

## THE MUNICIPALITY OF LAMBTON SHORES

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**Report CAO 09-2019**

**Council Meeting Date: December 3, 2019**

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**TO:** Mayor Weber and Members of Council

**FROM:** Kevin Williams, CAO

**RE:** Municipal Accommodation Tax Update

**RECOMMENDATION:**

**THAT** Report CAO 09-2019 regarding the “Municipal Accommodation Tax Update” be received; and

**THAT** a 4% Municipal Accommodation Tax (MAT) for all short-term rental accommodations within the Municipality of Lambton Shores be implemented effective April 1, 2020; and

**THAT** 50% of the MAT revenue be remitted to Tourism Sarnia-Lambton as the eligible tourism not-for-profit; and

**THAT** staff be directed to prepare a by-law for MAT implementation; and

**THAT** staff be directed to create a Municipal Accommodation Tax Reserve Fund to segregate the Municipality’s portion of the Municipal Accommodation Tax revenue; and

**THAT** staff be authorized to enter into an agreement with the Ontario Restaurant Hotel & Motel Association (ORHMA) to collect the revenues on behalf of the Municipality; and

**THAT** staff be authorized to enter into other agreements required to administer and govern work to be funded from the MAT, including an agreement with Tourism Sarnia-Lambton for its share of revenues from MAT; and

**THAT** staff be directed to report back to Council at the end of 2020 on the progress and effectiveness of the new Municipal Accommodation Tax.

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### **SUMMARY**

This report is to supplement information provided to Council by Mark Perrin of Tourism Sarnia Lambton related to implementation of a Municipal Accommodation Tax (MAT) within Lambton County and more specifically within Lambton Shores. This report will outline the opportunities and challenges associated with implementing MAT in Lambton Shores and recommends the implementation of a 4% Municipal Accommodation Tax effective April 1, 2020.

## **BACKGROUND**

In 2017, the Province of Ontario passed Bill 127, Stronger, Healthier, Ontario Act 2017 that amended the Municipal Act, 2006. Bill 127 provides municipalities with the legislative authority to levy a tax on transient accommodations of 30 days or less. Ontario Regulation 435/17 allows each Ontario municipality that chooses to implement a transient accommodation tax to determine the types of short-term accommodation the levy would apply to, tax rate to be applied and accountability agreements necessary to ensure the use of tax revenue proceeds for the promotion of tourism. Accommodation rentals that are not short-term in nature (e.g. 30 consecutive nights or longer), are not eligible for application of the MAT.

Under the regulation, all single-tier and lower-tier municipalities now have the authority to put a municipal accommodation tax (MAT) in place. The MAT is not a requirement; rather, municipalities have the flexibility to decide if they want to put the tax in place.

The MAT would apply to hotels, motels, bed & breakfasts, and participants operating rental accommodations for room nights of less than 30 days. It is important to note that MAT can also be applied to other types of accommodations such as those promoted through AirBNB and VRBO website platforms. This includes rental “cottages”. MAT does not apply to campgrounds, restaurants, event venues or any other service associated with tourism and accommodation.

It is important to note that this is not a tax on the local service provider, but rather is a tax paid by the user of the accommodation and collected by the service provider much the same as sales tax. In a municipality such as Lambton Shores, this “user pay” charge could be used to offset the municipal costs of servicing the needs of visitors and the seasonal demands placed on bylaw, parking, beach, signage and garbage services without impacting the tax rate of residents.

The regulation requires that 50% of the revenue collected must be remitted annually to one or more eligible not for profit tourism entities whose mandate includes the promotion of tourism in Ontario or in a municipality, including product development. Tourism Sarnia-Lambton (TSL) is the designated not-for-profit tourism organization for the County of Lambton.

In Lambton County, Point Edward and Sarnia have both agreed to implement MAT, and 50% of the revenue from MAT will be remitted to Tourism Sarnia-Lambton. These communities make up a combined 78% of hotel/motel rooms in Lambton County. Lambton Shores accounts for 18%, and Petrolia, St. Clair and Plympton-Wyoming make up the 4% balance. When considering online private rentals, Point Edward and Sarnia make up a combined 34% of accommodations compared to 51% in Lambton Shores and the 15% balance from the rest of the County.

At its October 22, 2019 meeting, Council passed the following motion:

*19-1022-03*

*THAT the presentation from Tourism Sarnia-Lambton regarding a Municipal Accommodation Tax be received; and*

*THAT staff prepare a report outlining the opportunities and challenges of implementing a Municipal Accommodation Tax within Lambton Shores.*

A copy of Tourism Sarnia-Lambton's report from the October 22, 2019 meeting is attached for reference. (Attachment 1)

Implementation of MAT requires an enabling bylaw. The by-law for Point Edward MAT implementation is included for reference and closely follows the template established for other municipal jurisdictions. This format can also be applied in Lambton Shores. (Attachment 2)

The following sections present an outline of the opportunities and challenges of implementing MAT in Lambton Shores.

