


POLICY

	Policy:	DELEGATION OF POWERS AND DUTIES		
	Department:	Office of the CAO		
	Division:	Municipal Governance	By-Law No.:	2016-34
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1. POLICY STATEMENT

- 1.1. The Corporation of the Town of Amherstburg, as an elected municipal government, is directly accountable to its constituents for its legislative decision making, policies and administrative actions. Council's decisions are generally expressed by by-law or resolution of Council carried by a majority vote.
- 1.2. 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 actions.

2. PURPOSE

- 2.1. Section 270 (1) subsection [6] of the *Municipal Act, 2001*, requires that The Corporation of the Town of Amherstburg adopt and maintain policies with respect to "The delegation of its powers and duties".
- 2.2. The purpose of this Policy is to set out the scope of the powers and duties by which Council may delegate its legislative and administrative authority and establish principles governing such delegation.

3. SCOPE

- 3.1. This Policy shall apply to Town Staff with respect to the carrying out of delegated powers and duties of Council as described in the *Municipal Act, 2001*, so as to increase the accountability and transparency of the municipal decision making process.

- 3.2. The powers and duties delegated by Council are not considered to be legislative or quasi-judicial and are considered to be minor in nature.
- 3.3. The persons to whom Council has delegated certain powers and duties are all officers, employees or agents of the Town.
- 3.4. Council retains the right to hear any appeal concerning any delegated approval decision and at such time shall uphold, dismiss, or modify the delegated approval decision as determined by a Council vote.
- 3.5. This policy shall be reviewed every five years from the date it becomes effective, and/or at the discretion of the CAO.

4. **DEFINITIONS**

- 4.1. **Administrative Powers** means all matters required for the management of the corporation which do not involve discretionary decision making.
- 4.2. **Accountability** means how Council, Staff, Committees and Local Boards are held to account for their actions.
- 4.3. **Chief Administrative Officer (CAO)** is the Chief Administrative Officer for the Corporation of the Town of Amherstburg, which includes the roles and responsibilities as laid out in Section 229 of the *Municipal Act, 2001*.
- 4.4. **Clerk** is the Municipal Clerk for the Corporation of the Town of Amherstburg, which includes the roles and responsibilities as laid out in Section 228 of the *Municipal Act, 2001*.
- 4.5. **Council** refers to the current elected Council for the Corporation of the Town of Amherstburg. This includes, as an entirety, the Mayor, Deputy Mayor and Councillors.
- 4.6. **Delegation** means the transfer of approval authority of certain powers and duties from Council to designated Town officer, employee or agent positions under certain terms and conditions as identified by Policy.
- 4.7. **Director** is the person responsible for direction and operational control of a division as defined on the Town's organizational structure.
- 4.8. **Legislative Powers** means all matters where Council acts in a legislative or quasi-judicial function including enacting By-laws, setting policies, and exercising decision making authority.
- 4.9. **Manager** reports directly to a Director (or the CAO in some instances) and who is responsible for a department within a division of the Corporation, as defined on the Town's organizational structure.
- 4.10. **Senior Management Team (SMT)** is comprised of the Chief Administrative Officer and the Directors. If a Director is unavailable, a delegate may be assigned.

4.11. **Town** is the Corporation of the Town of Amherstburg.

5. **INTERPRETATIONS**

5.1. Any reference to this Policy to any statute or any section of a statute shall, unless expressly stated, be deemed to be reference to the statute as amended, restated or re-enacted from time to time. Any references to a By-law or Town policy shall be deemed to be a reference to the most recent passed policy or By-law and any replacements thereto.

