




**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Tourism and Culture Division**

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	January 13, 2021
<b>SUBJECT/REPORT NO:</b>	Municipal Accommodation Tax (PED20009(a)) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Pam Mulholland (905) 546-2424 Ext. 4514
<b>SUBMITTED BY:</b>	Carrie Brooks-Joiner Director, Tourism and Culture Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That Report PED20009(a) regarding the establishment of a Municipal Accommodation Tax (MAT) in Hamilton be received and staff be directed to report back in late 2021 to provide Recommendations related to MAT implementation and the updated Hamilton Tourism Strategy 2021 to 2025.

**EXECUTIVE SUMMARY**

In 2017, the Province of Ontario granted municipalities the authority to implement a Municipal Accommodation Tax on transient accommodations to provide municipalities with a new revenue stream to support local tourism promotion and tourism product development.

Through Report PED20009, in January 2020 Council considered the implementation of the MAT and directed as follows:

“That staff be directed to develop the structure and implementation plan for a Municipal Accommodation Tax Program in Hamilton at 4% including the required business case study, and creation of a Municipal Services Corporation which will operate as the City of Hamilton’s Eligible Tourism Entity to receive revenues from the Municipal Accommodation Tax as required by Provincial regulation, enacting by-law and any necessary agreements, and report back to the General Issues Committee.”

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

This report provides highlights of the MAT Provincial legislation, an overview of the source, projections, collection, administration and utilization of MAT revenue; describes the proposed Municipal Services Corporation (MSC); and outlines possible next steps. The necessary implementation tools are also included for Council's reference as follows:

- A draft By-law which would provide the authority for collecting the tax is attached as Appendix "A" to Report PED20009(a);
- A Business Case Study to establish the MSC to serve as the Eligible Tourism Entity receiving MAT revenues in support of tourism promotion and tourism product development is attached as Appendix "B" to Report PED20009(a); and
- A draft Policy to establish a Municipal Accommodation Reserve Fund for the City is attached as Appendix "C" to Report PED20009(a).

In recognition of the impact of COVID-19 on travel patterns and the tourism sector, implementation of the MAT is not feasible in the short-term. Therefore, staff are recommending that PED Report 20009(a), including the draft MAT implementing instruments attached as Appendices "A", "B" and "C", be received, but not adopted at this time. Staff are recommending a further report back in late 2021 with recommendations for the possible timing of implementation for the MAT, concurrently with reporting back on the updated Hamilton Tourism Strategy 2021 to 2025.

Note that transient accommodation providers require a minimum lead time of three to four months to update hotel operation software and train staff on MAT revenue collection and remittance, therefore it should be anticipated that a minimum of three to four months would be required from the date of adoption of the MAT to actual implementation.

Projections on licensed accommodation occupancy levels and the revenue potential for MAT will also be revised over the coming year. Initial planning was based on pre-pandemic data and those levels are not realistic in a recovery phase which is expected to last multiple years.

### **Alternatives for Consideration - See Page 8**

### **FINANCIAL - STAFFING - LEGAL IMPLICATIONS**

Financial: There is no immediate financial impact associated with this report. The proposed 2021 PED Operating Budget does not include any forecasted revenues from a MAT. Should a MAT be adopted in the short-term, anticipated revenues would be minimal given current hotel occupancy rates.

Staffing: N/A

Legal: Legal and Risk Management Services will be required to complete work to incorporate the MSC, contingent upon Council approval when staff report back at the end of 2021. As required by the *Corporations Act (Ontario)*, the *Municipal Act, 2001 (Ontario)* and the Municipal Services Corporation Regulation under the *Municipal Act, 2001 (Ontario Regulation 599/06)*, the scope of work will be as follows:

- All necessary Corporate name searches;
- Preparation of Letters Patent; and
- Preparation of Corporate By-law(s) and all other constating and ancillary documents for the MSC

## **HISTORICAL BACKGROUND**

In January of 2020, Council directed staff to develop the structure and implementation plan for a MAT at 4% on the purchase of transient accommodations including hotels, motels, and bed and breakfasts in Hamilton on overnight stays of 29 nights or less.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Ontario Regulation 435/17 Transient Accommodation Tax provides municipalities with the authority to implement a MAT by enacting the appropriate by-law(s). Ontario Regulation 435/17 Transient Accommodation Tax requires the municipality to share a minimum of 50% of the tax revenue collected from MAT (following deduction of administrative costs) with an Eligible Tourism Entity (defined in Ontario Regulation 435/17 Transient Accommodation Tax as “a non-profit entity whose mandate includes the promotion of tourism in Ontario or in a municipality”).

MAT revenues must be utilized by the Eligible Tourism Entity for tourism promotion and tourism product development. Tourism products include major festivals and events, sport tournaments and championships, large conventions and programs and services that enable growth in the local tourism sector and increase tourism’s economic impact. The municipality may use the balance of MAT revenues for its priorities.

The development of this new revenue stream is consistent with the objectives of the City’s Investment Strategy and Hamilton Tourism Strategy 2015 to 2020.

