMPT	City
43	Town of Marathon	01-Jun-19	4%	YES	YES	YES	EXEMPT	EXEMPT	Town/ Eligible Tourism Entity
44	Vaughan	01-Apr-19	4%	TBD	TBD	YES	EXEMPT	EXEMPT	City
45	Windsor	01-Oct-18	4%	YES	YES	YES	EXEMPT	EXEMPT	City

* Ontario Restaurant, Hotel and Motel Association

** Ottawa Gatineau Hotel Association

Highlights of the proposed by-law changes include:

- Expanded definition of accommodation to clearly identify specific areas of activity that are subject to MAT,
- MAT Remittance Schedule,
- Delegation of Authority to the Treasurer to implement and administer this by-law,
- Further clarification on exemptions to the MAT,
- Identifying specific interest changes for MAT due and unpaid,
- Expanded delegated authority of the Treasurer function for audits and inspections and
- Provide authority for the Treasurer to take the necessary steps for collections related to MAT and related penalties and interest that are past due.

Attached as Appendix A, Administration is recommending the following amendments in red to the Municipal Accommodation Tax By-law 2021-83.

Administration will ensure this report and amendments to the by-law are included in Let's Talk NBP – Public Comment Corner for thirty days for public comments and report back to Council. Staff will conduct information sessions in the community targeting new and existing accommodation providers to educate and inform them on the MAT program and tax remittances. After the 30-day public comment period, Administration will report back to Council at their regular Council meeting on May 8, 2023.

In conclusion, the MAT program and the proposed expansion provides further funding to support the municipality and the chamber's efforts to provide programs and initiatives that will elevate Northern Bruce Peninsula as a destination of choice. Administration will work closely with the Tobermory Chamber of Commerce who will develop and manage a marketing plan to attract more leisure, event, sport, and business visitors to area.

Attachments:

1. By-law 2021-83 - Being a By-law for Transient Municipal Accommodation Tax Within Municipality of Northern Bruce Peninsula.

Budget Implications:

The expansion of the Municipal Accommodation Tax will result in addition revenue to the municipality and 50% will be shared with the Tobermory Chamber of Commerce. In 2022, Administration has collected approximately \$243,280.15 in MAT revenue net of Harmari collection fees. In February of 2023, the Tobermory Chamber of Commerce received a payment of \$121,640.08.

Working with the Tobermory Chamber of Commerce, they have estimated that expanding the MAT program to motels, bed & breakfast and cottages would generate additional MAT remittances to the municipality in the range of \$350,000 to \$400,000.

As workload increases, Administration will continue to monitor staff resources associated with administering the MAT program and will keep Council informed.

Municipal Strategic Commitment:

1. Creating a strong and resilient economy
2. Maintaining a transparent and responsible government

Respectfully submitted by:

Tony Houad

Tony Houad
Interim Treasurer

Approved by:

Peggy Van Mierlo-West,
Chief Administrative Officer

The Corporation of the Municipality of Northern Bruce Peninsula By-Law Number 21-83

Being a By-law to Impose a Transient Municipal Accommodation Tax Within The Municipality of Northern Bruce Peninsula.

WHEREAS section 400.1 of the Municipal Act, 2001, S.O 2001, c.25, provides that the council of a local municipality may pass by-laws imposing a tax in respect of the purchase of transient accommodation within the municipality; and

AND WHEREAS pursuant to section 400.1 of the Municipal Act, 2001 and the Ontario Regulation 435/17, the Council of the Corporation of the Municipality of Northern Bruce Peninsula wishes to establish and levy the tax rate on the purchase of transient accommodation within the Municipality of Northern Bruce Peninsula; and

AND WHEREAS Council has authorized the establishment of a municipal accommodation tax on all transient accommodation rentals less than 30 days within the Municipality of Northern Bruce Peninsula;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF NORTHERN BRUCE PENINSULA HEREBY ENACTS AS FOLLOWS:

1. DEFINITIONS

"Accommodation" - means hotels, motels, motor hotels, lodges, cabins, inns, resorts, bed and breakfast, Air BnBs, cottages or other establishments providing transient lodging in all, or part of a dwelling are required to collect and remit the Municipal Accommodation Tax on accommodations of thirty days or less.

"Council" - means the Council of The Corporation of the Municipality of Northern Bruce Peninsula;

"Establishment" - means the physical location, a building, as defined by the *Building Code Act, 1992*, SO 1992, c 23, as amended or any successor legislation, or part of a building that provides Accommodation;

"Lodging" – includes: the use of a bedroom, a suite of rooms containing a bedroom, or the use of a bed within a bedroom;

(b) the use of one or more additional beds or cots in a bedroom or suite.