6. **GENERAL CONDITIONS**

6.1. Council delegates to the Administration and appointed staff the authority to process, decide upon, and execute agreements for the following matters:

- 6.1.1. Tile Drainage Loan Applications/Shoreline Assistance Loan Applications.
- 6.1.2. Street Closures or temporary street closures and/or detours due to construction or special events, in accordance with the Public Events Committee's Public Events Manual.
- 6.1.3. Signing releases or waivers required for short term use of facilities, in accordance with the Public Events Committee's Public Events Manual and Public Event Forms.
- 6.1.4. Accounts Receivable – write-off of interest in accordance with Council approved annual Operating Budget.
- 6.1.5. Administering the *Municipal Freedom of Information and Protection of Privacy Act* and for decisions made there under.
- 6.1.6. Pursue and settle with third parties for the recovery of Town property damage claims.
- 6.1.7. Additions or deletions of local taxation for any MPAC driven assessment and classification changes.
- 6.1.8. Appointment of Town nominees to sit on labour boards of arbitration.
- 6.1.9. Future banked vacation carryover requests for non-union employees beyond 10 days.
- 6.1.10. Execution of pension, benefits, and insurance contract renewals and amendments, in accordance with the Procurement Policy.
- 6.1.11. Minor maintenance/rental agreements relative to daily operations of the Municipality, provided the agreements may have fixed terms of no less than four years and are acquired in accordance with the Procurement Policy.

- 6.1.12. Erection of intersection traffic control signing.
- 6.1.13. Erection of temporary mobile signs on the public right-of-way in accordance with the provisions of the Town's Sign By-law.
- 6.1.14. Changes to Letters of Credit, Performance Bonds.
- 6.1.15. Building Department approvals in accordance with the *Building Code Act*.
- 6.1.16. Agreements with Registered Code Agencies to perform specified functions with regard to the *Building Code Act, S.O. 1992* be delegated for execution to the Chief Building Official.
- 6.1.17. Conditional Building Permit Agreements made under the *Building Code Act, S.O. 1992* be delegated for execution to the Chief Building Official.
- 6.1.18. Execution of applications to rezone Town property as Owner's representatives.
- 6.1.19. Execution of applications to amend the Official Plan as the Owner's representatives.
- 6.1.20. Certification of Title Applications noting no objection to land description for development lands, subject to review and recommendation by Town Staff, be delegated for execution to the Town Clerk.
- 6.1.21. Approval of use of municipal facilities including events to which alcohol may be served.
- 6.1.22. Exemption from Site Plan Control.
- 6.1.23. Railway encroachment agreements.
- 6.1.24. Disposal and/or sale of surplus and obsolete equipment in accordance with the Procurement Policy.
- 6.1.25. Implementation of Assessment Review Board decisions.
- 6.1.26. Signing of agreements for purchase and sale of municipal property and easement agreements in accordance with the Disposition of Surplus Town Property Policy.
- 6.1.27. Signing of contracts or agreements associated with the purchase of budgeted items or services.
- 6.1.28. Approving all Sponsorship and Advertisements agreements.
- 6.1.29. Over the Road Banner Applications, Fireworks Permits, Lottery Licence Requests from Associations.
- 6.1.30. Certificates of Exemption from registration as a non-gaming related supplier.

- 6.1.31. Signing letters of non-objection and deeming events as municipally significant for ACGO Liquor Licence Application Requirements.
 - 6.1.32. Sewer Use Agreements
 - 6.1.33. West Nile Virus Larviciding Requirements, as determined by the Medical Officer of Health.
 - 6.1.34. Parking enforcement – cancellation of fines.
 - 6.1.35. Franchise Agreements addressing use of public highway allowances by public corporations and utility and service providers, be delegated for execution to the Director of Engineering and Public Works.
 - 6.1.36. Settlement of small insurance claims up to the Town's deductible of \$50,000
 - 6.1.37. Updating of Town's Emergency Plan.
 - 6.1.38. Joint use agreements.
 - 6.1.39. User fee By-law exemption.
 - 6.1.40. Traffic By-law exemption.
 - 6.1.41. Noise By-law exemption.
 - 6.1.42. Allocation of vending site, in accordance with the Business License By-law.
 - 6.1.43. Dog Licenses.
 - 6.1.44. Ministry of Transportation Agreements (I.e. license renewals, fleet ownerships, etc.)
 - 6.1.45. Servicing agreements and signing authorities associated with all existing Town bank accounts.
 - 6.1.46. Council further delegates to the Chief Administrative Officer the authority to approve amendments of a general administrative or housekeeping nature to the matters set out in Section 6.1.
- 6.2. Council further delegates to the Chief Administrative Officer the authority to process, decide upon and execute agreements for the following matters subject to the favourable recommendation of the Senior Management Team:
- 6.2.1. Permission to park trailers temporarily on parking lots when the purpose is in the public interest and a non-commercial use.
 - 6.2.2. Approval of legal encroachments within the terms of Council's establish policy.

