



Town of Whitby Policy

Policy Title:	Delegation of Powers and Duties
Policy Number:	G 020
Reference:	Municipal Act, Planning Act, Council Resolution #161-10 and #205-16
Date Originated:	May 10, 2010
Date Revised:	February 5, 2021
Review Date:	As required
Approval:	Council
Point of Contact:	Town Clerk

Policy Statement

The Council of the Corporation of the Town of Whitby may in certain instances delegate its powers and duties in order to support efficient management of the municipal corporation, and will ensure appropriate accountability and reporting is assigned to each delegation.

Purpose

The Municipal Act, 2001 (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 powers and duties which Council may delegate and to establish principles governing such delegation.

Scope

This policy applies to the Town of Whitby (Council, all committees of council, departments and staff).

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1 Definitions

- 1.1 Administrative Powers** includes all matters required for the management of the corporation which do not involve discretionary decision making.
- 1.2 Legislative Powers** includes all matters where council acts in a legislative and quasi-judicial function, including enacting by-laws, setting policies, and exercising decision making authority.

2 Responsibilities

- 2.1** Council to:
- a) Approve the Delegation of Powers and Duties Policy.
 - b) Approve amendments to the Delegation of Powers and Duties Policy.
- 2.2** Chief Administrative Officer to:
- a) Approve amendments to the Policy prepared by the Town Clerk for Council consideration.
- 2.3** Department Heads to:
- a) Recommend any necessary amendments to the Policy to the Town Clerk and CAO
- 2.4** Town Clerk to:
- a) Recommend and prepare any necessary amendments to the Policy for approval of the CAO and Council consideration.
 - b) Be responsible for collecting concerns or complaints relating to this Policy.

3 Scope of Powers

- 3.1** Council may choose to delegate administrative powers and duties to:
- Individuals (including Town staff);
 - Committees of Council;
 - Local Boards;
 - Municipal Service Boards; or
 - Municipal Service Corporations (but not legislative or quasi-judicial powers).
- 3.2** Council may choose to delegate legislative and quasi-judicial powers and duties to:
- One or more members of the municipal Council or a Council committee;

- A body having at least 2 members, of which at least half are Council members, Council appointees, or combination of Council members or Council appointees;
- An individual who is an officer, employee or agent of the municipality (if the power delegated is of a 'minor nature' as it applies to legislative powers).

3.3 In accordance with the Municipal Act, Council is not authorized to delegate any of the following powers:

- The power to appoint or remove from office, statutory officers of the municipality whose appointment is required by the Municipal Act, 2001;
- The power to pass a by-law for municipal taxation or tax collection;
- The power to incorporate municipal corporations;
- The power to adopt an Official Plan or an amendment to the Official Plan under the Planning Act;
- The power to pass a zoning by-law under the Planning Act;
- The power to pass a by-law related to small business counselling and municipal capital facilities;
- The power to adopt a community improvement plan;
- The power to adopt or amend the budget of the municipality;
- Any other power or duty that may be prescribed.

3.4 Council may choose to revoke a delegation of power at any time or Council may delegate a power and specify that it cannot be revoked during the term of Council.

4 Policy Requirements

- 4.1** All delegations of Council powers, duties and functions shall be listed in Appendix 1 of this policy or otherwise affected by by-law, except where deemed minor in nature, in which case the delegation may be authorized by resolution of Council. The Clerk shall be responsible for updating Appendix 1 as Council provides for delegations from time to time.
- 4.2** Unless a power, duty or function of Council has been expressly delegated by by-law or resolution, all of the powers, duties and functions of Council remain with Council.
- 4.3** A delegation of power, duty or function under any by-law or resolution to any member of staff shall include a delegation to a person who is appointed as the Chief Administrative Officer and to any member of staff selected from time to time by the Chief Administrative Officer or delegate to act in the capacity of the delegate in the delegate's absence.