## **RELEVANT CONSULTATION**

### **External**

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- Public Consultation regarding creation of a Municipal Service Corporation as per Ontario Regulation 599/06
- Financial Controller, Ontario Restaurant Hotel and Motel Association (ORMHA)
- President and CEO, Ontario Restaurant Hotel and Motel Association
- Director, Recreation, City of Mississauga
- Manager, Special Projects and Economic Development, City of Vaughan
- Executive Director, Tourism Burlington

### **Internal Consultation**

- Solicitor, Legal and Risk Management Services Division, Corporate Services Department
- Deputy City Solicitor, Legal and Risk Management Services Division, Corporate Services Department
- General Manager of Finance and Corporate Services, Corporate Services Administrative Division, Corporate Services Department
- Senior Tax Policy Advisor, Financial Planning, Administration, and Policy Division, Corporate Services Department
- Acting Manager, Financial Planning, Administration, and Policy Division, Corporate Services Department
- Accounting Services Manager, Financial Services and Taxation Division, Corporate Services Department
- Senior Financial Analyst - TCA, Financial Services and Taxation Division, Corporate Services Department

### **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

#### **Source of MAT Funding**

A MAT at 4% would be a new source of revenue to support tourism promotion and tourism product development in Hamilton. The revenue it would generate would surpass the revenue of the current industry led Destination Marketing Program (DMP)

which is a 3% fee on overnight stays. The current DMP program is optional for local accommodation providers to participate in, and therefore does not cover all hotels in the City, or to short-term stay providers such as Air BNB, which would be captured under a MAT. MAT is a mandatory tax paid by consumers and must be collected and remitted by all applicable accommodation providers.

The MAT is only applied to specific accommodations that are short-term (29 nights or less) in nature. The MAT only applies to a room or space that is being used for accommodation, and not to other expenses such as meals, parking, laundry, meeting rooms or room service.

Exemptions to a MAT include accommodations rented by the month, university or college residences, hospitals, long-term care facilities, treatment centres, refuge houses, shelters, campgrounds, trailer parks or designated employee accommodation.

Harmonized Sales Tax (HST) is charged on the MAT, if the business is an HST registrant.

### **MAT Revenue and Projections**

In Hamilton, the estimated pre-pandemic annual revenue of the MAT was approximately \$2 M based on the number of existing rooms (hotel, motel, bed and breakfasts), the average 2019 hotel occupancy statistics, average room rate and a MAT rate of 4%. The estimate excluded short-term rentals such as Airbnb which are not currently licenced in Hamilton.

However, the pandemic has negatively impacted occupancy rates, revenue per available room and room rates. The tourism sector and consumer confidence in the safety of travel are expected to rebound slowly. The initial revenue expectations are no longer realistic during the pandemic or during the first few years of recovery of the tourism sector.

Initial program planning also anticipated future growth in MAT revenues which is no longer achievable in the next few years. With the exception of TownePlace Suites by Marriott Hamilton which opened in November 2020, three other anticipated hotel developments have been delayed due to COVID-19 and will not open until late 2021 or beyond.

### **MAT Collection**

Following Council's approval to proceed, enacting the MAT By-law and a minimum lead time of three to four months to implement business processes, transient accommodation providers can begin collection of the MAT. For example, if the MAT By-law came into effect in late 2021, revenue collection could commence in the spring of

2022. Such a timeframe would allow for both a level of tourism industry recovery and transient accommodation provider implementation readiness.

Accommodation providers (e.g. hotels, motels, bed and breakfasts) would be responsible for the collection of the MAT revenue at the point of consumer payment. This revenue, minus the reasonable costs of collecting and administering, is remitted to a designated collection organization for administration and distribution in accordance with an approved By-law. A draft of such a By-law is attached as Appendix "A" to Report PED20009(a).

The Ontario Restaurant Hotel and Motel Association is currently the collection agent for several municipalities in administering the MAT and is an option as a collection agency on behalf of the City of Hamilton.

### **MAT Administration**

Staff from the City's Financial Planning, Administration, and Policy Division and staff from the Financial Services and Taxation Division consulted other municipalities who have implemented the MAT. Cities either collected themselves, allocating City staff resources to this task or retained a third party to provide this function.

Several municipalities have contracted the ORHMA for the collection of the MAT revenues on their behalf. Under this model, ORHMA advises accommodations on how to set up the collection system and train staff. Once the MAT is implemented, they administer the revenues collected from the accommodation providers, remit the revenues to the City and report on the financial transactions. The City in turn, remits the minimum of 50% to the Eligible Tourism Entity.

### **Utilization of MAT Revenue**

Pursuant to Ontario Regulation 435/17 Transient Accommodation Tax, MAT revenues must be shared between the municipality and an Eligible Tourism Entity and subsequently used by such Eligible Tourism Entity solely for the purposes of tourism promotion and tourism product development. Ontario Regulation 435/17 Transient Accommodation Tax does not mandate how municipalities spend the balance, although it is suggested it should support tourism related opportunities and infrastructure.

