



Hamilton

**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>	February 16, 2022
<b>SUBJECT/REPORT NO:</b>	Municipal Accommodation Tax (PED20009(b)) (City Wide) <b>(Outstanding Business List Item)</b>
<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>	<i>Carrie Brooks-Joiner</i>

**RECOMMENDATION**

- (a) That the Business Case Study for the creation of the Tourism Municipal Services Corporation, attached as Appendix “A” to Report PED20009(b), be approved;
- (b) That staff be authorized and directed to incorporate the Tourism Municipal Services Corporation substantially in accordance with the Business Case Study, attached as Appendix “A” to Report PED20009(b), with the mandate to promote tourism and develop tourism products in alignment with the Hamilton Tourism Strategy;
- (c) That the appointment of the General Manager, Planning and Economic Development Department, the Director, Tourism and Culture Division, and the Manager of Accounting Services, Financial Services and Taxation Division, Corporate Services Department, as Interim Directors of the Tourism Municipal Services Corporation, be approved;
- (d) That staff and the Interim Directors of the Tourism Municipal Services Corporation, be authorized and directed to develop Recommendations relating to the following, and report back to the General Issues Committee for approval:
  - (i) Operating Agreement and Asset Transfer Policy between the City of Hamilton and the new Tourism Municipal Services Corporation;

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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.

- (ii) Governance structure for the new Tourism Municipal Services Corporation; specifically, the structure and process for the selection of the Board of Directors; and,
  - (iii) Establishing the Tourism Municipal Services Corporation Municipal Accommodation Tax Reserve Fund to receive the new Tourism Municipal Services Corporation's portion of the Municipal Accommodation Tax;
- (e) That staff be authorized and directed to negotiate any agreements required to fulfill the Business Case Study for the creation of the Tourism Municipal Services Corporation, attached as Appendix "A" to Report PED20009(b), and such other terms and conditions deemed appropriate by the General Manager, Planning and Economic Development Department, in consultation with the General Manager, Finance and Corporate Services Department, and in a form satisfactory to the City Solicitor;
- (f) That the City of Hamilton Municipal Accommodation Reserve Fund Policy for the City portion of the Municipal Accommodation Tax, attached as Appendix "B" to Report PED20009(b), be approved; and,
- (g) That staff be directed to report back to the General Issues Committee in 2022, with the proposed timing of the approval and implementation of the By-law, attached as Appendix "C" to Report PED20009(b), to establish a Municipal Accommodation Tax at a rate of 4%.

## **EXECUTIVE SUMMARY**

On November 23, 2017, the Province enacted Ontario Regulation 435/17 "Transient Accommodations Tax" ("O.Reg 435/17"), which regulates a municipality's implementation of the Municipal Accommodation Tax ("MAT"). The MAT is a new revenue tool that the Provincial government has given Ontario municipalities to further promote tourism as an economic driver.

O.Reg 435/17 requires a minimum of 50% of the MAT revenue to be shared with one or more "Eligible Tourism Entities." An "Eligible Tourism Entity" is a non-profit entity whose mandate includes the promotion of tourism in Ontario or in a municipality. Through Report PED20009 on January 22, 2020, Council approved the following Recommendation:

"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

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Tax as required by Provincial regulation, enacting by-law and any necessary agreements, and report back to the General Issues Committee.”

The Business Case Study, attached as Appendix “A” to Report PED20009(b), outlines the benefits of establishing the Tourism Municipal Services Corporation (“Tourism MSC”) and establishes the Council-approved Hamilton Tourism Strategy as the mandate and guiding document for the proposed Tourism MSC.

The recently announced COVID-19 restrictions are again discouraging leisure and business travel. Based on the feedback that staff received from Hamilton’s accommodation sector stakeholders, the Omicron variant has negatively impacted the initial recovery of the industry seen in late 2021. At this point, it is uncertain when consumer confidence in travel will return and the tourism sector will rebound. As a result, staff are not recommending that the By-law, attached as Appendix “C” to Report PED20009(b), be approved and implemented at this time. However, staff are recommending that steps toward future implementation continue.

