

To: Finance Committee

From: Stephanie Sinnott, Commissioner,  
Finance Services

Report Number: FIN-20-55

Date of Report: October 14, 2020

Date of Meeting: October 19, 2020

Subject: Municipal Accommodation Tax Implementation Plan and By-Law

File: C-1000

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## **1.0 Purpose**

On December 1, 2017, the Province of Ontario enacted Section 400.1 of Bill 127, Stronger, Healthier Ontario Act, providing the authority to lower tier and single tier municipalities across Ontario to impose a Municipal Accommodation Tax.

At the City Council meeting held on July 13, 2020, Council considered report CNCL-20-145 dated July 8, 2020 concerning the Municipal Accommodation Tax, Attachment 1. Council adopted the following recommendations contained in CNCL-20-145:

1. That City of Oshawa Council approves, in principle, the establishment Municipal Accommodation Tax Program for transient accommodation providers in the City of Oshawa; and,
2. That staff report back to Finance Committee with a proposed Municipal Accommodation Tax implementation plan and associated By-law prior to the approval of 2021 budget.

The purpose of this report is to report back to the Finance Committee as directed in Recommendation 2 above.

## **2.0 Recommendation**

That the Finance Committee recommend to City Council:

1. That the Municipal Accommodation Tax (MAT) Implementation Plan, detailed in the FIN-20-55 dated October 14, 2020 concerning the implementation of the Municipal Accommodation Tax be approved; and,

2. That a reserve for the City's share of the Municipal Accommodation Tax revenue, be set up; and,
3. That the By-law to establish a Municipal Accommodation Tax, as generally set out in Attachment 2 to Report FIN-20-55 , be passed by Council in a form and content acceptable to Commissioner, Finance Services and Legal Services; and,
4. That a Municipal Accommodation Tax Administration Fee, being five percent (5%) of the MAT payable, be approved; and,
5. That the Greater Oshawa Chamber of Commerce be the City's eligible tourism entity through a services agreement for the purposes of the MAT and the Commissioner, Finance Services be delegated the authority to execute the agreement; and,
6. That Committee recommend to Council an option outlined in section 5.3 of this report to establish the effective date for the implementation of the MAT.

### **3.0 Executive Summary**

Not Applicable.

### **4.0 Input From Other Sources**

Chief Administrative Office (C.A.O.)

City Solicitor

Great Oshawa Chamber of Commerce

### **5.0 Analysis**

Council supported in principle the establishment of the MAT through report CNCL-20-145 at its July 13, 2020 meeting and directed staff to report back to Finance Committee with a proposed Municipal Accommodation Tax implementation plan and associated By-law prior to the approval of 2021 budget.

At the present time no other municipalities in the Region of Durham have implemented the MAT.

In order to implement the MAT there are a number of considerations which are required for the implementation of the by-law establishing the parameters of the program. Also an option for the commencement date of the MAT needs to be determined.

## **5.1 Tourism**

The MAT Regulation requires 50% of the Municipal Accommodation Tax revenue to be paid to one or more “eligible tourism entities” (MAT Funds). An “eligible tourism entity” is a non-profit entity whose mandate includes the promotion of tourism in Ontario or in a municipality.

The municipality is required to enter into an agreement with the eligible tourism entity (e.g. Greater Oshawa Chamber of Commerce) that receives a portion of the Municipal Accommodation Tax. This agreement must include reasonable financial accountability measures to ensure amounts paid to the entity are used for the exclusive purpose of promoting tourism and may provide for other matters.

The Greater Oshawa Chamber of Commerce has been a driving force for Tourism in Oshawa for many years. The Chamber of Commerce manages the Visitor Information Centre year-round. The summer season was operated at a Tourism Centre located at the Corner of Simcoe Street and Bloor Street. For the remainder of the year the Tourism functions is handled through the Chamber Office. This Tourism function will be provided through the Chamber Office all-year round on a go-forward basis as the Tourism Centre was closed in August 2020. The City contributed approximately \$58,000 per year through the operating budget to support these functions.

It is proposed that the City identify the Greater Oshawa Chamber of Commerce as the eligible tourism entity for the purposes of the MAT.

