

## Delegation By Council of Powers and Duties Policy



Section	Date	By-Law Number	Page	Of
City Council	December 10, 2007	Resolution 9 & By-Law 148/07	1	4
Subsection	Repeals By-Law Number		Policy Number	
Delegation By Council			CC-13-1	

### Background/Purpose

The Municipal Act, 2001 (the Act) requires all municipalities adopt and maintain a policy with respect to the delegation of Council's legislative and administrative authority. The purpose of this policy is to set out the scope of the powers and duties which Council may delegate its legislative and administrative authority and to establish principles governing such delegation. This policy has been developed in accordance with the Act in order to comply with its other applicable sections.

This policy applies to all Committees of Council, Departments and Staff.

### Policy Statement

City Council, as a duly elected municipal government is directly accountable to its constituents for its legislative decision making, policies, and administrative functions. Council's decisions are generally expressed by by-law or resolution of Council carried by a majority vote. The efficient management of the municipal corporation and the need to respond to issues in a timely fashion require Council to entrust certain powers and duties to Committees and Staff while concurrently maintaining accountability, which can be effectively accomplished through the delegation of legislative and administrative functions. Council authority will be delegated within the context set out in the Act and will respect the application restrictions outlined in the Act.

### Definitions & Implementation Procedure

#### *Administrative Powers*

Includes all matters required for the management of the Corporation which do not involve discretionary decision making.

1. Council may delegate any of its administrative powers and duties.
2. In order for Council to authorize the delegation of any of its administrative powers and duties, it shall first approve the conditions and limitations of the delegation by the approval of a by-law.
3. Council shall approve policy and procedures for the delegation which includes measures for the monitoring and accountability of the delegate and the transparency of the delegate's actions and decisions.
4. Any delegation of administrative powers may be subject to any regulation made by the Minister.

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### ***Legislative and Quasi-Judicial Powers***

Includes all matters where Council acts in a legislative or quasi-judicial function including enacting by-laws, setting policies and exercising decision making authority.

1. Legislative and quasi-judicial powers can only be delegated to the following:-
  - One or more members of municipal council
  - A body that has at least 2 members, of which 50% are Council Members, Council appointees, or combination
  - An officer, employee or agent of the municipality (if the power delegated is of a "minor nature").
2. Council shall approve the conditions and limitations for the delegation of any of its legislative and quasi-judicial powers by the adoption of a by-law.
3. Council shall approve policy and procedures for the delegation which includes measures for the monitoring and accountability of the delegate and the transparency of the delegate's actions and decisions.
4. Council shall only delegate legislative and quasi-judicial powers to an officer, employee or agent of the municipality which are minor in nature which is clearly defined with the policy and procedures authorizing the said delegation. Council, in determining whether or not a power is of a minor nature, should consider a number of factors as well as the number of people, the size of the geographic area and the time period affected by an exercise of the power.
5. The delegation of legislative and quasi-judicial powers of Council is restricted to powers found in the Municipal Act, the Planning Act, a private act relating to the municipality and "such other Acts as may be prescribed."
6. Council shall not delegate its legislative powers subject to those powers specifically identified and authorized by Council; for example, Economic Development Corporation and quasi-judicial powers such as tribunal responsibilities as identified under business licensing, committee of adjustment, property maintenance, etc. Delegation of legislative or quasi-judicial powers to a corporation is not permitted.
7. Any delegation of legislative or quasi-judicial powers may be subject to any regulation made by the Minister.

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### ***Scope of Power***

1. A delegation may be revoked at any time without notice unless the delegation by-law specifically limits the municipality's power to revoke the delegation.
2. A delegation shall not limit the right to revoke the delegation beyond the term of the Council which made the delegation.
3. A delegation may provide that only the delegate can exercise the delegated power or that both the municipality and the delegate can exercise the power.
4. A delegation or deemed delegation under Paragraph 6 of a duty results in the duty being a joint duty of the municipality and the delegate.
5. A delegation may be made subject to such conditions and limits as the council considers appropriate. Council shall outline the procedures that the delegate is required to follow and specific measures for accountability of the delegate and the transparency of the delegate's actions.
6. Where a power is delegated, the power is deemed to be delegated subject to any limits on the power and to any procedural requirements, including conditions, approvals and appeals which apply to the power and any duties related to the power are deemed to be delegated with the power.

### ***Restrictions of Delegation-Legislative and Quasi-Judicial Powers***

1. Council is not authorized to delegate any of the following powers and duties:
  - To appoint or remove from office statutory officers of the municipality
  - To pass a by-law and deal with issues regarding taxes
  - To incorporate corporations
  - To adopt an official plan or an amendment to an amendment to an official plan under the Planning Act
  - To pass a zoning by-law under the Planning Act
  - To pass a by-law related to small business counseling and municipal capital facilities
  - To adopt a community improvement plan
  - To adopt or amend the municipal budget
  - Any other power that may be prescribed.

### ***Delegation – Hearings Application***

1. This section applies when a municipality is required by law to hold a hearing or provide an opportunity to be heard before making a decision or taking a step, whether the requirement arises from an Act or from any other source of law.
2. If Council delegates to a person or body the power or duty to hold a hearing or provide an opportunity to be heard before the decision is made or the step taken, but does not delegate the power to make the decision or take the step, the following rules apply:

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- a) If the person or body holds the hearing or provides the opportunity to be heard, the municipality is not required to do so.
- b) If the decision or step constitutes the exercise of a statutory power of decision, to which the Statutory Powers Procedure Act applies, that Act, except sections 17, 17.1, 18 and 19, applies to the person or body and to the hearing conducted by the person or body.

### ***Appeal Body***

1. Council may establish an appeal body to hear appeals or review decisions made under any delegated power, if it deems necessary.
2. Before an Appeal Body is established, Council shall determine procedures, powers and rules of those conducting the appeals to be approved in a by-law establishing the Appeal Body.

### **Effective Date**

This policy shall take effect and come into force upon adoption by Council resolution.