If Council were to approve the Recommendations of Report PED20009(b), it would result in the following outcomes:

- Providing staff the authority and direction to incorporate the Tourism MSC, substantially in the form outlined in the Business Case Study attached as Appendix “A” to Report PED20009(b);
- The approval of the City of Hamilton Municipal Accommodation Reserve Fund Policy, attached as Appendix “B” to Report PED20009(b), for the City’s portion of the Municipal Accommodation Tax;
- The appointment of Interim Directors of the Tourism MSC; and
- Providing staff and the Interim Directors of the Tourism MSC the authority to develop the proposed Operating Agreement and Asset Transfer Policy between the City and the new Tourism Municipal Services Corporation, to be presented to Council for approval.

Staff will report back to the General Issues Committee later in 2022, with Recommendations relating to:

- The timing of the approval and implementation of the By-law, attached as Appendix “C” to Report PED20009(b), to Establish a Municipal Accommodation Tax at a rate of 4% and with a proposed effective date (assuming a level of recovery of the tourism industry);
- The composition of the Board of Directors, any required operating agreement(s), asset transfer policy, Corporate By-laws, 2023 budget and other details relating to the operation of the Tourism MSC.

The process of incorporating the Tourism MSC will take several months. Undergoing the work to make the Tourism MSC fully operational in 2022 will remove MAT implementation

delays upon the full reopening of the accommodation sector of the tourism industry and Council approval of the By-law.

**Alternatives for Consideration - Not Applicable**

**FINANCIAL - STAFFING - LEGAL IMPLICATIONS**

Financial: There is no immediate financial impact associated with this report. The proposed 2022 Planning and Economic Development Department Operating Budget does not include any forecasted revenues from the MAT.

Staffing: N/A

Legal: Legal Services will be required to incorporate the Tourism MSC, contingent upon Council approval. The scope of work will include:

- All necessary Corporate name searches;
- Preparation and filing of letters patent; and
- Preparation of Corporate By-law(s) and all other constating documents.

**HISTORICAL BACKGROUND**

Through Report PED20009 in January of 2020, Council directed staff to develop the structure and implementation plan for a MAT at 4% of the purchase price of transient accommodations (e.g. licensed hotels, motels, and bed and breakfasts) in Hamilton on overnight stays of 29 nights or less.

Through Report PED20009(a) on January 20, 2021, Council determined that the MAT should not be implemented at that time due to the economic impacts of COVID-19 on the tourism industry. Council directed staff to report back to provide Recommendations related to the MAT strategy, implementation plan and timing in late 2021 through this Report PED20009(b).

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

O.Reg 435/17 provides municipalities with the authority to impose a MAT by passing a By-law. In addition, O.Reg 435/17 requires the City to share 50% of the MAT revenue (following deduction of administrative costs) with an Eligible Tourism Entity, defined in O.Reg 435/17 as "a non-profit entity whose mandate includes the promotion of tourism in Ontario or a municipality".

The Eligible Tourism Entity must utilize its share of MAT revenues for the exclusive purpose of promoting tourism. Under O.Reg 435/17, "promoting tourism" includes developing and executing tourism products. Tourism products can relate to the eight

sectors of the tourism industry which are: accommodation; adventure tourism and recreation; attractions; festivals; events and conferences; food and beverage; tourism services; transportation; and travel trade. O.Reg 435/17 does not mandate how municipalities may spend the balance of the MAT revenue.