## **5.2 Implementation By-Law**

The implementation requirements for the MAT are set out in the proposed By-Law, Attachment 2 to this report. A summary of these requirements is set out below:

- a) The By-law requires a purchaser, at the time of purchasing transient accommodation, to pay the Municipal Accommodation Tax in the amount of four (4) per cent of the purchase price of the accommodation.
- b) The By-law outlines mandatory exemptions as prescribed in legislation and other optional exemptions for the MAT.
- c) It is anticipated that Finance Services will be responsible for the collection, administration and distribution of the MAT, in accordance with the By-law.
- d) MAT legislation allows municipalities to collect a fee for the costs associated with administering the tax, and no stipulations exist regarding the amount of the fee. It is proposed that the City will collect an administration fee of 5% of the total MAT revenue, payable to offset costs related to administration.
- e) Accommodation Providers shall, on or before the last day of every month, remit to the City for the amount of the MAT collected for the previous month and submit the monthly statements in the form required by the City detailing the number of the Accommodation sold, the purchase price of each Accommodation, the MAT amount

collected and any other information as required by the City for the purposes of administering and enforcing this By-law.

- f) The City will have the right to audit providers to ensure accuracy of remittance statements.
- g) In the event that arrears occur due to the failure of accommodation providers to remit tax revenue, Provincial legislation authorizes a number of collection and enforcement methods. Incomplete or late remittances/reporting will be subject to interest the City's current rate payable on overdue amounts owing is 1.25%.
- h) Finance Services will disburse the MAT revenue net of the stated administration fee to the Greater Oshawa Chamber of Commerce to be used in accordance with a services agreement with the City. The remaining fifty percent of the net revenue will be deposited into the "Municipal Accommodation Tax Reserve" established through this report, with funds to be used in accordance with Council direction.

### **5.3 Implementation Options**

Staff were requested to present options regarding the MAT to Council for consideration. The majority of the MAT requirements are prescribed in legislation therefore the options identified are related to the effective date of the proposed By-Law:

- 1) Option 1 - Implement the MAT effective for April 1, 2021. This would provide the City with some revenue from the program in 2021. The revenue would be expected to be minimal. Given the on-going pandemic, this option would not provide relief to accommodation Providers who may be experiencing financial difficulties. This option would align with the potential for the City to host the 2021 KIA Memorial Cup Tournament in June 2021 at the Tribute Communities Centre; or,
- 2) Option 2 –Implement of the MAT to be effective for January 1, 2022 in hopes that the pandemic is nearing conclusion and the economy is starting to recover.

A Communication Plan will be developed to advise stakeholders of the adoption and implementation of the MAT and key details of the program.

### **6.0 Financial Implications**

The MAT revenue will provide a new source of revenue for the City and Greater Oshawa Chamber of Commerce.

The initial MAT revenue estimate for Oshawa that was identified in 2019, through Report CNCL-20-145, was approximately \$700,000 per year, which, net of an administration fee, would be split equally between the City and Greater Oshawa Chamber of Commerce. It is important to note that due to the COVID-19 pandemic it is expected this revenue will be substantially less for 2021 and possibly beyond.

At the present time, the City provides annual funding of approximately \$58,000 to the Greater Oshawa Chamber of Commerce through the operating budget.

## 7.0 Relationship to the Oshawa Strategic Plan

This report meets the Oshawa Strategic Plan goals of Economic Prosperity and Financial Stewardship by ensuring responsible and affordable taxation by being fiscally responsible and the goal of Accountable Leadership ensuring respect, responsiveness and transparency.

A handwritten signature in black ink, appearing to read 'S. Sinnott', written in a cursive style.

Stephanie Sinnott, Commissioner,  
Finance Services



## Public Report

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To: Council in Committee of the Whole

From: Stephanie Sinnott, Commissioner,  
Finance Services

Report Number: CNCL-20-145

Date of Report: July 8, 2020

Date of Meeting: July 13, 2020

Subject: Municipal Accommodation Tax

File: C-1000

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### 1.0 Purpose

At its meeting of October 15, 2019, the City Council provided the following direction concerning FIN-19-81:

“That staff prepare a report on the City of Oshawa’s potential implementation of the Municipal Accommodation Tax.”

