



Town of Whitby Policy

Policy Title:	Asset Transfer Policy for Municipal Services Corporations
Policy Number:	To be assigned following Council or CAO approval
Category:	Finance
Reference:	Municipal Act, 2001, S.O. 2001, c. 25 Ontario Regulation 599/06 (Municipal Services Corporations) Council Resolution #●
Date Approved:	Click here to enter a date.
Date Revised:	Click here to enter a date.
Approval:	Council
Point of Contact:	Financial Services Department

Policy Statement

This policy is intended to address asset transfers to municipal services corporations as required under section 7 of Ontario Regulation 599/06 (Municipal Services Corporations) made under the *Municipal Act*.

Purpose

The purpose of this policy is to set out the responsibilities and process for the transfer of assets by the Town to municipal services corporations in accordance with applicable legislation and as authorized by Council.

Scope

This policy applies to any instance where assets are transferred by the Town to a municipal services corporation. This policy does not apply to asset transfers within Town departments or to other persons or entities.

Index

1. Definitions	2
2. Responsibilities	2
3. Process for Transfer	3

1. Definitions

- 1.1. **Asset** means real or personal property, whether tangible or intangible (including money), that has a financial value.
- 1.2. **Council** means the Mayor and members of Council for the Town.
- 1.3. **Fair Market Value** means the amount of consideration that would be agreed upon in an arm's length transaction between knowledgeable and willing parties who are under no compulsion to act in a biased manner.
- 1.4. **Municipal Accommodation Tax ("MAT")** means the tax on the purchase of transient accommodation in accordance with Town By-law #8082-24 pursuant to Ontario Regulation 435/17 (Transient Accommodation Tax) of the Municipal Act.
- 1.5. **Municipal Accommodation Tax Revenue or MAT Revenue** means fifty per cent (50%) of the Town's MAT revenue collected after deducting the Town's reasonable costs of collecting and administering the MAT program.
- 1.6. **Municipal Act** means the *Municipal Act, 2001*, S.O. 2001, c. 25, including regulations made under it, as amended.
- 1.7. **Municipal Services Corporation** means a corporation incorporated by the Town, by itself or together with other public sector entities, in accordance with section 203 of the *Municipal Act* and section 3 of Ontario Regulation 599/06 (Municipal Services Corporations) made under the *Municipal Act*.
- 1.8. **Town** means The Corporation of the Town of Whitby.
- 1.9. **Town Solicitor** means the Commissioner of Legal and Enforcement Services/Town Solicitor, or their designate.
- 1.10. **Transfer** means the act of selling, conveying, leasing or otherwise transferring an interest in property, whether real or personal property, whether or not such transfer involves the exchange of money or another form of consideration.
- 1.11. **Treasurer** means the Commissioner of Financial Services/ Treasurer, or their designate.
- 1.12. **Whitby Tourism Development Corporation** mean a Municipal Services Corporation established as an eligible tourism entity for the purposes of Ontario Regulation 435/17 (Transient Accommodation Tax) and to provide tourism promotion services and tourism development services to the Town of Whitby.

2. Responsibilities

2.1. Town to:

- 2.1.1. Ensure that all applicable legislation, including the Municipal Act, is adhered to in any Asset Transfers.

2.2. Treasurer to:

- 2.2.1. Determine the Fair Market Value of the Asset prior to the Transfer to a Municipal Services Corporation.
- 2.2.2. Prepare a statement of the value of any grant to a Municipal Services Corporation or an estimate of the Fair Market Value of any Asset Transfer or other assistance provided at less than Fair Market Value to a Municipal Services Corporation.
- 2.2.3. Record the Transfer or disposition of the Town's Asset in the Town's financial statements in accordance with the Public Sector Accounting Board (PSAB) standards and the Town's financial accounting policies.

2.3. With the exception of Municipal Accommodation Tax Revenues, Council to:

- 2.3.1. Review proposed Asset Transfers with a Fair Market Value of more than \$5,000.00.
- 2.3.2. Provide approval and terms or conditions, as necessary or appropriate, in advance of the Asset Transfer.

2.4. With the exception of Municipal Accommodation Tax Revenues, the Treasurer and Town Solicitor to:

- 2.4.1. Review proposed Asset Transfers with a Fair Market Value of \$5,000.00 or less.
- 2.4.2. Provide approval and terms or conditions, as necessary or appropriate, in advance of the Asset Transfer.

2.5 For Municipal Accommodation Tax Revenues, the Treasurer to:

- 2.5.1 Review and reconcile MAT collections and reasonable costs of collecting and administering the MAT program.

3. Process for Transfer

- 3.1. The Town may Transfer its Assets to a Municipal Services Corporation on the following terms:

- 3.1.1. The Town shall ensure that all applicable legislation, including the Municipal Act, is adhered to in any Asset Transfers.
- 3.1.2. Prior to any Asset Transfer, the Treasurer shall determine the Fair Market Value of the Asset, which determination may involve the use of an appraiser, but such appraisal will not necessarily be required where the Treasurer is of the opinion that a Fair Market Value can otherwise be accurately determined.
- 3.1.3. With the exception of MAT Revenues, any Asset Transfer with a Fair Market Value of more than \$5,000.00 must be approved by Council in advance of the Transfer. Any Asset Transfer with a Fair Market Value of \$5,000.00 or less must be approved by the Treasurer and the Town Solicitor in advance of the Transfer.
- 3.1.4. MAT Revenues shall be Transferred to the Whitby Tourism Development Corporation in a timely manner and, at a minimum, on an annual basis with conditions that the funds be used for tourism promotion services and tourism development services in accordance with Ontario Regulation 435/17 (Transient Accommodation Tax).
- 3.1.5. Council, or the Treasurer and the Town Solicitor, as applicable, may attach any term or condition to any Asset Transfer as they deem necessary or appropriate, including:
 - 3.1.5.1. specifying the permitted use of the Asset or any restrictions on the use of the Asset;
 - 3.1.5.2. providing for an obligation on the Municipal Services Corporation to report to the Town on the use of the Asset;
 - 3.1.5.3. providing for an obligation on the Municipal Services Corporation to Transfer back the Asset upon the happening of an event or events;
 - 3.1.5.4. restricting or prohibiting any further Transfer of the Asset;
 - 3.1.5.5. attaching a purchase price of the Asset which is to be paid or owed to the Town by the Municipal Services Corporation;
 - 3.1.5.6. attaching any repayment or conditional payment terms; and
 - 3.1.5.7. such other terms or conditions as deemed advisable.
- 3.2. The Treasurer shall prepare a statement of the value of any grant to a Municipal Services Corporation or an estimate of the Fair Market Value of any Asset

Transfer or other assistance provided at less than Fair Market Value to a Municipal Services Corporation.

- 3.3. The Treasurer shall record the Transfer or disposition of the Town's Asset in the Town's financial statements in accordance with the Public Sector Accounting Board (PSAB) standards and the Town's financial accounting policies.
- 3.4. Where the Province of Ontario or the Government of Canada has contributed funds to any Asset being Transferred, the Town shall give notice to the party that made part of the contribution if such notice is required by law or contract.
- 3.5. Where the Province of Ontario has granted a right in an agreement with the Town, the Town shall obtain the consent of the Minister responsible for the agreement before Transferring such right.

This Policy is hereby approved by Council Resolution # Resolution Number from Council Meeting Minutes on this Day Number day of Month, 2024.