



TO: GENERAL COMMITTEE

SUBJECT: MUNICIPAL ACCOMMODATION TAX ON INTERNET-BASED ACCOMMODATION SHARING PLATFORMS

WARD: ALL

PREPARED BY AND KEY CONTACT: N. GAVARRE, INVESTMENT COORDINATOR EXT. 4431

SUBMITTED BY: S. SCHLICHTER, DIRECTOR OF BUSINESS DEVELOPMENT

GENERAL MANAGER APPROVAL: Z.LIFSHIZ, EXECUTIVE DIRECTOR OF INVEST BARRIE

CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That the Municipal Accommodation Tax (MAT) in the amount of 4% identified in Regulation 435/17 of the Ontario *Municipal Act, 2001* currently applicable on transient hotels, motels and inns, be extended to include internet-based accommodation sharing platforms, effective May 1, 2019.
2. That a by-law be passed to bring the MAT into force and effect for May 1, 2019 for all internet-based accommodation sharing platforms to charge, collect and remit, four percent of the purchase price of the accommodation provided for a continuous period of less than 30 nights.
3. That Tourism Barrie as the City's 'tourism entity' defined in Regulation 435/17 of the Ontario *Municipal Act, 2001* receive 50% of the MAT for all internet-based accommodation sharing rental platforms as outlined in the conditions of the legislation.
4. That the City Clerk be authorized to execute an agreement with Airbnb Ireland UC (referenced as 'Airbnb') in a form acceptable to the Director of Legal Services, Director of Finance, and the Director of Business Development to facilitate the reporting, collection and remittance of the applicable MAT imposed under the proposed by-law.
5. That staff in Invest Barrie investigate the implementation of additional contracts with other internet-based accommodation sharing platforms for the collection of the MAT.
6. That the City Clerk be authorized to execute agreements of a similar nature to Airbnb with internet-based accommodation sharing platforms in a form acceptable to the Director of Legal Services, Director of Finance, and the Director of Business Development to facilitate the reporting, collection and remittance of the applicable MAT imposed under the proposed by-law.
7. That the City's portion of the MAT funds collected be allocated to the Tourism Reserve Fund previously established under motion 18-G-150 and be utilized under the following principles and purposes outlined in paragraph #6 (b-d) of motion 18-G-150 attached as Appendix "A" to Staff Report BDD001-19:

"b) Capital Asset refurbishment or new capital assets that support tourism;

- c) Studies, strategic initiatives, new product development, or marketing campaigns consistent with the City's Tourism Sector Master Plan; and
- d) A minimum annual uncommitted balance of \$100K be maintained to provide a source of stabilization funding if required."

PURPOSE & BACKGROUND

Report Overview

8. The purpose of this Staff Report is to seek approval for adding internet-based accommodation sharing platforms as accommodation providers subject to the City's current Municipal Accommodation Tax (MAT) of 4%.
9. This Staff Report also seeks authorization for staff to execute an agreement with Airbnb (Airbnb Ireland UC) as an internet-based accommodation sharing platform to collect and remit the MAT and direction to pursue and execute agreements with other platforms. Further, the Staff Report also seeks direction for the allocation of the MAT funds under Regulation 435/17 of the Ontario *Municipal Act, 2001*.

Background

10. On June 5, 2018, City Council adopted motion 18-G-150 regarding Tourism Service Delivery and MAT Assessment. For reference, the motion is included as Appendix "A".
11. Since Council's approval of the implementation of an MAT, Airbnb has pro-actively sought out the City of Barrie to voluntarily implement the Municipal Accommodation Tax on their internet-based accommodation sharing platform. No other internet-based accommodation sharing platform provider has approached the City to date.
12. Airbnb has provided the City of Barrie with their Standard Agreement utilized for Ontario municipalities. The standard agreement has been reviewed by City's Legal Department, Finance Department and Business Development Department and the terms have been deemed to reflect the intent of the City's implementation of the MAT and Regulation 435/17. Key highlights of the agreement include:
 - Airbnb provides an Internet-based platform through which third parties offering accommodations and third parties booking such accommodations may communicate, negotiate and consummate a direct booking transaction for accommodations to which Airbnb is not a party;
 - The taxing jurisdiction levies certain accommodation taxes under the law and related by-law; although such tax and such law apply to booking transactions between hosts and guests rather than to the specific activities of Airbnb;
 - The taxing jurisdiction and Airbnb will enter into this agreement voluntarily in order to facilitate the reporting, collection and remittance of applicable MAT imposed under the applicable law, on behalf of hosts for booking transactions completed by hosts and guests on the platform; and
 - Airbnb agrees to report reasonable aggregate information in respect of taxable booking transactions on the tax return form prescribed by the taxing jurisdiction.