- 4.4** Where a delegation of power, duty or function is to a staff position that no longer exists in title, those delegations shall be deemed transferred to the staff person of similar seniority who is assuming the responsibilities of the obsolete position.
- 4.5** 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 must take into account the limitations set out in the Act.
- 4.6** Administrative matters may be generally delegated to staff subject to the conditions set out in the delegation and in this policy, and must take into account the limitations set out in the Act.
- 4.7** In exercising any delegated power, the delegate shall ensure the following:
- Any expenditure related to the matter shall have been provided for in the current year's budget (or authorized by the purchasing policy and financial control policies).
 - The scope of the delegated authority shall not be exceeded by the delegate.
 - Compliance with all Corporate policies, including those related to insurance and risk management; and,
 - The consistent and equitable application of Council policies and guidelines.

Appendices

Appendix 1 List of Approved Delegations

This Policy is hereby approved by Council Resolution #205-16 on this 16th day of April, 2016.

Appendix 1 – List of Approved Delegations

Planning and Development Department	
Delegated Authority	Staff/Committee Delegation
By-law #3158-92 Authorize a committee of the Council to conduct statutory public meetings under the Municipal Act and Planning Act.	Planning and Development Committee of Council
By-law #4640-00 Delegated the authority to receive applications to destroy trees and the required fees and to issue permits and to attach conditions thereto in accordance with this by-law.	Commissioner of Planning and Development
By-law #4819-01 Final approval of subdivision and condominium plans for registration	Commissioner of Planning and Development
By-law #5445-04 Delegated power and authority related to site plan control when the Council is unable or unwilling to meet due to a summer or Christmas recess or a municipal election.	Commissioner of Planning and Development
Delegation of Authority for Completeness By-law #5966-07 Authority to determine an application complete and to notify an applicant that a development application is complete in accordance with subsection 22(6.1), 34(10.4) and 51(19.1) of the Planning Act.	Commissioner of Planning and Development

Planning and Development Department	
Delegated Authority	Staff/Committee Delegation
Pre-consultation By-law #5967-07 Authorized to: a) Conduct pre-consultations; and, b) Identify the information and materials necessary for processing each development application, i. Prior to submission and acceptance of development applications, as items necessary for the application to be deemed complete under the Planning Act and Whitby Official Plan; and, ii. During the processing of development applications in cases where such information and materials cannot reasonably be provided at the time of submission of the application.	Commissioner of Planning and Development
Site Plan Control By-law #7015-15 Authorized to approve the following: • Development of residential sales offices and model homes; • Development, expansion and/or enlargement of new and existing buildings and structures on lands located within an Environmentally Sensitive Area or Hazard Land designation beyond the Urban Area Boundary as shown on Schedule "A" and "C" of the Whitby Official Plan; • Development, expansion and or enlargement of new and existing buildings and structures within certain areas of the Oak Ridges Moraine. The Commissioner of Planning and the Clerk are authorized to execute on behalf of the Town any agreement being entered into pursuant to the clause 3.2(b) and (c) of this by-law.	Commissioner of Planning and Development

Planning and Development Department	
Delegated Authority	Staff/Committee Delegation
Council Resolution #205-16 Extension of development agreements where the agreement is not being altered in a significant way.	Commissioner of Planning and Development
Council Resolution #205-16 Execution of agreements, satisfactory to the Town Solicitor, arising as a result of conditions imposed by the Committee of Adjustment including the release or partial release of any such agreements.	Commissioner of Planning and Development
Council Resolution #205-16 Removal of agreements from title of lands within the municipal boundary where the same has been deemed no longer required.	Commissioner of Planning and Development and Town Solicitor
Section 45 of the Planning Act Granting of minor variances under Section 34 of the Planning Act.	Committee of Adjustment
By-law #7292-17 Authorization to appoint a person as the Chief Building Official, as required by the BCA, with the responsibilities and authority as granted therein.	Commissioner of Planning and Development, or his or her designate.
By-law #7292-17 Authorization to appoint persons as Inspectors in accordance with the BCA, with the responsibilities and authority as granted therein.	Chief Building Official, or his or her designate.
By-law #7430-18 To delegate to the Commissioner of Planning and Development the approval of plans and drawings in certain areas of Site Plan Control. See also Council Resolution #233-18 and Staff Report PL 54-18 whereby delegated authority may be rescinded at the request of any Councillor subject to a resolution of Council.	Commissioner of Planning and Development