### ***Opportunities if MAT is implemented***

Tourism Sarnia-Lambton estimates that annual MAT revenues in Lambton Shores could be in the range of \$343,000. This could result in approximately \$171,500 per annum for Lambton Shores, with the other \$171,500 going toward the marketing, product development and promotional efforts of TSL.

There are no restrictions on the use of MAT funds for the municipality. However, in the spirit of implementing MAT, there are a number of tourism-related projects that could be accomplished with this revenue. Council has identified a number of tourism-related initiatives through its Strategic Priorities 2019-2022 that could be funded through the revenues realized through MAT. These projects include:

#### Infrastructure Improvements:

1. The Municipality will develop a strategy to expand parking capacity in Grand Bend.
2. The Municipality will consider opportunities for development of the Municipal Drive/Lions Park area of Grand Bend in order to improve operational access, public parking and recreational opportunities.
3. The Municipality will continue to invest in the development of its waterfront assets including consideration of improvements to the harbours and dockage.

#### Governance and Organizational Management:

1. The Municipality will maintain, and explore ways to expand the relationship with the County and its agencies, particularly in areas of marketing and economic development.
2. The Municipality will continue to promote the Lambton Shores brand in all physical, print and web-based forms.

As already identified, Council could allocate (a portion of) MAT revenue to ongoing expenses associated with providing and enhancing maintenance activities directly impacted by seasonal visitor use. Council could also allocate a portion of the MAT

revenue to provide financial support to events that attract visitors to the area, and especially those that seek to encourage growth during the shoulder seasons in the spring and fall. The list below includes a summary of some of the existing events that could be supported:

Grand Bend Beachfest, Canada Day activities, Silver Stick hockey tournaments, Sunset Summer Sounds and Wednesday Familiar Favourites concert series, Forest Fall Fair, Western Ontario Steam Threshers, Forest Legion Car Show, Poinsettia Tour and annual craft show, and the Forest Film Festival

This list is not exhaustive, but provides an idea of the many events in Lambton Shores that could be enhanced with additional funding. Funds could also be used to develop new events that could increase shoulder season tourism.

Council could consider investing MAT revenue in development of trails and other tourism-related infrastructure. The Lambton Shores “Feasibility Study and Preliminary Design for Port Franks and Ipperwash Trail Construction” identifies over \$2 million in trail development throughout these two communities. There are also recommendations throughout the Recreation and Leisure Services Master Plan (2018) that would be considered tourism-related expenditures such as consideration of public art installations and redesign of green spaces (parks).

Projects that can be funded through MAT create an opportunity to increase the profile of Lambton Shores and to promote and showcase the municipality. By creating a reserve fund to segregate the revenue from MAT, residents can benefit from increased services or improved infrastructure without having to pay for it through property taxes.

Collection of the MAT at this time would have no requirement for additional administration by the municipality. Council would need to pass a by-law enacting MAT for Lambton Shores. Once the by-law is in place, it is sent to AirBNB and VRBO. These organizations will collect MAT (4%) for the municipality, and remit directly to the municipality. The municipality would then send 50% of the remittance to TSL.

Additionally, there are a number of municipalities that have entered into agreements with the Ontario Restaurant Hotel & Motel Association (ORHMA) to collect MAT on their behalf. A separate agreement is required for ORHMA to collect the tax. ORHMA will collect from eligible accommodations including hotels, motels and bed and breakfasts. ORHMA will remit back to both the municipality and the tourism association. Registration with ORHMA is not required in order for this organization to collect the tax. It is noted that the by-law will be written to apply to all short term accommodation providers, whether they are recognized by ORHMA, or any specific online platform.

Staff have discussed the implementation of MAT with staff at Tourism Sarnia-Lambton (TSL). As the eligible tourism organization to receive the MAT revenue, TSL has indicated the following possible uses of MAT funds that would be of specific benefit to Lambton Shores:

- Promote an “extended” tourist season (spring and fall)
- Work to attract more tourism businesses to the municipality

- Further the existing marketing reach with new media platforms and materials
- Broaden awareness of the tourist demographic towards seasonal influence
- Support existing tourism businesses with ongoing development, training, workshops and partnership opportunities
- Aid in growing existing events, and securing / hosting new events within Lambton Shores

### ***Challenges with implementing MAT***

Council has received public correspondence with respect to the MAT. Should Council choose to move ahead with implementation of MAT, engagement of accommodation providers to obtain input on how MAT revenues can be directed for mutual benefit could be undertaken.