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

## **RELEVANT CONSULTATION**

### **External**

- Public consultation regarding the creation of the Tourism MSC with the Ontario Restaurant Hotel Motel Association - Hamilton Hotel Association members
- Financial Controller, Ontario Restaurant Hotel and Motel Association
- President and CEO, Ontario Restaurant Hotel and Motel Association
- Representatives from Hamilton's accommodation sector
- City of Mississauga

### **Internal Consultation**

- Solicitor, Legal and Risk Management Services Division, Corporate Services Department
- Director, Financial Planning, Administration and Policy, Corporate Services Department
- Business Administrator, Financial Planning Administration and Policy, Corporate Services Department
- Senior Tax Policy Advisor, Financial Planning, Administration, and Policy Division, Corporate Services Department
- Manager of Accounting Services, Financial Services and Taxation Division, Corporate Services Department
- Senior Financial Analyst -TCA, Financial Services and Taxation Division, Corporate Services Department

## **ANALYSIS AND RATIONALE FOR RECOMMENDATIONS**

### **Source of MAT Funding**

MAT is a mandatory tax paid by consumers and must be collected and remitted by all licensed accommodation providers such as hotels, motels, and bed and breakfasts. MAT is applied to short-term accommodations (29 nights or less). MAT only applies to the cost of a room or space used for accommodations, not to other expenses such as parking, laundry, meeting rooms, meals or room service. If the business is a Harmonized Sales Tax (HST) registrant, HST is charged on the MAT.

Exemptions to MAT include:

- Accommodations rented by the month;
- University and college residences;
- Hospitals, long-term care facilities and treatment centres;
- Refuge houses and shelters;
- Campgrounds and trailer parks; and
- Unlicensed short-term rentals.

Currently Short-Term Rentals (STR), such as rentals that occur over platforms such as Airbnb, are not licenced by the City. If Council were to adopt a licencing framework for STRs, rentals that take place over these platforms would also be subject to the MAT.

### **MAT and the Destination Marketing Program**

A MAT at 4% collected would be a new source of revenue for Hamilton to support tourism promotion and tourism product development. MAT revenue generated would surpass the current industry-led Destination Marketing Program (“DMP”) revenue, 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, motels or bed and breakfasts, which would be captured under the MAT.

### **MAT Revenue and Projections**

In Hamilton, the estimated pre-pandemic revenue of the MAT was approximately \$2 M per year based on the number of existing rooms, the average 2019 occupancy statistics, average room rate and a MAT rate of 4%.

When the Province is fully reopened after COVID-19, it is anticipated MAT will generate \$2 M in annual new revenue for the City (\$1 M per year) and the Tourism MSC (\$1 M per year). Before the impacts of the Delta and Omicron variants, Hamilton transient accommodation performance in the last half of 2021 was much improved and matched pre-pandemic levels due, in large part, to the return of sports events and concerts.

However, as a result of the recently announced COVID-19 related restrictions, it is expected that Hamilton's transient accommodation performance will again be negatively impacted.

<b>Category</b>	<b>December 2021</b>	<b>December 2020</b>	<b>Pre-Pandemic*** December 2019</b>
Occupancy Rate	57.8%	41.1%	67.8%
*ADR (average rental revenue earned for an occupied room per day)	\$158.33**	\$109.35	\$139.59
RevPAR (revenue per available room)	\$91.47	\$48.18	\$94.68
<b>Hotel Demand 2021</b>		<b>Hotel Demand 2020</b>	
387,697 total number of rooms sold		269,678 total number of rooms sold	

\*The average daily rate measures the average rental revenue earned for an occupied room per day. ADR can determine the operating performance of a hotel or other transient accommodation business. Multiplying the ADR by the occupancy rate equals the revenue per available room.

\*\*Increased room rate and related revenue due to 2021 Grey Cup hotel bookings.

\*\*\*The Province of Ontario first declared a COVID-19 pandemic state of emergency on March 17, 2020.

MAT revenue could grow in excess of \$3 M in the long-term as projected new hotels become operational such as the Hampton Inn in downtown Hamilton and the Hyatt Hotel at McMaster Innovation Park, and short-term rentals are licensed.

### **Utilization of MAT Revenue**

Under O.Reg 435/17, MAT revenues must be shared between a municipality and an Eligible Tourism Entity and subsequently used by such Eligible Tourism Entity solely for tourism promotion and tourism product development in Ontario or a municipality.

