



## Town of Niagara-on-the-Lake

1593 Four Mile Creek Road  
P.O. Box 100, Virgil, ON L0S 1T0  
905-468-3266 www.notl.com

**REPORT #:** CS-23-037 **COMMITTEE DATE:** 2023-12-05  
**REPORT TO:** COTW-General **DUE IN COUNCIL:** 2023-12-12  
**SUBJECT:** Municipal Accommodation Tax – Transfer Payment Agreement

### 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Council approves the attached Municipal Accommodation Tax Financial Accountability and Services Agreement (the "Agreement") between the Corporation of the Town of Niagara-on-the-Lake and Tourism Niagara-on-the-Lake (**Appendix I**), which distributes 50% of Municipal Accommodation Tax revenues in accordance with *Ontario Regulation 435/17*; and
- 1.2 Council authorizes the Lord Mayor and Town Clerk to sign the Agreement.

### 2. EXECUTIVE SUMMARY

- On June 20, 2022, Town Council approved By-law No. 5435-22 to apply Municipal Accommodation Tax (MAT) to accommodations with five or more bedrooms at a rate of 2%.
- *Ontario Regulation 435/17* mandates sharing at least 50% of MAT revenues, after administrative expenses, with an Eligible Tourism Entity for promoting Tourism.
- The Agreement in **Appendix I** outlines a MAT proceeds disbursement schedule and financial transparency measures around reporting and goals. The key provisions include:
  - A five (5) year term that shall automatically renew for an additional five (5) years unless either party gives one year written notice that the Agreement will not continue.
  - A one-year notice period in the event that the Town wishes to terminate the Agreement for any reason.
  - 50% of MAT revenues will be disbursed to Tourism Niagara-on-the-Lake after administrative costs.
  - All MAT proceeds will be placed in a separate fund controlled by Tourism Niagara-on-the-Lake.
  - Disbursements by the Town will occur quarterly.
  - An annual review of Tourism Niagara-on-the-Lake's work plan and alignment with the Town's Tourism Strategy will occur.
  - Tourism Niagara-on-the-Lake will maintain a Strategic and Tactical Marketing Plan.
  - MAT proceeds will be used for the following objectives: Tourism Niagara-on-the-

Lake's Strategic Plan, tourism marketing, tourism product development, and supporting tourism growth.

- Financial accountability measures such as an annual work plan, expenditure approval, and audits will be identified and reported on, as approved by the Tourism Niagara-on-the-Lake Board.
- Upon approval of the attached Agreement, regular disbursements will commence and continue quarterly.
- A previous draft of this report was removed from the September 26, 2023, Council agenda at the request of the Chamber of Commerce / Tourism Niagara-on-the-Lake due to an inability to finalize the Agreement. In particular, a common agreement could not be found on the insertion of a general termination clause, term of the Agreement, and default remedy periods.
- Subsequent meetings have resulted in progress in resolving these outstanding items. Both parties agreed to an informal review by the Town of the Chamber of Commerce and Tourism Niagara-on-the-Lake's Financial records, which Staff will report on in a Closed Session meeting.
- A partially executed version of the Agreement, as amended, has been attached as **Appendix I** to this report.
- The final Agreement includes a one-year notice period for termination and changes to the preamble to reflect the intent of the Agreement.

### **3. PURPOSE**

The purpose of this report is to approve a Transfer Payment Agreement for Municipal Accommodation Tax revenues between the Town and Tourism Niagara-on-the-Lake.

### **4. BACKGROUND**

On November 23, 2017, the Province of Ontario issued the *Transient Accommodation Regulation* (O. Reg. 435/17), which came into force on December 1, 2017, and provides provisions for municipalities across Ontario to implement a Municipal Accommodation Tax.

On Monday, June 20, 2022, Town Council approved Municipal Accommodation Tax By-law No. 5435-22. This applied only to accommodations with five or more bedrooms at a rate of 2%.

On May 23, 2023, the Council passed a motion to extend the MAT to Short Term Rental Accommodations. On October 24, 2023, Council approved Municipal Accommodation Tax By-law No. 5540-23, which brought all Short Term Rentals within the scope of the MAT program.

*Ontario Regulation 435/17* requires that when a MAT is imposed, the municipality shares revenues at a rate of at least 50% with an Eligible Tourism Entity (often referred to as the Destination Marketing Organization or DMO) for the exclusive use of promoting tourism.

Tourism Niagara-on-the-Lake is a registered Not-for-Profit Corporation, with public records indicating it was registered by the Niagara-on-Lake Chamber of Commerce & Visitor & Convention Bureau Inc. on August 4, 2023.

A previous draft of this report was included on the September 26, 2023, Council agenda and subsequently removed from the agenda. There was a difference in perspective between the

two parties related to some of the provisions in the draft Agreement, specifically related to the section of the Agreement pertaining to the term, default, and termination provisions. The parties agreed to take another look at these areas.