The purpose of this report is to provide City Council with information related to the Municipal Accommodation Tax.

### 2.0 Recommendation

It is recommended to City Council:

That based upon the information contained in Report CNCL-20-145, dated July 8, 2020, concerning a Municipal Accommodation Tax:

1. That City of Oshawa Council approves, in principle, the establishment Municipal Accommodation Tax Program for transient accommodation providers in the City of Oshawa; and,
2. That staff report back to Finance Committee with a proposed Municipal Accommodation Tax implementation plan and associated By-law prior to the approval of 2021 budget.

### 3.0 Executive Summary

On December 1, 2017, the Province of Ontario enacted Section 400.1 of Bill 127, Stronger, Healthier Ontario Act, providing the authority to lower tier and single tier municipalities across Ontario to impose a Municipal Accommodation Tax.

Municipal Accommodation Tax is a sales tax paid by the guest (e.g. hotel and motel guests) charged as a percentage of the purchase price of transient accommodation and is applicable to a number of transient accommodation providers.

A portion of the funds derived from the tax are dedicated to Tourism.

The imposing of Municipal Accommodation Tax fees is optional. A benchmarking exercise identified 23 municipalities that have implemented the Municipal Accommodation Tax since its enactment, none of those are within Durham Region.

## **4.0 Input From Other Sources**

- Ontario Municipal Tax and Revenue Association (O.M.T.R.A.)
- Planning and Economic Development Department, Region of Durham
- Economic Development, City of Oshawa
- Greater Oshawa Chamber of Commerce
- Other Municipalities

## **5.0 Analysis**

### **5.1 Background**

On November 23, 2017 the Province of Ontario enacted Bill 127, Stronger, Healthier Ontario Act providing ability for municipalities to levy a Municipal Accommodation Tax. On December 1, 2017, Section 400.1 was enacted providing the authority to lower tier and single tier municipalities across Ontario to impose a Municipal Accommodation Tax. These optional fees have been used to raise funds for tourism across Ontario in 23 municipalities since its enactment.

### **5.2 Administration Procedures**

Municipal Accommodation Tax is a sales tax paid by the guest and charged as a percentage of the purchase price of transient accommodation. It is payable on the purchase price of the room portion for rental accommodation for stays of four hours or more and less than 30 days duration. Other services including meeting room rentals, food and beverage, room services, internet and phone charges are excluded from the tax provided they are itemized separately on the bill. HST is also payable on Municipal Accommodation Tax remittances.

The accommodation provider is obligated to include on every invoice or receipt, a separate item for the amount of the tax on transient accommodation imposed on the purchase and identify the tax on invoice or receipt as: "Municipal Accommodation Tax" or "City of Oshawa Accommodation Tax".

The online platforms, such as "Airbnb" and "V.R.B.O." (Vacation Rentals by Owner) are hosted websites offering short-term rentals. The Municipal Accommodation Tax is added to the price of accommodation as a separate item, and remitted either by the online platform operator (by agreement), or directly by the accommodation provider.

### **5.3 Applicability**

A Municipal Accommodation Tax is applicable to traditional hotels (including full service, limited service, small hotels), motels, hostels, clubs, condo hotels and multi-use complexes.

Short-Term Rentals including all or part of a dwelling used to provide transient sleeping accommodations such as existing bed and breakfasts and accommodation through online platforms such as “Airbnb”.

### **5.4 Municipal Considerations**

#### **5.4.1 Implementation By-law**

In order to implement the Municipal Accommodation Tax the municipality must adopt a By-law permitting the imposition of the fee.

The Municipal Accommodation Tax By-law must include:

- Subject of the tax to be imposed;
- Tax rate or amount of tax payable; and,
- Manner in which the tax is to be collected (i.e.: Designation of agents authorized to collect for municipality or collection obligations of agents require to collect the tax).

The Municipal Accommodation Tax By-law may also include:

- Exemptions, rebates, penalties for failing to comply with the By-law;
- Interest on outstanding taxes or penalties;
- Audit and inspection powers;
- Dispute resolution mechanisms;
- Collection enforcement measures; and,
- Other matters Council considers appropriate.