As Council is aware, there is a mix of accommodations in Lambton Shores. Although the by-law can be written to apply to all short term rental accommodations, at this time the collection mechanism is in place for only hotels, motels, bed and breakfasts, AirBNB and VRBO rentals. Property management (cottage rental) businesses operating outside of online platforms can collect MAT for their client properties. Implementation across this spectrum of short term accommodation providers will serve to “level the playing field” within the municipality.

As identified in the Grand Bend Chamber of Commerce correspondence to TSL dated November 20, 2019 (Attachment 3) there are a number of issues associated with short term rentals (cottages) in residential areas and Council may wish to consider developing a registry or licensing program for short term accommodations. Not only would this enable the municipality to identify and apply the MAT to these accommodations, it could be used as a mechanism to address the many associated concerns outlined in the Chamber’s letter. Staff suggest that this is a matter separate from the decision on whether or not to implement MAT and staff can develop a subsequent report to provide additional information to Council on what the licensing program could look like, how it would be implemented and regulated.

It should also be acknowledged that Lambton Shores shares its northern border with South Huron. There is no indication that South Huron and/or Huron County are in a position to implement MAT at this time. It could be argued that the additional 4% MAT applied to a Grand Bend accommodation would disadvantage the provider over an accommodation provider north of town; but, it could also be argued that the accommodation provider north of grand bend is in turn disadvantaged by not being able to realize any of the marketing and promotional benefits that will be enabled through the substantial Lambton County MAT revenues realized by TSL.

### **ALTERNATIVES TO CONSIDER**

Council may choose to not implement MAT, or choose a different date for implementation. Although this report recommends the establishment of a Municipal Accommodation Tax Reserve Fund until such time as funding becomes predictable and

a policy for its use is established, Council could choose to commit some amount of the anticipated revenue for a specific use at this time.

As noted throughout this report, implementation of MAT provides a number of opportunities for Lambton Shores to benefit from increased marketing and promotional activity as well as being in a position to invest in its tourism infrastructure, without requiring residents to pay for these increased benefits through property taxes.

### **RECOMMENDED ACTIONS**

The recommendation of this report is to follow the lead of Point Edward and Sarnia in supporting the TSL request that Lambton Shores implement a 4% Municipal Accommodation Tax that would apply to all short-term accommodations throughout the municipality. The recommendation is to implement MAT for April 1, 2020.

### **FINANCIAL IMPACT**

Based on the assumptions presented by Mark Perrin of TSL, implementation of the Municipal Accommodation Tax (MAT) could provide approximately \$343,000 in revenue, 50% of which would be remitted to Tourism Sarnia-Lambton, leaving Lambton Shores with an estimated \$171,500 in revenue per annum. This estimate will be validated through the first year of implementation. Notwithstanding the amount of revenue generated, staff recommends that the Lambton Shores portion of MAT receipts be carried in a Municipal accommodation Tax Reserve Fund until such time as Council can consider best use.

### **CONSULTATION**

Mark Perrin, Tourism Sarnia-Lambton  
Ashley Farr, Manager of Community Development

Attached:

1. Tourism Sarnia-Lambton – Lambton Shores MAT Report  
Copy of Lambton Shores MAT Calculation  
Municipal Act – Ontario Regulation 435-17 – Transient Accommodation Tax
2. 43 of 2019 – The Corporation of the Village of Point Edward MAT Bylaws
3. Letter to TSL re: Short Term Licensing and MAT



## **Tourism Sarnia-Lambton Inc.**

### **COUNCIL REPORT**

October 22, 2019

**TO: Members of Lambton Shores Council**

**AUTHOR: Mark Perrin, Executive Director, Tourism Sarnia Lambton**

**RE: Municipal Transient Accommodation Tax**

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#### **BACKGROUND**

In 2017, the Province of Ontario passed Bill 127, Stronger, Healthier, Ontario Act 2017 that among other things amended the Municipal Act, 2006 to provide municipalities with the legislative authority to levy a tax on transient accommodations of 30 days or less. Ontario Regulation 435/17

(<https://www.ontario.ca/laws/regulation/170435>) allows each Ontario municipality that chooses to implement a transient accommodation tax to determine the types of short-term accommodation the levy would apply to, tax rate to be applied and accountability agreements necessary to use the tax revenue proceeds for the promotion of tourism. Purchases that consist of accommodation that is not short-term in nature (i.e. 30 consecutive nights or longer) cannot be taxed.

Under the regulation, all single-tier and lower-tier municipalities have the authority to put a municipal accommodation tax in place. A transient accommodation tax is not a requirement for local municipalities—rather; municipalities have the flexibility to decide if they want to put the tax in place.

