

Tourism Municipal Services Corporation

1.0 Purpose

The Town of Whitby proposes to incorporate a not-for-profit municipal services corporation to be named "Whitby Tourism Development Corporation" ("Corporation") to serve as the eligible tourism entity for the purposes of the municipal accommodation tax and the promotion of tourism in Whitby.

This Business Case Study provides information on the benefits of establishing the Corporation and a proposed governance framework for the Corporation. Specifically, this document:

1. Sets out the objectives of the Corporation and its mandate, guiding objectives, governance structure, funding sources, accountability, reporting and implementation strategy; and
2. Has been prepared according to section 6 of Ontario Regulation 599/06 (Municipal Services Corporations) of the *Municipal Act, 2001* (Ontario).

2.0 Defined Terms

Eligible Tourism Entity is a non-profit entity whose mandate includes the promotion of tourism in Ontario or in a municipality and may include the development of tourism products.

Municipal Accommodation Tax (MAT) is a tax on the purchase of transient accommodation in the municipality which funds tourism promotion and other projects that will benefit the local economy.

Municipal Services Corporation (MSC) is a corporation that is established by a municipality or by a municipality and one or more other public sector entities and whose purpose is to provide a system, service, or thing that the municipality itself could provide.

Ontario Restaurant Hotel & Motel Association (ORHMA) is the largest provincial hospitality association in Canada that represents members of more than 11,000 establishments across the province.

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Transient Accommodation is accommodation for a continuous period of stay of 29 nights or less; this continuous period is not disrupted by the purchase of different rooms, suites, beds or lodging in the same licensed establishment, such as a hotel, motel or bed and breakfast.

3.0 Background

Tourism is the movement of visitors to countries or places and all activities that visitors engage in when travelling outside their usual environment. A visitor is someone who takes an overnight out-of-town trip or an out-of-town same-day trip and travels more than 40 kilometres for leisure, business, or other purposes. Commuting to work or school, being on a diplomatic mission, going shopping as part of a regular activity, and going to regular appointments for doctors or religious ceremonies do not count as a visitor. For international visitors, it also excludes students who stay in Canada for 75 or more nights.

Tourism plays a significant economic, social, and cultural role in communities across Ontario and provides benefits to local businesses and residents.

The Province of Ontario developed the Municipal Accommodation Tax (“MAT”) as a funding source to support tourism in communities and allow growth in the sector so that tourism continues to contribute to economic, social, and cultural development across Ontario.

Under Ontario Regulation 435/17 (Transient Accommodation Tax) of the *Municipal Act, 2001* (Ontario), the Town must share a minimum of 50% of MAT revenues (less the Town’s reasonable costs of collecting and administering the tax) with an entity that is designated as an Eligible Tourism Entity.

As of 2024, Whitby does not have an Eligible Tourism Entity as mandated by Ontario Regulation 435/17. Therefore, the Town proposes to establish a not-for-profit Municipal Services Corporation (“MSC”) to serve as the Eligible Tourism Entity in Whitby.

Ontario Regulation 599/06 requires the Town to prepare a Business Case Study for the proposed corporation and obtain approval of the Business Case Study by Council Resolution.

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This Business Case Study is presented to fulfill the requirements of Ontario Regulation 599/06.

3.0 Mandate and Objectives

Since the fall of 2020, Tourism has been part of the Creative Communities section in Strategic Initiatives, which also includes culture, events, and downtown development. Whitby's Culture Plan 2021 – 2031 identified a key action to develop a community-driven tourism strategy that leverages cultural and heritage assets, creates a distinctive identity, and supports eco-tourism and local food.

In March of 2021, just as the COVID-19 pandemic has reshaped the tourism industry, the Creative Communities section set out to formulate the tourism strategy to support local businesses and stakeholders. Central Counties Tourism was retained to help develop a four-year strategy, and in May of 2022, Council adopted Destination Whitby – Tourism Strategy 2022 – 2025 ("Tourism Strategy").

The Tourism Strategy provides a framework for businesses, local government, and residents to leverage the visitor economy and grow Whitby as a visitor-ready and welcoming destination. It is a strategy to guide the municipality in future tourism support, promotion, planning, and destination development. One of the actions in the Tourism Strategy recommended the implementation of the MAT. In addition, the Community Strategic Plan recognized promoting tourism as a top priority. Additionally, there is an action item under Whitby's Economy that focuses on advancing Whitby's tourism sector.

The actions and objectives from these strategies have been carried out by the Creative Communities section operating under the brand "Explore Whitby" and "Discover Something New to Enjoy."

The mandate of the Corporation (serving as the Eligible Tourism Entity in Whitby) will be the promotion of tourism in alignment with the Tourism Strategy and the Community Strategic Plan. With the proposed implementation of the MAT, funding will be accessible to support the Tourism Strategy, the Community Strategic Plan, and related tourism initiatives moving forward.

The following objectives will guide the Corporation in decision making throughout the Corporation's lifecycle irrespective of changes in leadership, goals, strategies and

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activities:

- a) The Corporation will act as steward and receiver of funds from the MAT;
- b) The Corporation's business plan and/or guiding documents will be the Tourism Strategy and the Community Strategic Plan, including all updates;
- c) The Corporation will engage in tourism promotion and tourism product development in Whitby;
- d) The Corporation will act as a vehicle for moving funding to third parties that enhances, but does not replace, existing municipal funding;
- e) The Corporation will report to Council at least once a year or as otherwise stipulated in the Corporation's by-laws; and
- f) The Corporation will undertake its work based on objective decision-making processes that are accountable and transparent, resulting in town-wide benefits.