Mandatory exemptions include the Crown or agency of the Crown, also an authority, board, commission, corporate office or organization where majority of directors, members or officers are appointed by Lieutenant Governor. Other mandatory exemptions are school boards, universities, colleges and post-secondary institutions where enrolment is counted for calculating Heads and Beds grant, hospitals, long term care homes and others as prescribed by the *Municipal Act, 2001*.

Optional Exemptions that may be included by municipalities are shelters, treatment centers, houses of refuge, charitable and non-profit organizations, accommodations supplied by employers to their employees in premises operated by the employer, accommodations provided as a hospital room, condo guest suites and bed and breakfasts.



### **5.4.2 Other Considerations**

The Municipal Accommodation Tax may be collected for a municipality by an external agency, by the municipality, or a combination of both (i.e.: agency collection from hoteliers and municipality collection from short-term rentals).

Non-compliance and non-payment can be enforced through fines, legal enforcement such as garnishments, liens, seizures, sale of property as well as additions to the property tax account.

The municipality is required to enter into an agreement with the eligible tourism entity (e.g. Greater Oshawa Chamber of Commerce) that receives a portion of the Municipal Accommodation Tax. This agreement must include reasonable financial accountability measures to ensure amounts paid to the entity are used for the exclusive purpose of promoting tourism and may provide for other matters.

Successful implementation of the Municipal Accommodation Tax would require a stakeholder communication plan, development of inventory of taxable properties, agreement negotiations as well as payment options available. In 2019, the Region of Durham, Planning and Economic Development Department began the initial stakeholder engagement to determine the interest level and support.

Several municipalities have successfully implemented this Municipal Accommodation Tax. The benchmark analysis of 36 Ontario municipalities, Attachment 1, identified 23 municipalities that have applied a 4% tax. Other Region of Durham municipalities have not passed by-laws levying Municipal Accommodation Tax as of this time.

The Region of Durham is currently exploring the tax through research with C.B.R.E. Hotels Valuation & Advisory Services on a Market Assessment Report. Attachment 2 is the C.B.R.E. Municipal Accommodation Tax Potential for Oshawa (based on hotel occupancy only), as reported to the Region of Durham.

### **5.4.3 Implementation Plan**

It is anticipated that a proposed Municipal Accommodation Tax implementation plan and associated By-law will be presented to the Finance Committee in the fall of 2020.

## **6.0 Financial Implications**

As was reported in the C.B.R.E. report, if the City of Oshawa were to implement a 4% Municipal Accommodation Tax, it is estimated that it could generate approximately \$700,000 annually based upon the affected properties.

It should be recognized that the revenue estimates in the C.B.R.E. report were derived prior to the COVID-19 Pandemic. As a result of the current economic conditions, the projected revenue estimates may be substantially less than originally forecast.

There is a requirement for a revenue sharing arrangement to be in place with an eligible tourism entity, if a destination marketing program does not exist on the day before

Municipal Accommodation Tax comes into effect. The requirement is that at least 50% of the Municipal Accommodation Tax revenue received minus reasonable costs of collecting and administering the tax for the fiscal year be retained by the eligible tourism entity. The amount paid to an eligible tourism agency must be used by the entity for the exclusive purpose of promoting tourism.

## **7.0 Relationship to the Oshawa Strategic Plan**

This report meets the Oshawa Strategic Plan goals of Economic Prosperity and Financial Stewardship by ensuring responsible and affordable taxation by being fiscally responsible and the goal of Accountable Leadership ensuring respect, responsiveness and transparency.