13. Regulation 435/17 requires that the municipality must provide 50% of the net MAT revenue collected to an 'eligible tourism entity'. Motion 18-G-150 (Appendix "A"), which implemented the MAT for hotels and motels in the City of Barrie, identifies Tourism Barrie as the 'eligible tourism entity' for a period of 3 years and has negotiated a service agreement to that effect.
14. The same motion (18-G-150) allocated the remaining City's portion of the MAT be allocated to a Tourism Reserve Fund to be used under the following principles:
 - Capital Asset refurbishment or new capital assets that support tourism;
 - Studies, strategic initiatives, new product development, or marketing campaigns consistent with the City's Tourism Sector Master Plan; and
 - A minimum annual uncommitted balance of \$100K be maintained to provide a source of stabilization funding if required.

Overview of Provincial Legislation

15. The following are the key highlights of the Provincial Legislation:
 - a) For local municipalities where a DMO (Destination Marketing Organization) program does not exist, at least 50 per cent of their hotel tax revenue would be shared with an eligible tourism entity;
 - b) The Act defines an 'eligible tourism entity' as a non-profit entity whose mandate includes the promotion of tourism in Ontario or in a municipality;
 - c) Any amounts paid to an eligible tourism entity shall be used by the eligible tourism entity for the exclusive use of promoting tourism; and
 - d) The municipality and tourism entity shall enter an agreement respecting reasonable financial accountability matters, including auditing records of Tourism Barrie and records of amounts collected, in order to ensure that the amounts paid to the entity are used for the exclusive purpose of promoting tourism.
16. The regulation also provides exemptions for properties owned by the Crown, Universities, Colleges, Post-Secondary Schools, Hospitals, Long-term Care Homes, and other exemptions, as approved by Council. In addition, the regulation allows the municipality to enter into agreements with entities to collect the tax, acting as agents for the municipality, and prescribes a revenue sharing formula where proceeds are shared with the eligible local tourism organization.
17. The Act requires a local municipality to include the following within the respective MAT by-law:
 - a) The name of the tax to be imposed;
 - b) The rate of the tax to be imposed;
 - c) The manner in which the tax is to be collected, including the designation of any persons or entities who are authorized to collect the tax as agents for the municipality and any collection obligations of persons or entities who are required to collect the tax;
 - d) Failing to comply with the by-law:
 - i) Interest on the outstanding amount;
 - ii) Assessment of outstanding tax, penalties or interest;
 - iii) Audit and inspection powers; and
 - iv) The establishment and use of dispute resolution mechanisms.