Planning and Development Department	
Delegated Authority	Staff/Committee Delegation
By-law #7439-18 The authority to approve red line revisions to approved draft plans of subdivision and to make changes to the conditions of draft plan approval is hereby delegated to the Commissioner of Planning and Development for the Town of Whitby and, in the Commissioner's absence, his or her designate.	Commissioner of Planning and Development, or his or her designate.
Resolution # 104-19 That Council hereby delegates authority to the Commissioner of Planning and Development to prepare and execute subdivision and development agreements as a result of: a) A subdivision receiving the necessary Council approvals in accordance with the Planning Act; or, b) An agreement being requested as a requirement of a consent application made to the Durham Region Land Division Committee;	Commissioner of Planning and Development
Resolution # 119-22 The authority to execute subsequent renewals of the Sewage System Management Agreement with the Regional Municipality of Durham.	Commissioner of Planning and Development
Council Resolution #205-16 The authority to temporarily close highways for the purposes of construction, repairing or improvement on, over, along, across or upon such highways, and/or any circumstance that would potentially endanger the safety of road users and/or potentially cause significant damage to road infrastructure.	Commissioner of Planning and Development
By-law #4910-01, as amended. Authorized to place or erect and to maintain such authorized signs and ticket machines for municipal parking as are required to give effect to the provisions of the by-law.	Commissioner of Planning and Development

Planning and Development Department	
Delegated Authority	Staff/Committee Delegation
Site Alteration By-law 7425-18 Authorized to amend the provisions of the Site Alteration Guidelines.	Commissioner of Planning and Development
Traffic By-law #1862-85 Authorized to place or erect and to maintain such authorized and official signs as are required to give effect to the provisions of this by-law. Authorized to erect or place temporary "No Parking" and/or "No Stopping" signs on any highways.	Commissioner of Planning and Development
Council Resolution #43-24 Authority to amend the provisions of the Guidelines to Infill Developments and the Grading, Servicing, and Drainage Permit.	Director of Engineering Services

Community Services Department	
Delegated Authority	Staff/Committee Delegation
By-law #1718-84 Issue a permit for the moving of heavy vehicles, loads, objects or structures in excess of the dimensional limits set out in Section 92 of the Highway Traffic Act, as may be amended from time to time, or the weight limits set out in Part VII of the said Act, upon any highway under the jurisdiction of the Corporation.	Commissioner of Community Services
By-law #1862-85 Issue permits for the movement on highways under the jurisdiction of the Town of Whitby of heavy vehicles, loads, objects or structures in excess of the dimensional limits or the weight limits set out in the Highway Traffic Act, R.S.O. 1980, c. 198, as amended.	Commissioner of Community Services
Solid Waste Management By-law #5795-06 Details of powers and duties of the Commissioner of Community Services with regard to solid waste collection in the Town are set out in By-law #5795-06.	Commissioner of Community Services
Road Occupancy and Municipal Access By-law #6291-10	Commissioner of Community Services

Community Services Department	
Delegated Authority	Staff/Committee Delegation
Issue a permit upon satisfaction that all requirements of the permit application have been met.	
Noise By-law #6917-14 Authority to approve noise by-law exemptions for construction works undertaken by the Town of Whitby, Region of Durham and/or Ministry of Transportation (with the exception of Highway 407 related activities), subject to the general guidelines set out in By-law #6917-14.	Commissioner of Community Services
Property and Boulevard Maintenance By-law #6937-15 Authority to permit an owner or occupant of a property to landscape or improve the adjacent boulevard with hard or solid materials such as interlocking stone, asphalt or concrete, provided that any hard or solid material located within 0.3 metres of the edge of a sidewalk, footpath, curb or travelled portion of the road are level with the surrounding grade of the boulevard.	Commissioner of Community Services
Parks By-law #5066-02, as amended. May issue a permit to a person for the use of or a portion of a park or park building subject to such terms and conditions as the Commissioner may consider reasonable, desirable and appropriate.	Commissioner of Community Services
Council Resolution #529-17 Authority to waive booking fees of a Town Facility if the intended booking is for a program, meeting or other use that is in partnership with the Town of Whitby.	Commissioner of Community Services