Stephanie Sinnott, Commissioner,  
Finance Services

Attachments

City of Oshawa  
Municipal Accommodation Tax - Benchmarking Analysis  
March 2020 - Transient Accommodation Tax Report

Municipality	Date of Implementation	MAT %	Who is collecting on the municipalities behalf	MAT By-law
1 Ajax	Not Implemented	N/A	N/A	N/A
2 Barrie	01-May-19	4%	City of Barrie & Tourism Barrie "Tourism Entity"	2019-022
3 Belleville	01-Jul-19	4%	N/A	N/A
4 Brampton	Not Implemented	N/A	N/A	N/A
5 Brantford	Not Implemented	N/A	N/A	N/A
6 Brockville	01-May-19	4%	City of Brockville	N/A
7 Burlington	2020 implementation	4%	N/A	N/A
8 Cambridge	Not Implemented	N/A	N/A	N/A
9 Cochrane	01-Jul-19	4%	Town of Cochrane	150-2019
10 Cornwall	01-Jun-18	4%	City of Cornwall	2018-039
11 Guelph	Not Implemented	N/A	N/A	N/A
12 Hamilton	Not Implemented	N/A	N/A	N/A
13 Huntsville	01-Apr-19	4%	Town of Huntsville	2018-131
14 Kingston	01-Aug-18	4%	Kingston Accomodation Partners	Report 18-175
15 Kitchener	Not Implemented	N/A	N/A	N/A
16 London	01-Oct-18	4%	Ontario Restaurant Hotel & Motel Association (ORHMA)	N/A
17 Markham	01-Jan-19	4%	City of Markham	2018-016
18 Milton	Not Implemented	N/A	N/A	N/A
19 Mississauga	01-Apr-18	4%	City of Mississauga	23-18
20 Niagara Falls	01-Jan-19	2\$/day	City of Niagara Falls	2018-104
21 North Bay	01-Feb-19	4%	City of North Bay	2018-84
22 Oakville	01-Jan-19	4%	City of Oakville	2018-137
23 Ottawa	01-Jan-18	4%	Ottawa Gatineau Hotel Association	N/A
24 Pickering	Not Implemented	N/A	N/A	N/A
25 Richmond Hill	Not Implemented	N/A	N/A	N/A
26 Sarnia	Not Implemented	N/A	N/A	N/A
27 Sault Ste Marie	01-Jan-19	4%	City of Sault Ste Marie	2018-218
28 St. Catharines	Not Implemented	N/A	N/A	N/A
29 Sudbury	01-Sep-18	4%	City of Sudbury	2018-127
30 Thunder Bay	01-Sep-18	4%	City of Thunder Bay	74/2018
31 Timmins	01-May-19	4%	City of Timmins	2019-8306
32 Toronto	01-Apr-18	4%	The Greater Toronto Hotel Association (GTHA)	296-2018
33 Vaughan	01-Apr-19	4%	City of Vaughan	29-2019
34 Waterloo	01-Jul-19	4%	Waterloo Regional Tourism Marketing Corporation (WRTMC)	N/A
35 Whitby	Not Implemented	N/A	N/A	N/A
36 Windsor	01-Oct-18	4%	City of Windsor	133-2018

Results:  
13 Not Implemented  
23 Implemented

MUNICIPAL ACCOMMODATION TAX REVENUE ASSESSMENT  
REGIONAL MUNICIPALITY OF DURHAM

Oshawa Market

OSHAWA	2018 Actual	2018 YTD June	2019 YTD June	2019 Projection	2020 Projection	2021 Projection	2022 Projection
Rooms	458	458	458	458	652	652	652
Annual Occupancy	72%	68%	74%	77%	65%	67%	68%
Average Daily Rate	\$110	\$104	\$103	\$109	\$111	\$114	\$116
RevPar	\$80	\$71	\$75	\$85	\$73	\$76	\$79
Available Room Nights	167,201	82,868	82,898	167,201	238,011	238,011	238,011
Occupied Room Nights	120,960	56,686	61,037	129,427	155,313	158,419	161,587
Rooms Revenue	\$13,355,000	\$5,895,282	\$6,257,406	\$14,147,000	\$17,316,000	\$18,015,000	\$18,743,000
MAT	4%	\$534,200		\$565,900	\$692,600	\$720,600	\$749,700
Available Room Nights (% change)			0.0%	0.0%	42.4%	0.0%	0.0%
Occupied Room Nights (% change)			7.7%	7.0%	20.0%	2.0%	2.0%
Average Daily Rate (% change)			-1.4%	-1.0%	2.0%	2.0%	2.0%

Source: CBRE Hotels, CBRE Hotels' Trends in the Hotel Industry National Market Database

