

**CORPORATE
POLICY AND
PROCEDURE**



POLICY No.

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EFFECTIVE DATE

REVISION

Tab CITY COUNCIL

Subject DELEGATION OF POWERS AND DUTIES

Related Policies Accountability And Transparency
Purchasing By-law (2005)-17679

Approved by (date)

Review Date Annually

POLICY STATEMENT Guelph 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 Municipal Act, 2001 (the Act) and will respect the applicable restrictions outlined in the Act.

PURPOSE The Act requires that 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 legislative and administrative powers and duties which Council may delegate 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, including section 270. This policy applies to all committees of Council, departments and staff.

DEFINITIONS **Legislative 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.

Administrative Powers - Includes all matters required for the management of the corporation subject to such limitations as Council may deem appropriate.

Delegate(s) – The person, persons or body to whom a delegation of

authority is made by Council.

Delegation – The granting of authority by City Council to a person, persons or a body to exercise a legislative or administrative power of the Council.

**POLICY
REQUIREMENTS**

1. All delegations of Council powers, duties or functions shall be effected by bylaw.
2. Unless a power, duty, or function of Council has been expressly delegated by bylaw, it shall remain with Council.
3. A delegation of a power, duty or function under any bylaw to any member of staff includes a delegation to a person who is appointed by the CAO or the staff member’s supervisor or selected from time to time by the delegate to act in the capacity of the delegate in the delegate’s absence.
4. Subject to section 3, a person to whom a power, duty or function has been delegated by bylaw has no authority to further delegate to another person any power, duty or function that has been delegated, unless such sub-delegation is expressly permitted.
5. Legislative matters may be delegated by Council where they are minor in nature or where Council has explicitly provided for the terms and conditions under which the powers shall be exercised, and such delegations must take into account the limitations set out in the Act.
6. Administrative matters may generally be delegated to staff subject to the conditions set out in the delegation and in this policy, and such delegations must take into account the limitations set out in the Act.

**IMPLEMENTATION “A” - ADMINISTRATIVE POWERS
PROCEDURE**

In order for Council to authorize the delegation of any of its Administrative Powers, it shall first approve the conditions and limitations of the delegation.. Council shall approve policy and procedures for the delegation which include measures for the monitoring and accountability of the delegate and the transparency of the delegate’s actions and decisions. In exercising any delegated power, the delegate shall ensure the following:

1. Any expenditure related to the matter shall have been provided for in the current year’s budget, or authorized by the Purchasing By-

law (2005)-17679.

2. The scope of the delegated authority shall not be exceeded by the delegate.
3. Where required by the specific delegated authority, reports shall be submitted to Council advising of the exercise of a delegated power and confirming compliance with the delegated authority and this policy.
4. The delegate, in carrying out the delegated powers and duties, shall consider the public interest, shall act in good faith, shall not act unfairly and shall not act arbitrarily.

“B” - LEGISLATIVE POWERS

Council’s legislative 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 a combination thereof
- An officer, employee or agent of the municipality (if the power delegated is of a “minor nature” as provided in S. 23.2 of the Municipal Act).

Council shall approve the conditions and limitations for the delegation of any of its Legislative Powers.

Council shall approve specific and individual policy and procedures for each delegation which include measures for the monitoring and accountability of the delegate and the transparency of the delegate’s actions and decisions.

Council shall only delegate Legislative Powers to an officer, employee or agent of the municipality if those Legislative Powers are minor in nature.

The only Legislative Powers of Council which may be delegated are powers found in the Municipal Act, the Planning Act, a private act relating to the municipality and “such other Acts as may be prescribed by Regulation.

GENERAL RULES RELATING TO DELEGATION OF AUTHORITY

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.

A delegation shall not limit the right to revoke the delegation beyond the term of the council which made the delegation.

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.

A delegation or deemed delegation of a duty results in the duty being a joint duty of the municipality and the delegate.

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.

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.

Council may provide for reviews or appeals of decisions made by persons or bodies in the exercise or intended exercise of powers or the performance or intended performance of duties delegated pursuant to this policy.

RESTRICTIONS

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 to deal with issues regarding taxes.
- To incorporate corporations.
- To adopt an official plan or 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 & municipal capital facilities
- To adopt a community improvement plan
- To adopt or amend the municipal budget
- Any other power that may be prescribed by Regulation

No delegation of legislative powers to a corporation is permitted.

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Any delegation may be subject to any regulation made by the Minister.