ANALYSIS

18. Over the past several years there has been extensive growth in the availability and bookings of accommodations via internet-based sharing platforms. This growth has been fueled by property owners taking advantage of the popular booking sites including Airbnb, HomeAway, VRBO, etc. and the increasing popularity amongst consumers.
19. Airbnb is a privately owned accommodation rental website which enables hosts to rent out their properties or rooms to guests who use the website to find somewhere to stay. Airbnb has listings in 190 countries and over 65,000 cities. The company has over 150 million users and over 640,000 hosts with 4 million listings worldwide. Airbnb has signed tax agreements with over 275 governments.
20. Given the number of platforms and market fluctuations, it is difficult to get an exact number on internet-based available accommodations available in Barrie. Discussions with Airbnb and Tourism Barrie provided estimates of 300 to 500 rooms/places available via internet-based accommodation sharing platforms within the City of Barrie.
21. Airbnb has approached the City of Barrie to voluntarily implement the four per cent accommodation tax at the platform level on all transactions that take place within the City of Barrie. Airbnb would remit the MAT on a quarterly basis back to the City of Barrie with supporting documentation identified within their agreement.
22. Currently, Airbnb has completed agreements with the following municipalities in Ontario; Brockville, Cornwall, Mississauga, Ottawa and Greater Sudbury. They are currently negotiating contracts with several other municipalities in Ontario.
23. In discussions with Brockville, Cornwall and Greater Sudbury their experience with Airbnb and the implementation of the MAT has been seamless. These municipalities are still in the early stages of the implementation of the MAT with Airbnb and have not yet received a remittance as of the writing of this report.
24. Including internet-based accommodation sharing platforms in the MAT collection levels the playing field across all types of accommodation providers in Barrie and delivers an additional revenue source to promote tourism as an economic driver in the City.
25. No other internet-based accommodation sharing platforms have come forward to voluntarily implement the MAT. Business Development Department staff will reach out to other companies that offer internet-based accommodation sharing platforms. It is important to note, that other Ontario municipalities that have implemented an MAT for internet-based accommodation platforms are also seeking to do the same with platforms other than Airbnb and have not yet achieved agreements. Staff will report back to General Committee after 1 year.
26. Based on some very preliminary information and assumptions calculated by Airbnb and Tourism Barrie, staff have estimated that potential revenues could be approximately \$120,000. Market conditions, occupancy rates and room rates will impact the revenues generated and will not be known until such time as the City receives the required reporting from Airbnb.
27. Staff are recommending that the proportional allocations for the MAT established for hotel/motel and inns also apply to the MAT for internet-based accommodation sharing platforms with 50% being allocated to Tourism Barrie as the 'eligible tourism entity' and the City's remaining 50% be allocated to the Tourism Reserve Fund. These allocations will allow time for the completion of the Tourism Master Plan and for the City to have collected some remittances to be better able to determine the level of funds generated.

ENVIRONMENTAL MATTERS

28. There are no environmental matters related to the recommendation.

ALTERNATIVES

29. The following alternatives are available for consideration by General Committee:

Alternative #1

General Committee could maintain the existing by-law with respect to the Municipal Accommodation Tax only being applicable to hotels, motels and inns. This alternative is not recommended. By Including internet-based accommodation sharing platforms in the MAT collection, it levels the playing field across all types of accommodation providers and provides an additional revenue source to promote tourism as an economic driver in the City. The funds will support the development of a Tourism Sector Master Plan that will define the impact, opportunities, and business trends and will articulate the vision and action plan to further develop the tourism sector.

FINANCIAL

30. Based on very preliminary information and assumptions calculated by Airbnb and Tourism Barrie, staff have estimated that potential revenues could be approximately \$120,000.
31. Per the recommended motion, 50% of the funds are directed to Tourism Barrie in accordance with the Regulation 435/17 of the *Ontario Municipal Act, 2001*. The remaining 50%, or approximately \$60,000.00 would be allocated to the City's Tourism Reserve Fund.
32. Economic conditions will have an impact on the total MAT revenue on an annual basis. Historical annual growth in occupancy in Barrie, combined with the rationale that increased investment in tourism marketing through an MAT would drive increased room occupancy and associated room rates, make it reasonable to assume that the MAT could provide a relatively stable and sustainable revenue source.
33. Airbnb agrees contractually to assume liability for any failure to report, collect and/or remit the correct amount of MAT in accordance with its obligations under their Agreement.
34. The Taxing Jurisdiction agrees to audit Airbnb on an anonymized transaction basis for taxable booking transactions without disclosing any personally identifiable information relating to any host or guest.

LINKAGE TO 2018-2022 STRATEGIC PLAN

35. The 2018-2022 Council Strategic Plan has not been finalized as of the writing of this report.
36. The intended purpose of implementing a Municipal Accommodation Tax is primarily to provide stable, predictable, sustainable and performance-based funding for sales and marketing programs, as well as to increase spending on non-sales related tourism development projects, events and activities.

-
37. Extending the MAT to include internet-based accommodation sharing platforms contributes to Council's strategic goal of growing our economy by delivering a new source of funding to support tourism marketing in the City through Tourism Barrie and a funding source for Council to invest in strategic products, new product development and capital assets that will support the tourism sector as an economic driver for the City of Barrie.