- In 2018, the Oshawa hotel market, which was comprised of 5 properties with 458 rooms, achieved a market occupancy of 72% at an Average Daily Rate of \$110 for total room revenues of \$13.3 million.
- Based on June year-to-date 2019 performance, the Oshawa hotel market is projected to achieve a 77% occupancy, with an ADR of \$109, generating just over \$14 million in room revenue in 2019.
- The Courtyard/TownePlace Suites is projected to open January 2020 and bring 194 new rooms into the market. This will increase available room nights in the market by 42% in 2020.
- In 2020, the market ADR has been projected to increase by 2% to reach \$111, followed by 2% per annum for the balance of the projection period.
- Market demand is projected to grow by 20% in 2020 and due to the strong brand presence in the market. With supply growth outpacing demand in 2020, market occupancies are projected to decline before adjusting to the new supply and stabilizing at 68% in 2022.
- The total annual Municipal Accommodation Tax revenue potential for Oshawa has been projected at \$566,000 in 2019, increasing to \$750,000 by 2022, representing a 32% growth over the four-year projection period.

 **Oshawa®** **By-law -2020**  
**of The Corporation of the City of Oshawa**

being a by-law to establish the Municipal Accommodation Tax.

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

AND WHEREAS pursuant to section 400.1 of the Act and the Ontario Regulation 435/17, “Transient Accommodation Tax”, the Council of The Corporation of the City of Oshawa may establish a tax rate and to levy the tax on the purchase of transient accommodation within the City of Oshawa;

AND WHEREAS pursuant to section 400.1(3) and 400.4 of the Act, Council can establish enforcement measures as Council considers appropriate if an amount assessed for outstanding tax, penalties or interest remains unpaid after it is due; AND WHEREAS section 8(1) of the Act provides that the powers of a municipality shall be interpreted broadly as to confer broad authority on a municipality to (a) enable it to govern its affairs as it considers appropriate; and (b) enhance its ability to respond to municipal issues;

AND WHEREAS section 11(2) of the Act provides that a lower-tier municipality may pass By-laws respecting health, safety and well-being of Persons and protection of Persons and Property, including consumer protection;

AND WHEREAS section 391 of the Act provides for the municipality to impose fees or charges on Persons for services or activities provided or done by or on behalf of it;

AND WHEREAS section 425 of the Act provides for a municipality to pass By-laws providing that a Person who contravenes a By-law of the municipality passed under the Act is guilty of an offence;

AND WHEREAS Council wishes to add the arrears of the interest and penalties to the tax roll for the properties in the City of Oshawa registered in the name of the Provider to be collected in a manner as property taxes and such arrears shall constitute a lien upon the lands, but pursuant to section 400.4(2) of the Act, such lien shall not be a priority lien for the purposes of subsections 1 (2.1), (2.2) (3) of the Act and such lien will not have a higher priority than it would otherwise have in law in relation to other claims, liens or encumbrances;

NOW THEREFORE, the Council of The Corporation of the City of Oshawa enacts as follows:

## **DEFINITIONS**

1. For the purpose of this By-law:

“Accommodation” means the use or possession or the right to use or possess, for dwelling, lodging or sleeping purposes of a room or suite of rooms containing one or more beds or cots, whether in a hotel, motel, motor hotel, lodge, inn, resort, bed and breakfast, short-term rentals or other establishment providing lodging, or in all or part of a dwelling unit and whether or not additional amenities, services or the right to use additional space in the establishment or dwelling unit are provided where such rights are acquired for a Purchase Price;

“City” means the geographic area of the City of Oshawa or the municipal corporation as the context requires;

“Council” means the Council of The Corporation of the City of Oshawa;

“Establishment” means the physical location, a building(s) or part of a building(s) that provides Accommodation.