Under Provincial Regulation, Tourism Hamilton, as a brand for tourism services provided by the Tourism and Culture Division within the municipal Corporation, is not an Eligible Tourism Entity, that can receive MAT revenues. Therefore, staff will be recommending that the City establish an MSC named Tourism Development Hamilton Corporation (if such name is available) to serve as the Eligible Tourism Entity in Hamilton.

It is also proposed that the City set up a MAT Reserve Fund to receive the remaining portion of the MAT revenue. A draft policy to establish such a Reserve Fund is attached as Appendix “C” to Report PED20009(a). The MAT Reserve Fund would maintain a minimum balance at all times of \$2 M.

Once total annual MAT revenues are at a level of \$2.5 M, sharing the required 50% of revenue with the MSC would provide the City of Hamilton, in collaboration with the MSC, the option to:

- Enhance tourism services, or;
- Offset a portion of the levy contribution for tourism expenditures, or;
- Remove tourism operating expenses 100% from the levy (based on current operations).

The remaining 50% would be sufficient to offset the annual average draw on multiple City of Hamilton Reserves and the existing Designated Marketing Fund contribution for expenses related to the financing of promotion and development of tourism and tourism related activities in Hamilton, such as, but not limited to, hosting fees for major tourism events; and to provide a source of revenues to offset extraordinary and unforeseen expenditures for tourism projects and programs of the Tourism and Culture Division, Planning and Economic Development Department.

### **Provision of Tourism Services**

It is anticipated that the MSC will contract the City of Hamilton to provide tourism promotion and development services under the existing brand of Tourism Hamilton and utilize the existing City tourism staff complement.

### **Public Consultation and Business Case Study**

Ontario Regulation 599/06: Municipal Services Corporations requires the City to prepare a Business Case Study to support the creation of an MSC. The Business Case Study attached as Appendix “B” to Report PED20009(a) fulfils the requirements of the Ontario Regulation 599/06 and includes the MSC’s mandate, guiding principles, governance structure, budget and funding, accountability and reporting. The City’s Tourism Strategy will serve as the guiding document for this new MSC and ensure accountability to Council and tourism stakeholders.

The objects of the MSC include the planning and delivery of economic development services, focused on tourism-related promotion and business development within Hamilton. The sole income source of the MSC is 50% of the Hamilton MAT, pursuant to applicable City MAT By-law and Ontario Regulations.

Ontario Regulation 599/06 also requires the City to consult with the public about the proposal to establish the MSC. The Tourism and Culture Division held a virtual public consultation during the summer of 2020 to discuss the creation of the MSC. Representatives from the accommodation sector provided input. In general, accommodation providers were supportive of a new revenue stream for tourism. Given the impact of the COVID-19 pandemic on occupancy rates and the related loss of revenue, accommodation providers who participated in the consultation requested that the implementation of MAT be delayed until at least 2022 to allow for occupancy recovery and hotel staffing levels for training on MAT collection. They urged that 100% of the revenue be invested in tourism to attract new business and visitation to Hamilton and that the City not reduce any existing investment in tourism from the levy. They expressed interest in being part of the governance structure for the MSC.

### **Next Steps**

City staff from the Tourism and Culture Division, Legal and Risk Management Services Division and Financial Planning, Administration, and Policy Division will continue to prepare necessary documents and agreements prior to reporting back to Council. These include:

- An agreement between the City and the MSC, based on the content of the Business Case Study, addressing issues including:
  - Finalize implementation date for MAT
  - Guiding principles of the MSC
  - Governance structure
  - Anticipated support provided to the MSC by the City
  - Asset transfer policy
  - Ownership use and maintenance of intellectual property
  - Accounting, audit and record-keeping requirements
  - Requirements for public accountability and reporting
- Other documentation as may be recommended by Legal and Risk Management Services and accepted by the City.

### **ALTERNATIVES FOR CONSIDERATION**

Council may consider the approval of the implementation of the MAT at this time, together with the relevant documentation as follows:

- (a) That the By-law to Establish a Municipal Accommodation Tax at a rate of 4% effective December 31, 2021, as outlined in Appendix “A” to Report PED20009(a), be approved;



- (b) That the Hamilton Tourism Development Corporation Business Case, as outlined in Appendix “B” to Report PED20009(a), be approved;
- (c) That the City of Hamilton Municipal Accommodation Reserve Fund Policy for the City portion of the Municipal Accommodation Tax, as outlined in Appendix “C” to Report PED20009(a), be approved; and
- (d) That staff be directed to establish a Tourism MAT Reserve Fund for the new Municipal Services Corporation portion of the Municipal Accommodation Tax.

**ALIGNMENT TO THE 2016 - 2025 STRATEGIC PLAN**

**Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

**Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” - By-law to Establish a Municipal Accommodation Tax

Appendix “B” - Hamilton Tourism Development Corporation Business Case

Appendix “C” - City of Hamilton Municipal Accommodation Reserve Fund Policy

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