Upper-tier municipalities (regional or county governments) do not have the authority to implement the tax. Accommodations at universities, colleges and affiliated post-secondary institutions are exempt. To be eligible to receive municipal accommodation tax revenue, the recipient entity must be a not-for-profit Destination Marketing Organization (DMO), whose exclusive mandate is tourism promotion in the municipality. Revenue shared with an eligible tourism entity must be used for the exclusive purpose of marketing and promoting tourism.

Tourism promotion includes the development of tourism products. The regulation also requires a municipality and tourism entity to enter into an agreement that deals with reasonable financial accountability matters to ensure that amounts paid to the entity are used for the exclusive purpose of promoting tourism, but not that they be used in a particular manner.

### **Transient Accommodation**

Municipal Accommodation Tax as per regulation would apply to all accommodators doing business within the boundaries of Lambton Shores. The tax would apply to accommodations provided for a continuous period of 30 days or less in a hotel, motel, lodge, inn, bed and breakfast, dwelling unit or any place an accommodation is provided.

Online private short term accommodation platforms such as Airbnb, VRBO, Home Away etc would also be subject to the MAT with each marketing platform remitting on behalf of their accommodation providers on a quarterly basis.

### **Exemptions**

Campsites and campgrounds for RVs would be exempt, as are university and college residences. As per the Regulation, universities and college residences are exempt from the MAT at all times even during non-school use, even in the summer when they rent out the dorm rooms to other groups and travelers. Some municipalities in Ontario with university and college accommodations are asking the institutions to voluntarily remit when rooms are booked by transient travelers during non-school times. Revenues generated from other hotel services such as meeting room rentals, food and beverage and room service, would be excluded from the MAT. Legislation states that the accommodations at a university or a college of applied arts and technology or post-secondary institution are exempt. Other exemptions include other school board accommodations, hospitals, long-term care homes and hospices.

### **FINANCIAL IMPLICATIONS**

Depending on Council's decision on whether to proceed with the approval of the Municipal Accommodation Tax and the rate it sets, a Municipal Accommodation Tax is estimated to potentially generate \$343,000 at 4% MAT annually. The revenues would be shared between the municipality and Tourism Sarnia Lambton for tourism marketing, promotion, events and product development.

The revenue could be a catalyst to attract business travelers for more meetings and conventions and participant visitors for additional sports and cultural events. For example, monies from the fund will provide the opportunity to host regional, provincial, national and international events.

### **DISCUSSION**

On December 1, 2017, the Transient Accommodation Regulation 435/17 came into force and provided the necessary authority for municipalities across Ontario to implement a Municipal Accommodation Tax (MAT).

Subject to Council's approval to proceed and the rate it sets, a Municipal Accommodation Tax is estimated to potentially generate \$343,000.00 at the collected 4% annually, based on a seasonal occupancy rate, \$125 per night average rate, with 260 hotel / motel rooms and 235 AirBNB, VRBO online listings in Lambton Shores.

To date the following Cities, Municipalities and Townships have implemented MAT, and are using the funding created from MAT to advertise, promote and grow tourism infrastructure and overall tourism economic revenue and spending within their regions:

City of Ottawa

City of Sault Ste.

City of London

City of Windsor



City of Kingston  
City of Hamilton  
City of Stratford  
City of Barrie  
Waterloo Regional Municipalities  
City of Waterloo  
Niagara Falls  
City of Toronto  
City of Brockville  
City of Cornwall  
City of Huntsville  
City of Markham  
City of Mississauga  
City of North Bay  
City of Oakville  
City of St Catharines  
City of Thunder Bay  
City of Timmins  
City of Cambridge  
City of Kitchener  
City of Peterborough  
City of Dryden  
Township of North Dumbfries  
Township of Wellesley  
Township of Wilmot  
Township of Woolwich  
Township of Asphodel-Norwood  
Township of Cavan Monaghan  
Township of Douro-Dummer  
Township of Havelock-Belmont-Methuen  
Township of North Kawartha  
Township of Otonabee-South Monaghan  
Township of Selwyn  
Municipalities of Trent Lakes

### **Revenue Sharing**

The Regulation prescribes how revenues are to be shared between the respective municipalities and designated eligible not-for profit tourism organization(s). Tourism Sarnia Lambton is the designated not-for profit tourism organization for the County of Lambton.

Tourism Sarnia Lambton is proposing a 50/50 split of revenues collect after collection fees.

“Eligible tourism entity” is defined broadly in the Regulation as a non-profit entity whose mandate includes the promotion of tourism in Ontario or in a municipality. The Guiding Document identified that, subject to Council’s approval to proceed, this new revenue tool could generate significant funding annually for tourism support that could include:

- Sport and corporate event bid support and hosting
- Financial capital investments in large scale community tourism infrastructure

- Cultural event development, under writing, execution and ongoing support
- Financial support to incubate new marketing, product development and destination awareness branding.

