



Policy

APPENDIX "B" TO SRCM.19.02

Policy Name: Delegation of Powers and Duties Policy

Policy Owner: Council

Approved by: Council

Effective Date: June 11, 2019

Date of Last Revision: January 1, 2008

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. The purpose of this policy is to establish principles governing delegation of the powers and duties by Council. 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.

Policy Principles:

The Council of the City, as a duly elected municipal government is directly accountable to its constituents for its legislative decision making, policy, 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 City 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 and this policy.

Definitions:

"administrative powers" mean powers and duties related to the management of the corporation which do not involve discretionary decision-making.

"Council" means the Council of the City.

"discretionary decision-making" means using reason and judgment to choose from among acceptable alternatives.

"legislative powers" means those powers and duties that are related to Council's legislative or quasi-judicial functions, including enacting by-laws, setting policies, and discretionary decision-making.

"member of Council" means a current member of the Council of the City.

“staff” means, all full-time and part-time persons hired by the City including the City Manager, Commissioners, Directors, Managers, Supervisors, Salaried Employees’ Association staff, members of C.U.P.E. Local 905.16 Richmond Hill Unit, members of the Richmond Hill Professional Fire Fighters Association, Local 1957, administrative staff, contract and temporary employees, students, secondments, and co-op placement staff.

“City” means The Corporation of the City of Richmond Hill.

Scope:

This policy applies to Council and to all members of Council, staff, agents and committees or bodies appointed by Council to exercise delegated authority.

Policy:

Council may delegate any of its administrative powers and certain legislative powers and duties in accordance with the restrictions set out in under the Municipal Act, 2001, as amended.

General Rules Applicable to Scope of Power Pursuant to a Delegation By-law

1. A delegation may be revoked by Council 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 including 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 on Delegating Legislative Powers

The following rules apply to the delegation of legislative powers:

1. Only those legislative powers found in the Municipal Act, 2001, the Planning Act or a private Act relating to the municipality and such other Acts as may be prescribed in a regulation made under the Municipal Act, 2001 may be delegated.
2. Legislative powers can only be delegated to the following:
 - (a) One or more members of Council or a Council committee

- (b) A body having at least two (2) members of whom 50 per cent are members of its council, individuals appointed by its council or a combination of
 - (c) An individual who is an officer, employee or agent of the municipality (if the power delegated is of a minor nature)
3. Council shall only delegate legislative 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.
4. No delegation of legislative powers to a corporation established by the City in accordance with the Municipal Act, 2001 is permitted.
5. 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).
6. Any delegation of legislative powers may be subject to any regulation made pursuant to the Municipal Act, 2001.

Powers that cannot be delegated

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
- 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 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.

Further Delegation

A person or body to whom Council has delegated a power or duty has no authority to further delegate any such power or duty, unless such sub-delegation is expressly permitted within the scope of the initial delegation. Such limit on delegation shall not restrict a delegate's ability to designate individuals to perform specific tasks or functions in connection with the exercise of their delegated powers or duties or to assign someone to act on their behalf during temporary absences.

Consolidation of Delegations

A list of all delegations by Council shall be maintained by the Clerk and shall be amended as required to incorporate ongoing determinations of Council with respect to new, amended and revoked delegations.

Roles and Responsibilities:

Council

Council shall consider appropriate delegations from time to time that are in accordance with the principles set out in this policy.

Members, Staff and other Individuals

In exercising delegated authority, members, staff and other individuals acting on their own behalf or as part of a committee or other body, and in the supervision of others who exercise delegated authority, must ensure that the parameters of this policy are adhered to; that the scope of any delegated authority they exercise is not exceeded; and where required by the specific delegated authority, timely reports are submitted to Council.

Clerk

The Clerk shall maintain a list of all delegations made by Council and shall amend same as required from time to time upon the approval, revision or the revocation of any delegations by Council.

Related Documents

Municipal Act, 2001

Planning Act

Statutory Powers Procedure Act

All by-laws referred to in Schedule A, as amended