General Government (Includes the CAO, Organizational Effectiveness, Town Clerk and Financial Services in this section)	
Delegated Authority	Staff/Committee Delegation
Temporary Highway Closing By-law #2471-88	Clerk

General Government (Includes the CAO, Organizational Effectiveness, Town Clerk and Financial Services in this section)	
Delegated Authority	Staff/Committee Delegation
Authorized to approve the temporary closing of a highway under the jurisdiction of the Town to vehicular traffic for social, recreational, community, athletic or cinematographic purposes, or combination of such purposes, subject to the conditions set out in By-law #2471-88.	
Group Home Licensing By-law #5947-07 Designated as the Registrar of group homes.	Clerk
By-law #6720-13 Authorized to solemnize civil marriages as provided in the Marriage Act and Regulations and as per the guidelines set out in By-law #6720-13	Clerk
MFIPPA Delegation By-law #7126-16 Delegates the powers and duties as head to the Town Clerk for the purposes of administering MFIPPA and for decisions made thereunder.	Clerk
Council Resolution #205-16 Charitable lottery licencing as regulated by the Alcohol and Gaming Commission of Ontario (AGCO)	Clerk
Council Resolution #205-16 Designating a "Public Event" pertaining to a Special Occasion Permit issued in accordance with Regulation 389/91 made under the Liquor Licence Act and authority to comment on a Liquor Licence Application under the Liquor Licence Act.	Clerk
Council Resolution #527-17 Delegated authority to make administrative amendments to Town Policies to ensure compliance as a result of changes to statute or regulations.	Clerk
Council Resolution #42-17 The authority to approve all Town Procedures and amendments thereto in accordance with the Standards for Town Policies and Procedures.	CAO
Council Resolution #137-18	Clerk

General Government (Includes the CAO, Organizational Effectiveness, Town Clerk and Financial Services in this section)	
Delegated Authority	Staff/Committee Delegation
Authority to make amendments to the Downtown Whitby BIA MOU, subject to such amendments being mutually agreed upon by the BIA Board of Management and the relevant Town Departments	
Council Resolution #132-22 Authority to make amendments to the Terms of Reference to the Boards and Committees Policy G 030 to reflect each Committee's preference for virtual, hybrid, or in-person meetings.	Clerk
Insurance	
Council Resolution #205-16 The authority to place or renew contracts for insurance when such contracts are outside of the general coverage as determined and provided by the Board of the Durham Municipal Insurance Pool in accordance with the Subscribers Agreement.	Commissioner of Financial Services/Treasurer
Council Resolution #205-16 Authority to approve exceptions to Town's minimum insurance requirements as set out and included in by-laws and/or policies enacted or approved by Council from time to time.	Commissioner of Financial Services/Treasurer
Contracts	
Council Resolution #184-11 Authority to establish contracts for natural gas supply as advised by Blackstone Energy.	Commissioner of Financial Services/Treasurer
Council Resolution #209-15 Authorize the Commissioner of Corporate Services/Treasurer to negotiate and enter into updated lease agreements based on the same general terms and conditions approved by Council for existing Town tenancies if deemed necessary.	Commissioner of Financial Services/Treasurer
Council Resolution #323-17 The authority to enter into future energy contracts, including incentive programs, on behalf of the Town of Whitby, and	Commissioner of Financial Services/Treasurer

