



TOWN OF RICHMOND HILL

DELEGATION OF POWERS AND DUTIES POLICY

Effective Date: January 1, 2008

Date of Last Revision:

PURPOSE

The *Municipal Act, 2001* requires that all municipalities adopt and maintain a policy with respect to the delegation of Council's legislative and administrative authority. This policy outlines what Council should consider before any delegation of some of its powers and duties and the requirements, conditions and restrictions for Council to authorize any delegation. The purpose of this policy is to establish principles governing delegation of the powers and duties by Council. This policy applies to all committees of Council, departments and staff. This policy has been developed in accordance with the *Municipal Act, 2001* in order to comply with its other applicable sections, including section 270.

POLICY STATEMENT

The Council of the Town, 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 Town 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* and will respect the applicable restrictions outlined in the *Municipal Act, 2001*.

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POLICY PRINCIPLES

Council may delegate its powers and duties under the *Municipal Act, 2001*, the *Planning Act* or any other legislation that confers powers and/or imposes duties on Council subject to this policy and the requirements of section 23 of the *Municipal Act, 2001*, as amended.

Administrative Powers and Duties

Administrative powers include 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 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 decision.
4. Any delegation of administrative powers may be subject to any regulation made by the Minister.

Legislative and Quasi-Judicial Powers

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.

1. Legislative and quasi-judicial powers can only be delegated to the following:
 - One or more members of municipal council or a council committee
 - A body having at least two (2) members of whom 50% are members of its council, individuals appointed by its council or a combination of
 - An individual who is an officer, employee or agent of the municipality (if the power delegated is of a minor nature)

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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 decision.
4. Council shall only delegate legislative and quasi-judicial powers which are minor in nature to an officer, employee or agent of the municipality, Council, in determining whether or not a power is of a minor nature, should consider a number of factors, which should include the number of people, the size of the geographic area and the time period affected by an exercise of the power.
5. Subject to section 7 below, the delegation of legislative and quasi-judicial powers of Council are restricted to powers found in the *Planning Act* or a private Act relating to the municipality and such other Acts as may be prescribed.
6. No delegation of legislative or quasi-judicial powers to a corporation is permitted.
7. Where a municipality is required to hold a hearing or provide an opportunity to be heard before making a decision or taking a step, Council is authorized to delegate the power to hold a hearing, as well as the power to implement the decision which is the subject matter of the hearing. Where Council delegates the power to hold a hearing only,
 - (a) the municipality is not required to hold a second hearing; and
 - (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 delegated person or body and to the hearing conducted by the person or body (as it would apply to Council if Council conducted the hearing).
8. Any delegation of legislative or quasi-judicial powers may be subject to any regulation made by the Minister.

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 this section 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

Council is not authorized to delegate any of the following powers and duties:

- To appoint or remove from office an officer of the municipality whose appointment is required by the *Municipal Act, 2001*
- To pass a by-law under section VIII, IX and X of the *Municipal Act, 2001* relating to 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 and municipal capital facilities
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- To adopt a community improvement plan if the plan includes the exercise of certain powers as set out in the *Municipal Act, 2001*.
- To adopt or amend the municipal budget
- Any other power that may be prescribed by the Province

APPEAL BODY

Subject to Section 284.1 of the *Municipal Act, 2001*, Council may provide for the review or appeal of a decision made by a person or body exercising a delegated authority, and may establish an appeal body to conduct the reviews or hear such appeals if it deems necessary.