Lambton Shores use of its share of the revenues, consisting of the other 50 per cent of MAT to be generated, for Council-approved plans that would contribute towards Tourism development initiatives.

### **Stakeholder Engagement**

Tourism Sarnia Lambton and The Ontario Restaurant Hotel Motel and Association (ORHMA) has met with the Sarnia Lambton Hotels & Motels Association. Together both organizations will continue to meet and speak with accommodation stakeholders required to collect the tax to build awareness and seek input. This is to ensure the local accommodation industry is prepared for the administration, process and timing of the implementation.

It is prudent to positively engage the accommodation sector mandated to collect the Municipal Accommodation Tax and provide with the details of how the accommodation tax will be administered and how it will be spent for tourism marketing, promotion, events and tourism product development.

The result expected is increased visitation and visitor spending within Lambton Shores and Lambton County.

### **Tax Rate**

Under the Regulation, the municipality has the authority to set the tax rate and effective date. Upon review in looking at all Ontario municipalities who are similar to our demographics indicated already have or are they expect to implement a 4% MAT rate.

### **TSL BYLAW RECOMMENDATIONS** (as approved by TSL Board of Directors)

- 1) The MAT revenue has the potential to generate significant funding for Tourism in Sarnia Lambton, as we recommend support that includes: Sports, Conventions, Events, Leisure Travel, Culture and Entertainment. Specifically items such as:
  - Sport and corporate event-bid support and hosting;
  - Financial capital investments in large-scale community tourism infrastructure;
  - Cultural event development, under-writing, execution and ongoing support;
  - Financial support to incubate new marketing, product development and destination awareness branding.
- 2) TSL recommends MAT be set at 4% as all other Municipalities have done.
- 3) TSL recommends an equal split (50% / 50%) of the MAT between the municipalities and Tourism Sarnia Lambton.
- 4) The municipalities use of its share of revenues, consisting of 50% of MAT to be generated, for Council approved plans that contribute towards tourism development initiatives. TSL will work with the municipalities to present recommendations on tourism development initiatives.

- 5) TSL recommends ORHMA to be the collector for MAT – ORHMA has submitted a proposal which outlines collection processes and costs. TSL believes this will best include stakeholders in the process, and is the most cost-effective measure available.
- 6) TSL recommends structuring a MAT Committee. Committee would work with TSL on spending initiatives, reviewing proposals, and approving or dismissing the proposed items.
- 7) TSL recommends that all vendors of accommodation be required to participate and remit including, but not limited to: Hotels, Motels, Airbnb, VRBO, Bed and Breakfasts and Cottage Rentals.
- 8) TSL recommends that all vendors of accommodations be allowed to deduct 3% from the MAT, prior to remittance, to cover credit card processing fees.
- 9) TSL recommends implementation of MAT for select municipalities beginning January 2020, and additional municipalities throughout 2020.
- 10) When MAT is adopted, TSL recommends our Strategic Plan be updated to include MAT spending priorities and initiatives.

### **SUMMARY**

The purpose of this report is to provide information on the legislative framework for the Municipal Accommodation Tax and seek approval to proceed with engagement with the transient accommodation sector and the broader business community on the possible implementation of a Municipal Accommodation Tax in the Municipality of Lambton Shores.

The Municipal Accommodation Tax (MAT) is a revenue tool that Ontario municipalities can use to further promote tourism as an economic driver within their city boundaries and the province as a whole.

The Ontario Restaurant Hotel Motel and Association (ORHMA) has created a proposal for ORHMA to be the possible collector of the MAT.

### **CONCLUSION**

It is concluded that based on Tourism Sarnia Lambton's report and proposal, the Municipality of Lambton Shores Council discuss the implementation of MAT, with the goal of our Tourism Industry being able to compete fairly with the same funding program levels of surrounding Ontario and USA cities and destinations.

### **REFERENCE MATERIAL ATTACHED**

MUNICIPAL ACT- ONTARIO REGULATION 435-17 - TRANSIENT ACCOMMODATION TAX

## Lambton Shores Hotels/Motels

| Region         | Hotel                       | Rooms |
|----------------|-----------------------------|-------|
| Lambton Shores | Aux Sables Inn              | 13    |
| Lambton Shores | Bluewater Motel             | 22    |
| Lambton Shores | Bonnie Donne Manor          | 15    |
| Lambton Shores | Cocos Hotel                 | 16    |
| Lambton Shores | Colonial Hotel              | 21    |
| Lambton Shores | Forest Golf & Country Hotel | 75    |
| Lambton Shores | Ipperwash Beach Motel       | 4     |
| Lambton Shores | Patio Motel                 | 13    |
| Lambton Shores | Pine Dale Motor Inn         | 41    |
| Lambton Shores | Pinewood Motel              | 6     |
| Lambton Shores | Rock Glen Motel             | 9     |
| Lambton Shores | Village Inn Motel & Diner   | 10    |
| Lambton Shores | Whispering Pines Motel      | 15    |
| <b>Total</b>   |                             | 260   |