General Government (Includes the CAO, Organizational Effectiveness, Town Clerk and Financial Services in this section)	
Delegated Authority	Staff/Committee Delegation
execute all necessary documents in accordance with this delegated authority as per the Signing Authority By-law.	
Council Resolution #205-16 Contract extension or renewal, if not anticipated at time of award of original contract, is required to prevent interruption in service, or to avoid incurring extra costs and Council is notified at the earliest opportunity through an information report. This delegation excludes extension or renewals covered by the Purchasing Policy and Procedures.	CAO and Commissioner of Financial Services/Treasurer
Council Resolution #23-24 To award all contracts related to Federal or Provincial grant-funded projects, including the Housing Accelerator Fund, that are within budget until December 31, 2027	CAO and Commissioner of Financial Services/Treasurer
Council Resolution #23-24 That staff be delegated the authority to submit all Federal or Provincial grants applications, normally requiring Council authorization before-hand, until December 31, 2027, subject to the agreement of Treasurer and CAO.	CAO and Commissioner of Financial Services/Treasurer
Finance	
Council Resolution #205-16 For the duration of a "Lame Duck Council" under Section 275 of the Municipal Act, 2001, the emergency power to make any expenditure or incur any other liability which exceeds \$50,000.	CAO
Council Resolution #240-15 Authorize the Treasurer to internally borrow for cash flow purposes between the Town's Development Charge Reserve Funds as required to finance the Development Charge portion of Council approved growth projects.	Commissioner of Financial Services/Treasurer

General Government (Includes the CAO, Organizational Effectiveness, Town Clerk and Financial Services in this section)	
Delegated Authority	Staff/Committee Delegation
Council Resolution #205-16 Authority to consolidate discretionary reserves (i.e. for administrative purposes).	Commissioner of Financial Services/Treasurer
Council Resolution # 276-17 The authority to approve grant submissions with a value between \$10,000 and \$50,000 that support an existing service level and that have no net financial impact on the Corporation.	Department Heads as specified in the Grant Submissions Policy.
Council Resolution #257-19 The Clerk and the Treasurer shall have the authority to procure goods and services and enter into contracts and agreements necessary for the conduct of elections, in order to ensure the timely conduct of elections.	Clerk and Commissioner of Financial Services/Treasurer
Council Resolution #106-23 The Commissioner of Financial Services/Treasurer to approve housekeeping amendments to Investment Policy F100 as recommended by the ONE JIB/ONE Investment	Commissioner of Financial Services/Treasurer
Budget	
Council Resolution #295-12 Authority to overspend budget allocation as per F 270 Operating Budget Monitoring Policy and F 260 Capital Budget Monitoring Policy.	CAO, Treasurer or Department Head as specified in the Policies
Council Resolution #205-16 The authority to make any necessary administrative budget re-allocation between program areas or budget lines to accommodate corporate reorganization or internal processes and procedures provided the re-allocation has no net change to the tax rate.	Commissioner of Financial Services/Treasurer
Conveyance of Land	

General Government (Includes the CAO, Organizational Effectiveness, Town Clerk and Financial Services in this section)	
Delegated Authority	Staff/Committee Delegation
Council Resolution #205-16 Execute releases or notices of abandonment of easements owned by the Town over lands where those easements are no longer required for municipal purposes subject to the following: • Where the easement was acquired by the Town for no consideration, through the development process or otherwise, there will be no consideration payable for the release, with the exception of fees chargeable under by-law for processing the request. • Where the easement was acquired by the Town for consideration, the applicant seeking the release will pay whatever consideration was paid by the Town in acquiring the easement, together with the fees chargeable under by-law for processing the request.	Commissioner of Financial Services/Treasurer and Commissioner of Legal and Enforcement Services/Town Solicitor
Council Resolution #205-16 Convey easements and licences to third parties over Town owned lands where the easement/licence rights are minor in nature and are for the purposes of providing a right of access, utility, telecommunications, services or conservation and the easement/licence will not substantially interfere with the utility or value of the Town owned Lands. For the purposes of this section, an easement which is minor in nature will have an appraised value of \$5,000.00 or less.	Commissioner of Financial Services/Treasurer and Commissioner of Legal and Enforcement Services/Town Solicitor

