



Policy: Delegation of Powers and Duties

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POLICY STATEMENT AND RATIONALE

The delegation of certain Council powers and duties is considered where there is an opportunity to streamline the decision-making process enabling Council to focus on strategic issues. Through this streamlining, benefits in simplifying process, improving responsiveness and improving efficiencies in operations is envisioned. Delegation of routine and other matters allows Council, as a collective, to focus their time on more complex and strategic initiatives.

The *Municipal Act, 2001*, Section 23.1 provides the authority for Council to delegate routine powers and duties with some restrictions. The *Municipal Act*, Section 270(1) states that "a municipality shall adopt and maintain policies with respect to the following matters", one of those matters being 'The delegation of its powers and duties.' This policy is to set out the parameters by which Council will consider the delegation of routine powers and duties.

DEFINITIONS:

For the purposes of this Policy:

Act - shall mean the *Municipal Act, 2001*.

Administrative Powers shall mean those powers that an natural person could delegate and that relate to the management of the Municipality of Thames Centre.

Chief Administrative Officer (CAO) shall mean the Chief Administrative Officer of the Corporation of the Municipality of Thames Centre.

Council shall mean the Council of the Corporation of the Municipality of Thames Centre.

Delegate shall mean the person, employee or officer who has been delegated by Council an authority.

Legislative Powers shall mean those powers that require policy setting and by-law making.

Municipality shall mean the Corporation of the Municipality of Thames Centre.

Officer shall mean an employee of the Municipality holding some position of responsibility or authority.

POLICY:

1.0 Legislative Authority

- 1.1 Section 270 (1) of the Municipal Act, 2001, provides that a municipality shall adopt and maintain a policy with respect to the delegation of its powers and duties.
- 1.2 Section 23.1 (1) of the Act further provides that a municipality may "delegate its powers and duties under this or any other Act to a person or body" subject to certain restrictions.
- 1.3 Section 23.2 of the Act restricts the delegation of legislative and quasi-judicial powers to powers under "this Act, the Planning Act, a private Act relating to the municipality and such other Acts as may be prescribed".

2.0 Powers that cannot be Delegated

- 2.1 Section 23.3 (1) of the Act sets out the specific circumstances in which a municipality cannot delegate its powers or duties as follows:
 - a) Appointing or removing officers of the municipality whose appointment is required by the *Municipal Act* (i.e. Clerk or Treasurer);
 - b) Imposing taxes;
 - c) Incorporating corporations;
 - d) Adopting or amending the official plan;
 - e) Passing zoning by-laws;
 - f) Passing bonusing by-laws related to small businesses operating or proposing to operate in the municipality or bonusing by-laws related to the provision of municipal capital facilities;
 - g) Adopting community improvement plans which include bonusing arrangements;
 - h) Adopting or amending the municipal budget; and
 - i) Other powers or duties as prescribed.

3.0 Scope of Delegation

- 3.1. Authority is delegated to specified officers and employees to act, subject to limits and restrictions, as described in Appendix 'A' attached hereto.

- 3.2. Any delegated authority is granted to the officer or employee holding the corresponding officer or employee position listed under the "Delegate(s)" section of each item. The delegation is also granted to the corresponding officer or employee's supervisor, and each supervisor above that position in the corporate structure, up to and including the CAO. The appointed delegation includes any officer or employee holding that position on a permanent, temporary or acting basis.
- 3.3. Where any delegation of authority to any officer or employee or their supervisor is not permissible at law, such as in the instance where a professional qualification or license is required to exercise the authority, then the delegation is deemed not granted to that officer or employee or their supervisor but does not affect the delegation of any other officer or employee or their supervisor.
- 3.4. A delegation of authority may be sub-delegated by the initial delegate, provided that the initial delegate shall remain responsible to the Council regarding the exercise of the authority, despite the sub-delegation.
- 3.5. Where a delegated authority involves the expenditure of funds and/or commitment of resources the delegated authority must be exercised within the Council approved budget and spending authority for that matter, unless specifically stated otherwise.
- 3.6. Officers and employees with delegated authority under this policy shall exercise their authority responsibly and shall be accountable and responsible for their actions and decisions.
- 3.7. This policy does not diminish, restrict or reduce any authority delegated to any officer or employee by any other by-law, statute, regulation or resolution of council.
- 3.8. Notwithstanding any provision of this policy, Council retains the authority to make or reconsider, at any time and without notice, revoke any delegated power that has been identified in this policy.
- 3.9. Unless the power, duty or function of Council has been expressly delegated by by-law, all of the powers, duties and functions of Council remain with Council.
- 3.10. Council has the authority to establish an appeal body to hear appeals or review decisions made under a delegated power as per Section 284.1 of the Act. This includes the power to determine procedures, powers and rules of those conducting the appeal.
- 3.11. Despite Section 5 (3) of the Act, Section 23.1 (3) provides that Council may require that the delegate act by by-law, resolution or otherwise.
- 3.12. This policy may be updated if the delegation of power or duties is created by another policy, resolution or by-law adopted by Council. The update may be implemented by the Municipal Clerk without formal amendment to this policy through Council Resolution.

4.0 Authorization of Expenditures

- 4.1 Council has the ultimate authority for all expenditures. Council delegates this authority through the authorization of budgets, the Procurement of Goods and Services Policy or by specific resolution.
- 4.2 The Procurement of Goods and Services Policy sets out the authority for Procurement and sets purchase limits. It also provides direction on the circumstances in which certain purchasing mechanisms are appropriate (e.g. informal quotes, formal quotes, tender submissions or requests for proposal).

Appendix A – List of Delegated Powers and Duties