## Average \$125 per Night

|              | Season          |                 | Occup. Rate     |                | MAT            |              |
|--------------|-----------------|-----------------|-----------------|----------------|----------------|--------------|
|              |                 | 365 Days        |                 | 50%            |                | 4%           |
| 260 Rooms    | \$125 per Night | \$11,862,500.00 |                 | \$5,931,250.00 |                | \$237,250.00 |
| 235 AirBNB*  | \$125 per Night | 180 Days        | \$5,287,500.00  |                | \$2,643,750.00 |              |
|              |                 |                 |                 |                |                | \$105,750.00 |
| <b>Total</b> |                 |                 | \$17,150,000.00 |                | \$8,575,000.00 | \$343,000.00 |

\* Listed AirBNB, VRBO, HomeAway

Lambton Shores 50 / 50 \$171,500.00  
Tourism Sarnia Lambton

## 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).

Français

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# THE CORPORATION OF THE VILLAGE OF POINT EDWARD

## BY LAW NUMBER 43 OF 2019

Being a By-law to Establish a Municipal Accommodation Tax (MAT)

### WHEREAS

- a) Section 400.1 of the **Municipal Act, 2001** provides that a municipality may pass a by-law imposing a Transient Accommodation Tax;
- b) Ontario Regulation 435/17 provides regulations in respect of the imposition of a Transient Accommodation Tax;
- c) Section 23.2 of the **Municipal Act, 2001** permits a municipality to delegate certain legislative and quasi-judicial powers;
- d) At its meeting on June 25, 2019, Council approved a MAT report from Tourism Sarnia Lambton and motioned the establishment of the Transient Accommodation Tax to be imposed on the purchase of accommodations of short duration within the Village of Point Edward, which will generate revenue to be shared with the designated non-profit entity Tourism Sarnia Lambton to promote local tourism;

**NOW THEREFORE**, the Council of the Corporation of the Village of Point Edward hereby enacts as follows:

### Definitions

- 1. In this By-law:
  - a) "Ancillary Charges" means charges related to the purchase of Transient Accommodation including for food, room service, mini bar products, internet, movie rentals, and phone charges.
  - b) "By-law" means this by-law including, as applicable, its schedules and any amending by-laws.
  - c) "Village" means The Corporation of the Village of Point Edward.
  - d) "Council" means the Council of the Village of Point Edward.
  - e) "Municipal Accommodation Tax" or "MAT" means the tax imposed under this By-law.
  - f) "Provider" means each owner of Transient Accommodation and includes a person who receives payment in consideration for Transient Accommodation and includes agents, hosts or others who sell, offer for sale or otherwise provide Transient Accommodation.
  - g) "Purchaser" means the person who makes payment in consideration for Transient Accommodation.
  - h) "Tax Collection Agent" means the person or persons from time to time appointed by Council or by the Village's Chief Administrative Officer to collect from Providers the Municipal Accommodation Tax.
  - i) "Transient Accommodation" means accommodation for one or more individuals for a continuous period of less than thirty (30) nights in each place or part or unit of a place in which such accommodation is provided including a hotel, motel, inn, resort, hostel and/or a web based accommodation booking service.



### Application of MAT

2. A Purchaser must pay, at the time of purchase, a Municipal Accommodation Tax in the amount of four percent (4%) of the purchase price for the Transient Accommodation.
3. The Municipal Accommodation Tax does not apply to Ancillary Charges that are itemized separately on the Purchaser's receipt.
4. Where the Provider of Transient Accommodation fails to separately itemize Ancillary Charges, the Municipal Accommodation Tax will apply to the total amount of the purchase price.
5. Transient Accommodation advertised on all internet and mobile platforms known as Airbnb, Vacation Rentals by Owner (VRBO), HomeAway, Vacation Rentals and new or existing competitors within the Transient Accommodation booking business.