4.0 Analysis

4.1 Benefits of a Municipal Services Corporation

The benefits of the Town establishing the Corporation include:

- a) Satisfying the Province's requirement for a non-profit tourism entity to serve as an Eligible Tourism Entity that utilizes a minimum of 50% of the MAT revenues;
- b) Adopting a MSC model, which provides accountability, corporate responsibility, and reasonable controls through the role of the voting member; and
- c) Ensuring Council, as sole voting member, will be responsible for electing the Board of Directors (which may include staff representatives) that establish the governance framework for business plans, expenditures and corporate policies.

The benefits of establishing a MSC extend beyond that of tourism development. MSCs often conduct business in a manner that meets the private sector requirement of timely, efficient and effective decision making.

As no Eligible Tourism Entity currently exists in the local market, the Town is best positioned to advance the work of the MAT through the MSC model.

4.2. Governance Structure and Incorporation

Business Case Study



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To proceed with the establishment of the Corporation, the Town must submit an application to the Province to incorporate a not-for-profit corporation under the *Not-for-Profit Corporations Act, 2010* (Ontario). The Corporation will be created by way of articles of incorporation which will be drafted by the Town's Legal Services Department.

The application will include the following information:

- a) **Name of the Corporation:** Whitby Tourism Development Corporation (if such name is available on the date of incorporation).
- b) **Address of the Head Office:** 575 Rossland Road East, Whitby, Ontario L1N 2M8
- c) **Incorporators:** Staff propose the following positions to be the incorporators who will act as first directors of the Corporation:
 - Member of Council, as appointed by the Mayor
 - Director, Strategic Initiatives.
 - Commissioner, Financial Services and Treasurer
 - Sr Manager, Economic Development
 - Program Manager of Tourism, Culture and Events
- d) **Objects of the Corporation** include the delivery of, and support for, tourism promotion in Whitby.
- e) **Special Provisions** include limiting the provision of services to members, no director remuneration, and distribution of assets upon dissolution.

Once incorporated, the Board of Directors will have oversight and critical decision-making roles concerning the operation of the Corporation. Staff will bring a report back to Council in Q4 2024 with final recommendations relating to the composition of the Board of Directors, corporate by-laws, financial accountability agreement, asset transfer policy, budget, and other details to bring the organization to a stage of operation.

Once the board members have been established, the incorporators will be invited to attend meetings and continue a relationship with the Board of Directors in an

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advisory (non-voting) capacity. The Tourism and Culture Coordinator will continue to support the Board of Directors, as required, until an administrative support person is found.

4.3 Funding, Budget, and Collection of Municipal Accommodation Tax (MAT) Funds

4.3.1 Financial Impact of MAT

It is anticipated that the MAT, which is proposed to be imposed at 4%, will generate approximately \$350,400 in annual new revenue to the Town. The total generated will be divided equally between the Town and the Corporation less the Town's reasonable costs of collecting and administering the MAT. This revenue will grow in the long-term if the projected new hotels become operational and the short-term rentals are taxed by the Town.

4.3.2 MAT Reserve Fund

With the implementation of the MAT, staff will ask Council to approve the establishment of a discretionary reserve fund to receive the Town's portion of the MAT revenue.

4.3.3 Corporation Annual and Multi-Year Operating Budget

The Corporation will be funded from a minimum of 50% of the proceeds of the MAT revenues. As is the case with the Town, the Corporation will develop a discretionary reserve fund. The creation and management of an annual operating budget and multi-year operating budget will be the responsibility of the Corporation's Board of Directors. The budget for operating costs may include general administration and office costs of accounting services, audit services, phone, computer software, internet, and other contractual and professional services (municipal tourism staff services, etc.). The Corporation will report audited financial statements at its annual meeting.

4.3.4 Loan from the Town for Startup Costs

The nominal cost to establish the Corporation, such as incorporation fee, purchase of accounting software, and staff costs to perform financial and/or administrative duties of the Corporation, will be funded by the Town through a loan to be repaid by the

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Corporation or once the Corporation receives MAT revenues. Staff will bring back a recommended loan amount in Q4 2024 for Council's consideration.

4.3.5 Financial Accountability Agreement

The Corporation will enter into an agreement with the Town respecting reasonable financial accountability matters to ensure that amounts paid to the Corporation are used for the sole purposes of promoting tourism and developing or enhancing tourism products. In addition, the agreement may provide for other matters.

4.3.6 Collection of Funds

Licensed accommodation providers will be responsible for the collection of the MAT. They will then remit these collections to the Ontario Restaurant Hotel & Motel Association ("ORHMA").

The reasonable costs of collecting and administering the MAT would be deducted from the total MAT collected by ORHMA before remittance of the MAT to the Town. Following receipt of the remaining MAT from ORHMA, the Town will remit a minimum of 50% of the remaining MAT to the Corporation pursuant to the requirements of Ontario Regulation 435/17.

4.4 Accountability and Reporting

The Town's Tourism Strategy and Community Strategic Plan will serve as the guiding documents for the Corporation.

It is anticipated that reporting to Council by the Corporation would take place at least once a year or as otherwise stipulated in the Corporation's by-laws.

5.0 Conclusion

The Business Case Study for a new municipal services corporation that is mandated to promote tourism, in alignment with the Tourism Strategy and the Community Strategic Plan, is established based on Ontario Regulation 599/06 and Ontario Regulation 435/17. The Corporation will allow the Town to enhance its leadership role in establishing Whitby as a tourism destination.