During subsequent meetings, the parties resolved these issues. Additionally, direction from Council has been included in the attached draft to include a one-year termination period and changes to the preamble to reflect the intent of the Agreement.

Both parties are dedicated to collaboration and financial accountability as key elements for successful decision-making and progress on this matter. Therefore, the parties agreed that the Town would undertake a review of The Chamber of Commerce's and Tourism Niagara-on-the-Lake's financial records. Staff will update Council on this matter on December 5, 2023.

## **5. DISCUSSION / ANALYSIS**

The attached Agreement (**Appendix I**) identifies each party's obligations in regularly disbursing MAT proceeds and general provisions for financial transparency and reporting on how the funds are used.

In summary, the Agreement lays out:

- A five (5) year term which shall automatically renew for an additional five (5) years unless either party gives one-year written notice that the Agreement will not continue.
- A one-year notice period in the event that the Town wishes to terminate the Agreement for any reason.
- After administration costs, 50% of MAT revenues will be disbursed to Tourism Niagara-on-the-Lake.
- All MAT proceeds disbursed to Tourism Niagara-on-the-Lake will be placed into a separate Fund controlled by Tourism Niagara-on-the-Lake.
- Disbursements by the Town will occur quarterly.
- Staff from the Town and Tourism Niagara-on-the-Lake will meet at least once a year to review Tourism Niagara-on-the-Lake's annual work plan for the next calendar year and assess its alignment with the Town's Tourism Strategy.
- Tourism Niagara-on-the-Lake will create and maintain a Strategic and Tactical Marketing Plan to be reviewed and updated at 5-year intervals.
- MAT proceeds will generally be used for the following objectives and outcomes:
  - Achieving the objectives of the Strategic and Tactical Marketing Plan.
  - Increasing visitations.
  - Supporting tourism marketing, tourism product development and industry growth.

The following Financial Accountability measures are covered:

- Prepare an annual work plan which establishes priorities and deliverables, approved by the Tourism Niagara-on-the-Lake Board.
- Review and approval of all expenditures from the Fund by the Tourism Niagara-on-the-Lake Board.
- Hire professionals as required to assist in the administration of its Fund.
- Prepare and present an annual report for information purposes to the Town's Council respecting expenditures and initiatives that the MAT has funded.
- Maintain separate financial records for the Fund for a period of seven (7) years.

- Conduct an annual audit conducted by a certified public accountant.

## 6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

### Pillar

1. Vibrant & Complete Community

### Priority

1.3 Strategies & Masterplans

### Action

1.3 a) Strategies & Masterplans

### Pillar

1. Vibrant & Complete Community

### Priority

1.2 Economic Development & Community Partnerships

### Action

1.2 b) Community Partnership

## 7. OPTIONS

- 7.1 **Option 1:** Council approves the attached Agreement. **(Recommended)**
- 7.2 **Option 2:** Council rejects the Agreement and sends it back to Staff for amendments. *(Not Recommended)*
- 7.3 **Option 3:** Council amends the Agreement and directs Staff to discuss the amendments with Tourism Niagara-on-the-Lake.

## 8. FINANCIAL IMPLICATIONS

The MAT program is administrated through its revenues, as allowable under *Ontario Regulation 435/17*.

Upon approval of the attached Agreement, Staff will prepare a disbursement of MAT revenues based on the revenues received to date, less applicable administration costs.

For 2022, which covers the third and fourth quarters, the Town collected \$453,148.77 in MAT revenues, \$226,574.39 of which represents Tourism Niagara-on-the-Lake's share before administrative expenses.

For 2023, the Town has collected \$719,860.12, \$359,930.06 of which represents Tourism Niagara-the-Lake's share, before administrative expenses, which covers the first and second quarter of 2023.

Administrative costs have been quantified at \$12,646.55 (to date) and will be deducted from gross MAT revenues before being split.

**9. ENVIRONMENTAL IMPLICATIONS**

Not applicable; there are no direct environmental implications as a result of this report.

**10. COMMUNICATIONS**

Upon approval of this report and attached Agreement, Tourism Niagara-on-the-Lake will be notified, and the Town will commence a regular disbursement schedule.

**11. CONCLUSION**

The attached Agreement (**Appendix I**) will set a foundation for the reporting and disbursement of MAT funds and how they are used. The MAT program is expected to have an overall positive impact on the Town and Tourism as a whole.

**12. PREVIOUS REPORTS**

- CS-22-019 – Municipal Accommodation Tax

**13. APPENDICES**

- **Appendix I** – MAT Financial Accountability and Services Agreement

Respectfully submitted:

**Prepared and Recommended by:**



**Kyle Freeborn, CPA, CMA  
Director of Corporate Services**

**Submitted by:**



**Marnie Cluckie, MS.LOD, B.ARCH, B.ES  
Chief Administrative Officer**