General Government (Includes the CAO, Organizational Effectiveness, Town Clerk and Financial Services in this section)	
Delegated Authority	Staff/Committee Delegation
Council Resolution #205-16 Any deed, grant, assignment, release, surrender, discharge, quit claim deed, conveyance, re-conveyance, instrument, notice, caution or other document relating to any estate, right or interest in land which is of a routine nature, is for nominal consideration, or has been approved for such execution by the Town Solicitor.	Commissioner of Financial Services/Treasurer and Commissioner of Legal and Enforcement Services/Town Solicitor
Council Resolution #205-16 Conveyance of any interest in land incidental to a subdivision or condominium referenced within the subdivision or condominium agreements, and shall include, but not be limited to, the conveyance of easements and reserves or the release of or abandonment of easements.	Commissioner of Financial Services/Treasurer and Commissioner of Legal and Enforcement Services/Town Solicitor
Council Resolution #205-16 The conveyance of any interest in land incidental to the Section 41 of the Planning Act site plan approval process and shall include, but not be limited to, the conveyance of easements and reserves or the release of or abandonment of easements.	Commissioner of Financial Services/Treasurer and Commissioner of Legal and Enforcement Services/Town Solicitor
Council Resolutions #270-18 and #173-22 That the delegation of authority to the CAO for the disposition and acquisition of land, as provided for in the Policy, be approved. Delegation regarding lands related to a Town infrastructure project to the CAO and Treasurer during Council Summer Recess, Council Election Recess or Lane Duck Period.	CAO and Treasurer

Legal and Enforcement Services	
Delegated Authority	Staff/Committee Delegation
Property Standards By-law #6874-14 Subject to the Building Code Act, hear all appeals of orders issued under the	Property Standards Appeal Committee

Legal and Enforcement Services	
Delegated Authority	Staff/Committee Delegation
Property Standards By-law #6874-14; and the power and duties prescribed by the Building Code Act.	
Council Resolution #205-16 Submission of applications under Part I of the Provincial Offences Act for the purpose of establishing set fines and short form wording.	Commissioner of Legal and Enforcement Services/Town Solicitor or designate
Council Resolution #205-16 Appointment of persons as Municipal Law Enforcement Officers for the purpose of by-law and parking enforcement in the Town of Whitby, pursuant to Section 15.(1) of the Police Services Act, R.S.O. 1990, c. P.15 and subject to the person having satisfied any required training, testing or application processes required by the municipality.	Commissioner of Legal and Enforcement Services/Town Solicitor or designate
Council Resolution #25-18 Per the Uninsured Claims and Legal Matters Policy CA 240, various delegations related to all uninsured claims and legal matters involving the Town. This includes matters that are to be heard before administrative tribunals (e.g., Assessment Review Board, Ontario Municipal Board, etc.).	Commissioner of Legal and Enforcement Services/Town Solicitor, Commissioner of Planning and Development, Treasurer, Head of Organizational Effectiveness, and others.
Council Resolution #147-25 Fence By-law Authority for consideration of minor height exemptions (up to 10%).	Commissioner of Legal and Enforcement Services/Town Solicitor
Council Resolution #205-16 Authority to approve the execution of agreements for parking enforcement on private property. The delegation also applies equally to any amendment or termination of such agreements.	Commissioner of Legal and Enforcement Services/Town Solicitor
Council Resolution #205-16 Submission of applications under Part II of the Provincial Offences Act for the purpose of establishing set fines and	Commissioner of Legal and Enforcement Services/Town Solicitor

Legal and Enforcement Services	
Delegated Authority	Staff/Committee Delegation
short form wording related to parking infractions.	
Council Resolution #52-24 Authority to appoint both a Screening Officer and Hearings Officer for the administration of the Administrative Penalty System (APS)	Commissioner of Legal and Enforcement Services/Town Solicitor

Fire and Emergency Services	
Delegated Authority	Staff/Committee Delegation
By-law #7292-17 Authorization to appoint Fire Prevention Officers for the purpose of implementing the Program in accordance with the FPPA, and who shall also be Inspectors in accordance with the BCA, with the responsibilities and authority as granted therein.	Fire Chief, or his or her designate

Member(s) of Council	
Delegated Authority	Staff/Committee Delegation
Council Resolution #267-18 That the Mayor be delegated the authority to approve proclamations in accordance with Policy CA 120, Issuance of Proclamations, during the Council summer and election recesses	Mayor

Note: The above list may not be all inclusive and will be updated by the Town Clerk as Council provides for delegations from time to time.