### Exemptions

6. The Municipal Accommodation Tax 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) The purchase of Transient Accommodation at an institution described in above paragraph c);
  - e) 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**;
  - f) Every long-term care home as defined in subsection 2(1) of the **Long-Term Care Homes Act, 2007**;
  - g) Every treatment center that receives provincial aid under the **Ministry of Community and Social Services Act**;
  - h) Every house of refuge, or lodging lawfully used for the reformation of offenders;
  - i) Every charitable, non-profit philanthropic corporation organized as shelters for the relief of the poor or for emergency;
  - j) Every hotel or motel room used by the Village or its agents for shelter accommodation purposes;
  - k) Every tent or trailer site lawfully supplied by a campground, tourist camp, or trailer park;
  - l) Every accommodation lawfully supplied by employers to their employees in premises operated by the employer;
  - m) Every hospitality room in an establishment that does not contain a bed and is used exclusively for displaying merchandise, holding meetings, holding hearings, or entertaining;

### **Tax Collected by Provider**

7. A Provider must provide to a Purchaser a written receipt or invoice on which the Provider specifies the amount of the Municipal Accommodation Tax as a separate item and identifies the amount as "Municipal Accommodation Tax".
8. A Provider must collect the Municipal Accommodation Tax from the Purchaser at the time of purchase of Transient Accommodation.
9. A Provider holds in trust for the Village the Municipal Accommodation Tax collected by the Provider.
10. A Provider must forthwith provide to the Village all information that the Village's Treasurer may from time to time request in relation to the administration or enforcement of this By-law.
11. A Provider must, by the fifteenth (15th) day following the end of each calendar month, remit to the Tax Collection Agent all Municipal Accommodation Tax collected by the Provider as at the end of the said calendar month. Each such remittance must be made in the manner prescribed by the Tax Collection Agent and must be accompanied by a statement in a form prescribed by the Tax Collection Agent that includes the following information
  - a) Total number of nights for which each unit of Transient Accommodation was provided;
  - b) Total Municipal Accommodation Tax collected;
  - c) Total Municipal Accommodation Tax collected for each unit of Transient Accommodation;
  - d) For each unit of Transient Accommodation, particulars of each exemption from the payment of Municipal Accommodation Tax including the paragraph(s) under section 5 and the proof upon which the Provider relied in applying the exemption.

### **Refunds**

12. Where, within twenty-four (24) hours of paying an amount on account of Municipal Accommodation Tax, a Purchaser submits to the Tax Collection Agent or to the Village's Treasurer a written complaint that the amount or part was not payable pursuant to this By-law ("Disputed MAT"), the Village's Treasurer or the Tax Collection Agent may make a determination as to whether the Disputed MAT was correctly or wrongly paid. If the determination is that the Disputed MAT was wrongly paid, the Village's Treasurer or the Tax Collection Agent may direct the Provider to refund or credit to the Purchaser an amount equal to the Disputed MAT. The Provider must forthwith comply with the direction.
13. Where, within twenty-four (24) hours of a remittance of Municipal Accommodation Tax, a Provider submits to the Tax Collection Agent or to the Village's Treasurer a written complaint that the amount or part of the remittance was in error ("Disputed Remittance"), the Village's Treasurer or the Tax Collection Agent may make a determination as to whether the Disputed Remittance was or was not made in error. If the determination is that the Disputed Remittance was made in error, the Village's Treasurer or the Tax Collection Agent may cause to be refunded or credited to the Provider an amount equal to the Disputed Remittance.
14. The determinations and, as applicable, direction of the Treasurer or the Tax Collection Agent pursuant to sections 11 and 12 are final and not subject to review including review by any Court.

### **Tax Collection Agent**

15. The Village's Chief Administrative Officer may designate Tax Collection Agents for the Village and enter into agreements with Tax Collection Agents in forms acceptable to the Village.
16. The Tax Collection Agent will collect and administer the Municipal Accommodation Tax as an agent for the Village in accordance with the agreement between the Village and the Tax Collection Agent and this By-law.

### **Interest, Fees and Liens**

17. Penalties and interest at a monthly rate of interest applicable to overdue property taxes apply to any outstanding Municipal Accommodation Tax and are payable monthly by the Providers of Transient Accommodation on the amount of any Municipal Accommodation Tax payable or remittable from the business day following the date on which the Municipal Accommodation Tax was payable or its remittance was due up to and including the date on which such Municipal Accommodation Tax is paid or remitted in full.
18. All Municipal Accommodation Tax penalties and interest that are past due may be deemed by the Village Treasurer to be in arrears, and may, at the Treasurer's discretion, be transferred to the Village tax collector's roll for any real property in the Village to be collected in the same manner as municipal property taxes and constitutes a lien upon the said real property.

### **Audit and Inspections**

19. Every Provider must keep, for a period of no less than three (3) years, books of account, records, and documents sufficient to furnish the Village or its Tax Collection Agent.
20. The Village's Treasurer or the Tax Collection Agent may inspect and audit all books, documents, transactions, and accounts of Providers and require Providers to produce copies of any document or records required for the purpose of administering and enforcing this By-law.
21. Every Provider must furnish upon the demand of the Village Treasurer or the Tax Collection Agent for inspection, copies of any books, documents, transactions, accounts or records required for the purposes of the administration and enforcement of this By-law.