“Municipal Accommodation Tax” or “MAT” means the tax imposed under this By-law and where applicable, includes MAT assessed by the Treasurer;

“Person” includes an individual, a sole proprietorship, an unincorporated association, a partnership, a trust and a corporation;

“Provider” means a Person that sells, offers for sale, or otherwise provides Accommodation, and includes agents, hosts or others who sell, offer for sale by any means, including through an on-line platform or otherwise provide Accommodation;

“Purchaser” means a Person who, for a Purchase Price, uses, possesses or has the right to use or possess any Accommodation;

“Purchase Price” means the price for which Accommodation is purchased, and where applicable, any other consideration accepted by the Provider in return for the Accommodation and includes all fees and charges for additional occupants, for provision of additional beds or cots, and unless separately itemized on the invoice, bill or similar document, all fees and surcharges for ancillary services including food, beverages, entertainment, internet usage, telephone usage and similar charges. Purchase Price does not include the harmonized sales tax imposed by the Government of Canada or by the Province of Ontario or any replacement tax therefor;

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

## **APPLICATION**

2. A Purchaser shall, at the time of purchasing Accommodation, pay the Municipal Accommodation Tax in the amount of four (4) per cent of the Purchase Price of Accommodation provided for a continuous period of 30 days or less.

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

## EXEMPTIONS

3. The following are exempt from this By-law:

- a. The Crown, any agency of the Crown in right of Ontario or any 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. Any board as defined in subsection 1(1) of the *Education Act*;
- c. Any university in Ontario or any college of applied arts and technology and post-secondary institution in Ontario whether or not affiliated with a university, the enrollments of which are counted for purposes of calculating operating grants entitlements from the Crown;
- d. Any hospital referred to in the list of hospitals and their grades and classifications maintained by the Minister of Health and Long-Term Care under the *Public Hospitals Act* and every private hospital operated under the authority of a license issued under the *Private Hospitals Act*;
- e. Any long-term care home as defined in subsection 2(1) of the *Long Term Care Home Act*;
- f. Any retirement home as defined in the *Retirement Home Act, 2010*;
- g. Any home for special care within the meaning of the *Homes for Special Care Act*;
- h. Any non-profit hospice occupying land for which there is an exemption from taxation determined in accordance with section 23.1 of Ontario Regulation 282/98 made under the *Assessment Act*;
- i. Any Person or entity as prescribed by regulation under the Act as exempt from payment of Municipal Accommodation Tax;
- j. Any treatment centre that receives provincial aid under the *Ministry of Community and Social Services Act*; or
- k. Accommodation provided:
  - i. In a house of refuge or lodging for the reformation of offenders;
  - ii. By charitable or not-for-profit corporations or by the City or Region of Durham or its contractors or agents for the purpose of providing or operating a shelter or emergency shelter for the relief of the poor; or for the benefit of persons who are fleeing situations of physical, financial, emotional or psychological abuse; or for other persons who are suffering from homelessness;
  - iii. As a tent site or a trailer site;
  - iv. By an employer to its employees in premises operated by the employer; or
  - v. In premises owned or operated by the City of Oshawa.

## **ADMINISTRATION / DELEGATION**

4. The Treasurer is delegated the authority to implement and administer this By-law, to collect the MAT and to take all actions, including any and all enforcement measures, and make all decisions required of the Treasurer under this By-law. Without limiting the generality of the foregoing, the Treasurer is delegated the authority to:

a. Establish, amend and sign from time to time, such interpretation guidelines, protocols, procedures, forms, documents and agreements, as the Treasurer may determine are required to implement and administer this By-law and to collect the MAT;

b. Perform all administrative functions and conduct all enquiries, audits, assessments, approvals, referred to herein and those incidental to and necessary for the due administration and enforcement of this By-law and collection of monies owing hereunder;

c. Authorize, establish terms and sign any repayment agreements provided for herein and any ancillary or related documents, and to amend, extend or terminate or otherwise administer or enforce such agreements; and

d. Carry out all duties as assigned to the Treasurer under this By-law.

5. The Treasurer may delegate the performance of any one or more functions under this By-law to one or more persons from time to time as the occasion requires and may impose conditions upon such delegation and may revoke any such delegation.

6. Ontario Regulation 435/17 (5) allows municipalities to collect a fee for the costs associated with administering the tax. The City will collect an administration fee of 5% of the total MAT revenue, payable to offset costs related to administration.

