

# Delegation of Municipal Powers and Duties

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Section:	Governance
Sub-section:	General
Author:	Clerk's Department
Authority:	Council
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## Policy statement

The Council of the Town of Oakville (town) is directly accountable for all municipal powers and duties as legislated under the *Municipal Act, 2001* or any other Act and at the same time recognizes that the delegation of municipal powers and duties may provide for improved efficiencies, the utilization of a particular expertise or enhanced engagement.

In determining any delegation of its powers and duties, Council shall abide by the legislative restrictions and shall also ensure that such delegation will be accomplished maintaining the principles of accountability and transparency.

## Purpose

The *Municipal Act, 2001* requires that all municipalities adopt and maintain a policy with respect to the delegation of municipal powers and duties. By-law [2021-077/2023-021](#), Delegation of Municipal Powers and Duties By-law, as amended or replaced, delegates administrative authority to senior management and other staff. This policy is to provide further guidance to Council and staff on the application and operation of the By-law, 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 all departments and staff.

Council may choose to delegate administrative powers and duties (but not legislative or quasi-judicial powers) to:

- Individuals (including town staff);
- Committees of Council;
- Local boards;
- Municipal Service Boards; or
- Municipal Service Corporations ~~(but not legislative or quasi-judicial powers)~~.

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).

In accordance with subsection 23.3(1) of the *Municipal Act, 2001*, Council is not authorized to delegate any of the following powers and duties:

- The power to appoint or remove from office, statutory officers of the municipality
- The power to pass a by-law under section 400.1 and Parts VIII, IX, IX.1 and X of the *Act*.
- The power to incorporate municipal corporations.
- The power to adopt an Official Plan or an amendment to the Official Plan.
- The power to pass a zoning by-law.
- 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.

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.

## Policy Requirements:

1. Except where deemed minor in nature, or as identified in this policy, delegations of municipal powers and duties shall be authorized by by-law. All delegation by-laws shall be in accordance with the provisions and restrictions established under the *Municipal Act, 2001*.

2. A delegation of a municipal power or duty to a person or body shall establish the scope of power applicable to the delegation in accordance with the *Municipal Act, 2001*.
3. A person or body to whom a municipal power or duty has been delegated 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.
4. Delegation of a municipal power or duty shall include, where appropriate, a determination of whether such delegated authority will be subject to an appeal process and if so, a determination of the individual or body which will address such appeals.
5. Procedures shall be established for all delegations of a municipal power or duty, including but not limited to:
  - a. the manner in which the delegate's actions and decisions will be transparent to the public; and
  - b. the manner in which the delegate will provide ongoing reports to Council which shall confirm compliance with the delegated authority and advise of the status of the business of the delegation.
6. In exercising any delegated power, the delegate shall ensure:
  - a. Any expenditure related to the matter has been provided for in the current year's budget;
  - b. The scope of the delegated authority shall not be exceeded by the delegate;
  - c. Compliance with all Corporate policies, including those relating to purchasing, insurance and risk management; and
  - d. the consistent and equitable application of council policies and guidelines.
  - e. For the purposes of this policy, potential financial losses or obligations do not extend to those arising from indemnities and, for clarity, are not required to be included in an approved budget.
7. Delegation of a power or duty to an officer, employee or agent of the municipality shall be subject to the approval of the Chief Administrative Officer (CAO).

## Corporate Values

This policy is also aligned with the corporate values of the Town to be transparent, accountable, dedicated, honest, innovative, and respectful, and to work as a team.

## Monitoring and Compliance

All delegation of powers and duties set out in the Municipal Powers and Duties By-law shall be reviewed every term of Council. Best practice would be for this to be reviewed early in the term of Council, in conjunction with a review of this policy.

Every delegation of a power or duty of Council shall be accompanied by a corresponding accountability and transparency mechanism. Where applicable, departments are responsible for reporting to Council on the exercise of delegated authority through the

Town Clerk, on the number and nature of the delegations exercised, and confirming compliance with the limitations on the exercise of the delegated power or duty.

The Town Clerk is responsible for receiving complaints and inquiries related to this policy and the exercise of delegated authority. Upon receipt of a complaint, the Clerk shall notify Town Council and the Chief Administrative Officer.

## References and related documents

Delegation of Municipal Powers and Duties By-law  
Accountability and Transparency Policy  
*Municipal Act, 2001, S.O. 2001, c. 25*

## 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 which do not involve discretionary decision making.

## Roles and Responsibilities

Pursuant to the *Municipal Act, 2001*, it is the role of Council to ensure:

- a. that administrative policies, practices and procedures are in place to implement the decisions of Council; and,
- b. the accountability and transparency of the operations of the municipality, including the activities of senior management.

Pursuant to the *Municipal Act, 2001*, it is the role of staff to implement Council's decisions and establish administrative practices and procedures to carry out Council's decisions.

Town staff is responsible for adhering to the parameters of this policy and for ensuring appropriate application of delegated authority.