



Town of Newmarket  
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## **Municipal Accommodation Tax: Municipal Services Corporation Incorporation and Operating Agreement Staff Report to Council**

Report Number: 2025-09

Department(s): Legal and Procurement Services

Author(s): Barbara Montgomery, Senior Solicitor

Meeting Date: February 24, 2025

### **Recommendations**

1. That the report entitled “Municipal Accommodation Tax: Municipal Services Corporation Incorporation and Operating Agreement” dated February 24, 2025 be received; and,
2. That Articles of Incorporation be filed for a municipal services corporation with the name Newmarket Tourism Development Corporation, or such other similar name as is approved by the Mayor and the Chief Administrative Officer if Newmarket Tourism Development Corporation is not available; and,
3. That Council approve the form and content of By-law No. 1 (Attachment 1) as being satisfactory to the Town and appropriate for adoption by the board of directors of the municipal services corporation, subject to any modification to the name of the corporation within the document, if needed, in accordance with recommendation 2; and,
4. That provided Council has approved a decision at a Town Council meeting, the Mayor and the Clerk is authorized to execute a written resolution confirming that decision on behalf of Council in its role as the sole voting member of the municipal services corporation in lieu of having a Member’s Meeting of the municipal services corporation; and,
5. That Council appoint the following officers to the municipal services corporation:
  - A) the Mayor shall be the Chair of the Board of Directors;
  - B) the Chief Administrative Officer shall be the Vice Chair of the Board of Directors;

C) The Director, Financial Services of the Town of Newmarket (or designate) shall be the Treasurer of the Corporation; and,

D) The Clerk of the Town of Newmarket (or designate) shall be the Secretary of the Corporation; and,

6. That the Operating Agreement between the Corporation of the Town of Newmarket and the municipal services corporation (Attachment 2) be approved, subject to any modification to the name of the corporation within the document, if needed, in accordance with recommendation 2; and,
7. That the CAO be authorized to execute the Operating Agreement on behalf of the Town; and,
8. That the Chair and Vice-Chair of the Board of Directors of the municipal services corporation be authorized to execute the Operating Agreement on behalf of the municipal services corporation; and,
9. That the Asset Transfer Policy for corporations wholly-owned by the Town (Attachment 3) be approved; and,
10. That the Municipal Accommodation Tax Reserve Fund Policy (Attachment 4) be approved; and,
11. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

## **Purpose**

This report provides an update on the next step in the Town's implementation of a Municipal Accommodation Tax, which is the formation of a municipal services corporation under the *Municipal Act, 2001* and Ontario Regulation 599/06. This report seeks Council approval of certain documents required for the establishment of the municipal services corporation.

## **Background**

Section 400.1 of the *Municipal Act, 2001* provides that the council of a local municipality may pass by-laws imposing a tax on the purchase of short-term accommodation within the municipality. Ontario Regulation 435/17: Transient Accommodation Tax, which came into effect on December 1, 2017, prescribes certain requirements in respect of the implementation of a Municipal Accommodation Tax (MAT) program. Municipalities are required to share 50% of MAT revenue with an eligible tourism entity, which may be a municipal services corporation.

On June 26, 2023, Town of Newmarket Council received report 2023-49 and directed staff to proceed with a public consultation strategy to seek feedback from the hospitality sector including hotel operators and short-term rental providers, as well as the broader business community including the Chamber of Commerce and BIA.

On June 17, 2024, Council received report 2024-43 and directed staff to implement a Municipal Accommodation Tax program, including to begin necessary steps to establish a municipal services corporation and to establish a reserve fund for the municipal portion of revenues to be reinvested into community and tourism related initiatives through the annual budget process.

On October 7, 2024, Council received report 2024-58, which approved (1) the name “Newmarket Tourism Development Corporation”, and (2) the interim board of directors for the corporation as the Mayor, the Chief Administrative Officer, and three Town staff members as appointed by the Chief Administrative Officer.

On December 9, 2024, Council enacted By-law 2024-68: A by-law to establish the Municipal Accommodation Tax, with the tax taking effect on January 1, 2025.

## **Discussion**

### ***The Articles of Incorporation will create the municipal services corporation, establish the purposes of the corporation and the initial, interim board of directors***

Articles of Incorporation for the municipal services corporation will be filed under the *Not-for-Profit Corporations Act, 2010*. The purposes of the corporation shall be to promote and support tourism and tourism related activities in Newmarket that contribute to local economic growth and development. Any profits of the corporation shall be used in promoting its purposes. The corporation is limited to providing services on behalf of the Town.

To provide flexibility to the Town, the minimum number of directors shall be 5 and the maximum number of directors shall be 15. In accordance with Council report 2024-58, (1) the initial and interim directors of the corporation shall be the Mayor, the CAO and three Town staff appointed by the CAO, and (2) prior to the end of 2025, staff will bring forward to Council a list of candidates for appointment to full-term director roles. Directors of the corporation shall serve without remuneration.