"Municipality" - means The Corporation of the Municipality of Northern Bruce Peninsula;

"Municipal Accommodation Tax or "MAT"" - means the tax imposed under this By-law;

"Provider" - means a person or an entity that sells, offers for sale, or otherwise provides Accommodation, and includes agents, hosts or others who sell, offers for sale or otherwise provides Accommodation;

"Purchaser" - means a person who purchases Accommodation;

"Purchase Price" - means the price for which Accommodation is purchased, including the price paid, and/or other consideration accepted by the Provider in return for the Accommodation provided, but does not include the goods and services tax imposed by the Government of Canada or by the Province of Ontario.

“Short-Term Rental Accommodation” – lodging in a short-term rental for a period less than 30 consecutive days and

"Treasurer" means the person appointed by Council from time to time as the Treasurer for the Municipality and includes his or her authorized designate;

2. EXEMPTIONS

2.1 The Municipal Accommodation Tax imposed under this By-law does not apply to:

- (a) 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;
- (b) Every board as defined in subsection 1(1) of the Education Act;
- (c) Every university in Ontario and every 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 annual operating grants entitlements from the Crown;
- (d) 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;
- (e) Every long-term care home as defined in subsection 2 (1) of the Long-Term Care Homes Act, 2007 and hospices;
- (f) A tent or trailer site supplied by a campground, tourist camp or trailer park;
- (g) Every hospitality room in an establishment that does not contain a bed and is used for display merchandise, holding meetings, holding hearings, or entertaining;
- (h) Every charitable, non-profit philanthropic corporation organized as shelters for the relief of the poor or for emergency
- (i) Employers to their employees in premises operated by the employer; and
- (j) Such other persons and entities as may be prescribed.

3. APPLICATION OF TAX

Short Term Accommodation

3.1 A Purchaser shall, at the time of purchasing accommodation, pay the Municipal Accommodation Tax in the amount of four (4) percent of the Purchase Price of accommodation provided for a period of less than thirty (30) days provided in a licensed Short-Term Accommodation.

3.2 For greater certainty, the continuous period referred above is not disrupted by the purchase of different rooms, suites, beds or other lodging in the same establishment in the course of the continuous period.

4. TAX COLLECTED AND SUBMISSION

4.1 A Provider of transient accommodation 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"

4.2 A Provider of transient accommodation shall collect the MAT from the Purchaser at the time the accommodation is purchased.

4.3 A Provider shall remit to the Municipality for the amount of the MAT collected for the previous quarter and submit statements in the form required by the Municipality for the purpose of administering and enforcing this By-law. These remittances shall be made by the end of April, July, October, and January for the respective previous quarter.

Remittance Schedule

Q1 (January – March) is due on or before April 30

Q2 (April – June) is due on or before July 31

Q3 (July – September) is due on or before October 31

Q4 (October – December) is due on or before January 31

4.4 MAT shall be applied to the total purchase price of accommodation. It does not apply to other fees or service charges, including but not limited to food & beverage, room incidentals, service charges, meeting room rentals, laundry services, internet access and parking. However, to be exempt from the Municipal Accommodation Tax, these amenities and service charges must be separately itemized on the invoice. Adjustments from prior reporting periods can be made in the period the refund was returned.

4.5 If no Municipal Accommodation Tax was collected, the Accommodation Provider is still required to submit the Municipal Accommodation Tax Return indicating that no Municipal Accommodation Tax was collected in the reporting period.

4.6 If the accommodation was booked and paid for prior to April 1, 2022, the Municipal Accommodation Tax is not applicable. If the accommodation was booked before April 1, 2022, but paid for on or after April 1, 2022, the Municipal Accommodation Tax is to be charged, collected, and remitted.

4.7 A Provider's operating costs including commission paid to a third party used to secure or provide the accommodation are not deductible when MAT is being remitted to the municipality.

5. DELEGATION OF AUTHORITY

5.1 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, such interpretation guidelines, protocols, procedures, forms, documents and agreements, as the Treasurer may determine are required to implement and administer this Bylaw and to collect the MAT;

(b) perform all administrative functions and conduct all enquiries, audits, assessments, approvals, referred to herein and those incidental to and 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) authorize, establish terms of and sign any repayment agreements provided for herein and any ancillary or related documents, and to amend, extend or terminate or otherwise administer or enforce such agreements; and

(d) carry out all duties assigned to the Treasurer under this By-law.

5.2 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.