## **TAX COLLECTIONS AND REPORTING**

7. A Provider shall collect the MAT from the Purchaser at the time the Accommodation is purchased.

8. The amount of the MAT shall be identified as a separate item or charge on a bill, receipt, invoice or similar document issued by the Provider in respect of the Accommodation on which the tax is imposed and the item shall be identified as "Municipal Accommodation Tax".

9. A Provider shall, on or before the last day of every month, remit to the Treasurer for the amount of the MAT collected for the previous month and submit the monthly statements in the form required by the City Treasurer detailing the number of the Accommodation sold, the purchase price of each Accommodation, the MAT amount collected and any other information as required by the City for the purposes of administering and enforcing this By-law.

## **INTEREST and PENALTIES**

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



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

## **AUDIT AND INSPECTION**

12. Every Provider shall keep books of account, records and documents sufficient to furnish the City Treasurer with the necessary particulars as of point in time, to verify the accuracy and completeness of the amount of MAT collected and paid to the City.

13. The Treasurer may inspect and audit all books, documents, transactions and accounts of the Providers and require the Providers to produce copies of any documents or records required for the purposes of administering and enforcing this by-law, as required.

14. Every Provider shall retain such books of account, records and documents for a period of time of not less than 7 years.

## **COLLECTION OF ARREARS**

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

- a. Adding the amount to the tax roll for any real property in the City registered in the name of the Provider or Owner of the Establishment to be collected in a manner as property taxes and constituting a lien upon the lands;
- b. Bringing an action in the name of the City for the recovery of the amount in the court of appropriate jurisdiction;
- c. Referring the collection of the amount to a collection agency; and
- d. Exercising any other remedy available pursuant to the *Municipal Act, 2001* or otherwise available at law.

16. The remedies provided for the recovery and enforcement of the payment of any amount required under this By-law are in addition to any other remedies existing at law.

## **OTHER PENALTIES**

17. Every Provider who contravenes any of the provisions of this By-law and any director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*.

18. A Provider who is convicted of an offence under this By-law is liable, for each day or part of a day that the offence continues, to a minimum fine of \$500.00 and a maximum fine of \$10,000.00 and the total of all daily fines for the offence is not limited to \$100,000.00 as provided in subsection 429(3)2 of the *Municipal Act, 2001*.

19. The levying and payment of any fines as provided for under the *Provincial Offences Act* and not relieve a person from the necessity of compliance with the obligations under the By-law or from the obligation for payment of the MAT or any interest or penalty imposed by the By-law or such other penalties as may be provided for under the *Municipal Act, 2001* as amended or replaced.

The use of any of the remedies provided by this section does not bar or affect any of the other remedies herein provided, and the remedies provided by this By-law for the recovery and enforcement of the payment of any amount required under this By-law are in addition to any other remedies existing at law, and no action or other proceeding in any way prejudices, limits or affects any Lien or priority existing under this By-law or at law in favour of the City

20. Without limiting the foregoing, the City may establish and use other dispute resolution mechanisms and enforcement measures if an amount assessed for outstanding tax, penalties or interest remains unpaid after it is due, including measures such as garnishment, the seizure and sale of property and the creation and registration of liens as it considers appropriate.

## **GENERAL**

21. For the purpose of Section 23.2(4) of the *Municipal Act, 2001*, it is the opinion of Council that the powers delegated to the Director pursuant to this By-law are of a minor nature.

23. All references to legislation in this By-law are references to legislation of the Province of Ontario as amended from time to time, including successor legislation, whether enacted prior to or subsequent to the enactment of this By-law.

24. Should any section of this By-law be declared invalid by a court of competent jurisdiction, such section shall be construed as being severed from this By-law and the remainder of this By-law shall continue in full force and effect.

25. Notwithstanding the repeal of this By-law, any enforcement, legal, or collection actions arising from this By-law while this By-law was in effect shall survive its repeal.

26. This By-law shall be administered by the Treasurer, including his or her designate.

27. The provisions of this By-law shall come into force and effect on the date of its passing.

28. If there is a conflict between a provision of this By-law and a provision of any other City by-law, the provision that establishes the higher standard shall prevail.

By-law passed this            day of            , 2020.

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Mayor

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City Clerk