As a brand for tourism services provided by the Tourism and Culture Division within the Corporation of the City of Hamilton, Tourism Hamilton is not an Eligible Tourism Entity that can receive MAT revenues. Therefore, staff are recommending that the City establish a Tourism MSC named "Hamilton Tourism Development Corporation" (if such name is available at the time of incorporation) to serve as the Eligible Tourism Entity in Hamilton.

It is also recommended that the City set up a MAT Reserve Fund to receive the remaining 50% of the MAT revenue. A draft policy to establish a Reserve Fund is attached as Appendix "B" to Report PED20009(b).

Once MAT revenues are being collected, the funds will provide the City, in collaboration with the Tourism MSC, the option to:

- Enhance tourism products and services;
- Offset a portion of the levy contribution for tourism expenditures (based on current operations) as it is anticipated the Tourism MSC will contract the City to provide tourism promotion and development services, including facilitation of the planning and execution of major tourism event logistics, under the existing brand of Tourism Hamilton; and
- Offset the annual average draw on multiple City Reserves and the existing Designated Marketing Fund contribution for expenses related to financing the promotion and development of tourism and tourism-related activities such as hosting fees for significant tourism events and expenditures for tourism projects.

### **City of Hamilton MAT Reserve Fund**

The City of Hamilton Municipal Accommodation Reserve Fund Policy, attached as Appendix “B” to Report PED20009(b), directs that the Reserve Fund is to maintain a minimum balance of \$2 M. This minimum balance is to ensure that the Hamilton Municipal Accommodation Reserve Fund has adequate funds to address any financial challenges that could stem from unforeseen events, such as a major economic downturn.

### **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 a Municipal Services Corporation. The Business Case Study attached as Appendix “A” to Report PED20009(b) fulfils the requirements of Ontario Regulation 599/06. It includes the new Tourism MSC’s mandate, guiding principles, governance structure, funding, contracted finance and administrative staffing needs, accountability and reporting mechanisms. In addition, the Hamilton Tourism Strategy will serve as the guiding document for this new Tourism MSC and ensure accountability to Council and tourism stakeholders.

The objectives of the Tourism 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 Tourism MSC is 50% of the MAT revenues, according to the applicable legislation.

Ontario Regulation 599/06 also requires the City to consult with the public about the proposal to establish the Tourism MSC. The Tourism and Culture Division held virtual public consultations with the local tourism industry to discuss the implementation of MAT and the creation of the Tourism MSC. Representatives from Hamilton accommodation providers attended and provided input. In general, Hamilton accommodation providers were supportive of a new revenue stream for tourism. They urged that 100% of the MAT

be invested in tourism to attract new business and visitation to Hamilton and that this tax revenue not reduce any existing investment in tourism from the levy. In addition, they expressed interest in being part of the governance structure of the Tourism MSC.

Staff are proposing to appoint the General Manager, Planning and Economic Development Department, the Director of the Tourism and Culture Division and the Manager of Accounting Services, Financial Services and Taxation Division, Corporate Services Department as Interim Directors, to incorporate the Tourism MSC and develop the required agreements and policies.

### **Next Steps**

City staff from the Tourism and Culture Division, Legal and Risk Management Services Division, and the Financial Services and Taxation Division would prepare the necessary documents and agreements as outlined in the Recommendations and report back to Council. These include an agreement between the City and the Tourism MSC, based on the content of the Business Case Study, addressing issues such as:

- Guiding principles of the Tourism MSC;
- Anticipated support provided to the Tourism MSC by the City;
- Asset transfer policy;
- Ownership use and maintenance of intellectual property;
- Accounting, audit and record-keeping requirements; and
- Requirements for public accountability and reporting.

Other documentation as may be recommended by Legal Services and accepted by the City.

### **ALTERNATIVES FOR CONSIDERATION**

Not applicable

### **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" - Tourism Municipal Services Corporation Business Case Study

Appendix "B" - City of Hamilton Municipal Accommodation Reserve Fund Policy

Appendix "C" - By-law to Establish a Municipal Accommodation Tax in Hamilton