### **Offences and Penalties**

22. Every person who contravenes any provision of this By-law is guilty of an offence.
23. Every director or officer of a corporation who knowingly concurs in the contravention by the corporation of any provision of this By-law is guilty of an offence.
24. Every person convicted of an offence under this By-law is liable to a minimum fine of \$500 and a maximum fine of \$100,000 for each day on which offence occurs or continues.

### **Effective Date**

25. This By-law comes into force and effect on January 1, 2020.

This By-Law is read a FIRST, SECOND and THIRD TIME and FINALLY PASSED this 22<sup>nd</sup> day of October, 2019.

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**Mayor**

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**Clerk**

November 20, 2019

Tourism Sarnia Lambton  
Board of Directors & Management  
1455 Venetian Blvd.  
Point Edward ON N7T 7W7

Dear Directors:

Position statements expressed in this letter were sent to Mayor and Council of Lambton Shores April 24, 2019.

The Grand Bend & Area Chamber of Commerce has been involved in tourism promotion of Lambton Shores since 1957. Supported by its members, the Chamber is governed by a board of volunteer directors who are owners or managers of local businesses. Of its 175 members, 31 are accommodation providers, these include hotels, motels, bed and breakfasts, campgrounds and cottages. Of concern for the last several months, with discussions at the board level, at member events and in one-to-one director-member conversations, is the coming implementation of the Municipal Accommodation Tax (MAT) and the Chamber wishes to take this opportunity to communicate those concerns to Tourism Sarnia Lambton's Board of Directors.

The Chamber agrees in principle with the goal of the MAT tax as a method of generating funds in support of local tourism promotion and development. We are a rural area with relatively few taxpayers and understand the Municipality's need to be frugal in its tax levy and expenditure. We are also in support of anything that can be done to support the vibrancy and growth of local communities and their businesses and to provide residents with employment opportunities. We anticipate great marketing potential could be achieved with a well-thought out and agreed upon tourism promotion plan for this area paid for by MAT tax revenue.

Of great concern to our accommodation members is how the MAT tax will be implemented. Without careful consideration and stakeholder consultation, MAT tax implementation has the potential for a negative effect on the sustainability of local hotels, motels and bed and breakfast operators. These operators manage levels of taxes and government standards and requirements in managing their businesses. These standards and requirements are there for the protection and safety of all, including the hotel guest, but do add overhead costs to the room rate. Our accommodation members recognize the potential good that could come from additional tourism funding, but want to operate in a fair and level playing field. They believe the MAT tax must apply to cottages, cabins and other short term accommodation types, which can be easily applied by AirBnb, HomeAway and VRBO.

However, before the MAT tax is applied to what constitutes the majority of short term rental units in Lambton Shores - specifically cottages, cabins, vacation apartments and home-sharing units, we recommend the introduction of a basic licensing program for these units. For several years, local residents have complained about

short term rental units hosting event-like parties, parking issues, noise, property damage, and large groups of people stuffed into small cottages designed for single families. We believe these resident complaints and the concerns of hoteliers wishing a level playing field can be addressed by a licensing program.

Licensing for cottages, cabins, vacation apartments and home-sharing situations has been successfully accomplished in other areas of Ontario. Our research has shown these programs address capacity limits, property standards and garbage, noise and nuisance issues, fire safety, insurance, the building code and contain a requirement for the municipality to have up-to-date contact information for the owner or agency or person managing the short term rental property, along with a requirement for the licensee to know to whom they are renting, by having a proper registry of guests names (such as a cottage rental agreement).

We do not believe a licensing program is onerous to responsible cottage owners, because our members who rent out their cottages already adhere to the Chamber's "Accommodation Code of Ethics".

The positive outcomes of a short term rental licensing program and application of the MAT tax to cottages, cabins, vacation apartments and home-sharing situations are:

- residents concerns are addressed
- reduction in call-outs for bylaw officers due to public nuisance, noise and parking complaints caused by short term rental situations
- increased professionalism in the short term rental market
- a list of municipally registered short term rental units
- implementation of the MAT tax by AirBnb, HomeAway and VRBO
- creation of a level playing field for all accommodation providers
- contribution to MAT tax revenue by all accommodation providers
- an equal sharing in the costs and benefits of a MAT tax tourism promotion program, and
- an improvement in the overall perception of rental cottages in this area by visitors/tourists.

We would be pleased to discuss this issue further with Tourism Sarnia Lambton and several of our accommodation member businesses would be happy to make themselves available for that purpose.

Sincerely,



Jeff Pacheco,  
President 2019-2020.

cc: Grand Bend & Area Chamber Members, Beach O'Pines Community, Centre Ipperwash Community Association, Huron Woods Community Association, Port Franks Beach Homeowners' Association, Southcott Pines Park Association, West Ipperwash Homeowners' Association, Sarnia-Lambton Hotels Association, Ontario Restaurant Hotel & Motel Association