### **By-law no. 1 is the organizing by-law for the municipal services corporation which establishes the scope of authority for both the board of directors, and the Town as the sole voting member**

By-law No. 1 for the municipal services corporation (Attachment 1) will be the corporation’s organizational by-law. Passing this by-law will be the first business item for the board of directors of the new municipal services corporation. Once the by-law is put into place by the board of directors of the municipal services corporation, it can only be  
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amended or revoked with the express written consent of Council, on behalf of the Town (as the sole voting member).

The by-law establishes a basic governance framework and addresses matters such as the appointment and removal of directors and officers, meetings, execution of documents, books and records, auditors and audits, and conflicts of interest.

The by-law provides that the Town is the sole voting member of the corporation. The voting member elects the Board of Directors of the corporation, may fill any vacancy occurring or remove any Director, and the voting member approves any advisors appointed to the corporation.

The Board of Directors is responsible for the creation and management of business plans and an annual operating budget, with the budget subject to approval by Town Council, on behalf of the Town (as the sole voting member of the municipal services corporation).

### **Operating agreement between the Town and the municipal services corporation**

The operating agreement (Attachment 2) sets out reasonable financial accountability matters to ensure that amounts paid to the municipal services corporation are used to promote tourism, as required by Ontario Regulation 435/17: Transient Accommodation Tax. The agreement sets out how the Town and the municipal services corporation will work towards promoting and marketing Newmarket as a leading destination for tourism, overnight tourism, leisure and business travel; the guiding principles for carrying out the corporation's mandate; and further establishing the governance framework and the relationship between the Town and the municipal services corporation, in accordance with the legal framework mandated by the *Municipal Act, 2001* and applicable regulations.

### ***The Asset Transfer Policy provides guidance on the accounting of Town assets that are transferred or used by the municipal services corporation***

Ontario Regulation 599/06 requires that a municipality adopt and maintain policies on asset transfers to corporations. The proposed Asset Transfer Policy (Attachment 3) fulfils the requirement of the regulation. The policy provides guidance to staff, the municipal services corporation, and the public on the transfer, use and accounting of corporate assets as approved by Council. The Town's Director of Financial Services is responsible for administration of the Asset Transfer Policy.

### **Municipal Accommodation Tax Reserve Fund Policy**

The Municipal Accommodation Tax Reserve Fund Policy (Attachment 4) establishes guidelines for the use of the municipal portion of revenues collected through the Municipal Accommodation Tax. In accordance with Council report 2024-43, the

municipal portion of revenues from the Municipal Accommodation Tax shall be allocated to a reserve fund (the “**MAT Reserve Fund**”) to be reinvested annually back into community tourism initiatives as determined through the annual budget process and in accordance with the policy. The Town’s Director of Financial Services is responsible for administration of the MAT Reserve Fund Policy.

### **Next Steps**

Following Council approval, the Articles of Incorporation for the municipal services corporation will be filed. Staff will take the necessary steps to call the first meeting of the interim Board of Directors where By-law No. 1 will be passed and the Operating Agreement with the Town will be approved for execution by the municipal services corporation.

### **Consultation**

The Senior Leadership Team, Legal Services, Legislative Services, Economic Development, Financial Services, and Recreation and Culture were consulted in the preparation of this report.

### **Conclusion**

In accordance with previous Council direction, staff have worked with external counsel to prepare the organizational documents required to create a municipal services corporation. This report explains the purpose of each of those documents and seeks Council approval to move forward with filing the Articles of Incorporation, the execution of an operating agreement with the municipal services corporation, the adoption of an Asset Transfer Policy and a MAT Tax Reserve Fund Policy, and the appointment of officers to the municipal services corporation. This direction from Council will be the next step in the Town’s implementation of a Municipal Accommodation Tax program.

### **Council Priority Association**

This report aligns with the following Council Priority: Community and Economic Vibrancy

### **Human Resource Considerations**

None.

### **Budget Impact**

None.

### **Attachments**

**Attachment 1** – By-law No. 1 for the municipal services corporation

Municipal Accommodation Tax: Municipal Services Corporation Incorporation and Operating Agreement

**Attachment 2** – Operating Agreement between the Corporation of the Town of Newmarket and municipal services corporation

**Attachment 3** – Asset Transfer Policy

**Attachment 4** – Municipal Accommodation Tax Reserve Fund Policy

## **Approval for Submission**

Andrea Tang, Director, Financial Services

Karen Reynar, Director, Legal and Procurement Services

Esther Armchuk, Commissioner of Corporate Services

Ian McDougall, Chief Administrative Officer

## **Report Contact**

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