5.3 Except as expressly provided to the contrary in this By-law, the decisions of the Treasurer are final.

6. INTEREST

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6.1 That a percentage charge of 1.25 per cent of the amount of the MAT due and unpaid be imposed as a penalty for the non-payment of taxes on the first day of default based on the full occupancy of the Establishment unless the actual amount of the MAT owing can be determined by the municipality, in that case, the percentage charge of 1.25 per cent of the actual amount of the MAT will be imposed.

6.2 That an interest charge of 1.25 per cent each month of the amount of the MAT due and unpaid, be imposed for the non-payment of taxes on the first day of each month and subsequent months following the first day of default.

7. LIENS

7.1 All MAT penalties and interest that are past due shall be deemed by the Municipal Treasurer to be in arrears and shall be transferred to the tax collectors' roll of the Municipality, for that property, to be collected in the same manner as municipal property taxes and shall constitute a lien upon the lands.

8. AUDIT AND INSPECTION

8.1 Every provider of transient accommodation shall keep and retain books of account, records and documents for three (3) years sufficient to furnish the municipality and its designated tax collection agents with the necessary particulars of sales of accommodation, amount of levy collected and remittance.

8.2 The Treasurer or designate and the municipality's designated tax collection agent may inspect and audit all books, documents, transactions and accounts of the transient accommodation service provider as required for the purposes of administering and enforcing this By-Law.

8.3 No person shall obstruct or hinder or attempt to obstruct or hinder the Treasurer or designate and the designated tax collection agent in the exercise of their power or the performance of a duty under this By-Law.

8.4 The Treasurer or designate and the designated tax collection agent shall have the right to enter lands and premises to conduct an inspection to determine whether the provisions of this By-Law and any order(s) issued hereunder are being complied with in accordance with the provisions of Sections 435 and 436 of the Municipal Act, 2001.

9. OFFENCES AND PENALTIES

9.1 Every person who contravenes any provision of this by-law is guilty of an offence as provided for in subsection 429(1) of the Municipal Act, 2001, and all such offences are designated as continuing offences as provided for in subsection 429(2)(a) of the Municipal Act, 2001 and the Provincial Offences Act, R.S.O. 1990, c P. 33.

(a) A person who is convicted of an offence under this by-law is liable to a minimum fine of \$500.00 and a maximum fine of \$100,000 as provided for in subsection 429(3)2 of the Municipal Act, 2001.

(b) 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 of the daily fines for the offence is not limited to \$100,000, as provided for in subsection 429(3)2 of the Municipal Act, 2001.

9.2 Every corporation that contravenes any provision of this by-law is guilty of an offence as provided for in subsection 429(1) of the Municipal Act, 2001, and all such offences are designated as continuing offences as provided for in subsection 429(2)(a) of the Municipal Act, 2001 and the Provincial Offences Act, R.S.O. 1990, c P. 33.

(a) A corporation convicted of an offence under this by-law is liable to a minimum fine of \$500.00 and a maximum fine of \$100,000 as provided for in subsection 429(3)2 of the Municipal Act, 2001.

(b) A corporation 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 of the daily fines for the offence is not limited to \$100,000, as provided for in subsection 429(3)2 of the Municipal Act, 2001.

9.3 Where a corporation is convicted of an offence under this Act,

(a) each director of the corporation; and

(b) each officer, employee or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence.

is guilty of an offence unless he or she satisfies the court that he or she took all reasonable care to prevent the commission of the offence.

9.4 When a person or corporation has been convicted of an offence under this by-law, the Ontario Court of Justice or any court of competent jurisdiction thereafter may, in addition to any penalty imposed on the person convicted, issue an order:

(a) prohibiting the continuation or repetition of the offence by the person convicted; and

i. (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

10 COLLECTION

10.1 All MAT and related penalties and interest that are past due shall be deemed to be in arrears and a debt owing to the municipality. The Treasurer is authorized to take any one or more steps available to the municipality to collect any such amount including without limitation:

(a) adding the amount to the tax roll for any real property in the municipality registered in the name of the Provider to be collected in like manner as property taxes and constituting a lien upon the lands;

(b) bringing an action in the name of the municipality for the recovery of the amount in the court of appropriate jurisdiction;

(c) referring the collection of the amount to a collection agency; and

(d) exercising any other remedy available pursuant to the Municipal Act, 2001, or otherwise available at law.

10.2 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.

11 CONFLICTS

11.1 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 Municipality that all remaining sections and portions of this By-law continue in force and effect.

COMMENCEMENT

1. This By-law shall come into effect on January 1, 2022.
2. 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 Municipality that all remaining sections and portions of this By-law continue in force and effect.

Read a first and second time this 27th day of September, 2021.

Read a third time, finally passed, signed, and sealed this 27th day of September, 2021.

Mayor – Milt McIver

Clerk– Cathy Addison