APPENDIX "A"
Direction Memo

City of Barrie
Direction Memos

City Council

June 18, 2018

18-G-150 TOURISM SERVICE DELIVERY AND MAT ASSESSMENT

1. That a Municipal Accommodation Tax (MAT) as identified in Regulation 435/17 of the Ontario *Municipal Act, 2001* be implemented in the amount of 4% of room rates on transient hotel, motel, inns, effective January 1st, 2019.
2. That Tourism Barrie as the City's 'tourism entity' defined in Regulation 435/17 receive 50% of the MAT as outlined in the conditions of the legislation.
3. That the Director Business Development and Director of Finance, be authorized to negotiate an agreement with Tourism Barrie for the collection of the MAT on behalf of the City under the following principles:
 - a) In adherence with all applicable law under the *Municipal Act, 2001*;
 - b) Advancing up to 4 months of operating funds to Tourism Barrie in year one of the agreement to allow Tourism Barrie to fund operations while the MAT is implemented and fund collection stabilized;
 - c) The MAT be collected on a monthly basis and remittances be received to the City of Barrie on a quarterly basis with a verified summary from Tourism Barrie;
 - d) Appropriate fiscal accountability, audit requirements, inspection powers, termination provisions, and any other requirements identified through the applicable legislation to ensure appropriate accountability and oversight;
 - e) An annual service fee not to exceed 2% or \$25K (indexed annually to CPI) of the total MAT collection per annum;
 - f) The agreement not to exceed three-years; and
 - g) The commitment of Tourism Barrie to support strategic initiatives with the City within the tourism sector in alignment with the Tourism Sector Master Plan, once completed.
4. That staff in the Business Development Department report back to General Committee annually in years 1 and 2 of the agreement, and at minimum, four months prior to the expiration of the agreement (October 2021) in year 3 with a review of the activities of Tourism Barrie, the impact of the MAT, recommendations related to the future application and collection of the MAT, and the inclusion of additional transient accommodations (Airbnb, etc.).
5. That the City Clerk be authorized to execute any documents that may be requisite to implement the MAT and associated agreement(s) with Tourism Barrie to collect and remit the MAT in a form acceptable to the Director of Finance, Director of Business Development and the Director of Legal Services.
6. That a Tourism Reserve Fund be established for the City's portion of the MAT and be utilized under the following principles and purposes:

-
- a) The annual administrative fee as a percentage of the MAT negotiated in accordance with paragraph 3 e) of the recommended motion;
 - b) Capital Asset refurbishment or new capital assets that support tourism;
 - c) Studies, strategic initiatives, new product development, or marketing campaigns consistent with the City's Tourism Sector Master Plan; and
 - d) A minimum annual uncommitted balance of \$100K be maintained to provide a source of stabilization funding if required.
 7. That an intake form be included in the 2019 Business Plan and Budget for Council's consideration for tax base support for:
 - a) The annual administrative fee as a percentage of the MAT negotiated in accordance with paragraph 3 e) of the recommended motion; and
 - b) Funding estimated at \$110,000 for Invest Barrie to lead, with the support of Tourism Barrie, the completion of a Tourism Sector Master Plan for the City that would consider the opportunities identified in the tourism services assessment report completed in 2016, along with other priorities identified by City of Barrie staff including sport tourism and corporate/conference development.
 8. That a Tourism Working group be established comprised of the following members:
 - Councillor, B. Ward (for a term ending November 30th, 2018);
 - Councillor, A. Khan (for a term ending November 30th, 2018);
 - Director of Business Development or designate;
 - Director of Creative Economy or designate;
 - Director of Recreation Services or designate;
 - Director of Finance and City Treasurer;
 - One representative of Downtown BIA;
 - Two representatives of the Barrie Hotel Association;
 - Two representatives of Tourism Barrie; and
 - One community representative from the Sport Events/Facilities Advisory Committee.
 9. That in the Terms of Reference for the Tourism Working Group detailed in Appendix "A" of the Report to the Finance and Corporate Services Committee dated June 4, 2018, with the intent of guiding the scope and development of a Tourism Sector Master Plan for the City and its implementation of the recommendations on use of MAT funds, be adopted.
 10. That the proposed by-law attached as Appendix "B" to the Report to the Finance and Corporate Services Committee dated June 4, 2018 be introduced to bring the MAT into force and effect for January 1, 2019. (Finance and Corporate Services Committee – June 4, 2018)