- 6.2.3. Approval of fire routes subject to favourable recommendations from the Chief Building Official and Fire Chief.
- 6.2.4. Approval of the issuance of correcting or quit claim deeds to clear defects in the title of property.
- 6.2.5. Moving expenses for recruited employees with an upset limit of \$5,000.
- 6.2.6. Appointment of Commissioners of Oaths.
- 6.2.7. Closure of non-essential Town departments in the event of inclement weather in consultation with the Mayor.
- 6.2.8. Letters of support from Administration for community festivals and/or outdoor events, subject to Administration submitting the request to Council's attention as a communication for Council's information coincidental to the submission of the letter of support.
- 6.2.9. Letters of support for applications by outside groups or agencies where there is no financial commitment on the Town, subject to a favourable recommendation in support of the letter request from the responsible Director.
- 6.2.10. Requests for the rental of ice in municipal arenas and requests for the lease of advertising on ice resurfacing machines where written agreements are necessary.
- 6.2.11. Execution of agreements permitting the installation of jump harnesses (used for figure skating) in the Libro Centre which are at the sole risk and cost of the requesting party, subject to approval from the Town's Solicitor, and in technical content by the Manager of Operations.
- 6.2.12. Authority to bind the Corporation in Standard Crossing Reconstruction Agreements where the Director of Engineering and Public works gives a favourable recommendation for the cost-sharing of construction and maintenance of the railroad crossing.
- 6.2.13. Authority to sign Maintenance Agreements with ERCA for future maintenance repairs and related engineering studies.
- 6.2.14. Ability to authorize the Integrity Commissioner to investigate complaints reported to the Chief Administrative Officer.
- 6.2.15. Authority granted to the Chief Administrative Officer to consider and approve of requests for waiver of fees as noted in the Town's User Fee By-law limited to fees not exceeding \$1,000 per request.
- 6.2.16. Authority for the Chief Administrative Officer, upon recommendation of the Town Solicitor and the Fire Chief, to use vacant dwellings acquired by the Town for training purposes prior to demolition.

- 6.2.17. Approval to terminate, or approve the termination of, contracts for default, poor or non-performance, subject to the favourable recommendation of the Town's Solicitor.
 - 6.2.18. Approval of the execution of onetime or infrequent processes or agreements that are of an administrative nature and comply with approved operating or capital budgets.
 - 6.2.19. Grant applications submitted by the Town for existing approved programs where Town funding is either not required or is available within existing budgets.
 - 6.2.20. Authority for the Chief Administrative Officer to waive the provisions of the Business Licensing By-law for special events upon approval of the Manager of Licensing and Enforcement.
 - 6.2.21. Authority for the Chief Administrative Officer and Town Clerk to execute agreements resulting from conditions imposed by decisions of the Committee of Adjustment in connection with severance and/or minor variance applications, where such conditions have been recommended by Administration, save and except for the conditions which are related to policy or precedent issues or require the expenditure of funds by the Town.
 - 6.2.22. Authority for the Chief Administrative Officer to approve, subject to support by the Town's Planner and/or the Director of Engineering and Public Works, amendments to:
 - 6.2.22.1. By-laws closing alleys or right-of-ways adopted by former municipalities annexed or amalgamated to the Town of Amherstburg.
 - 6.2.22.2. Such by-law amendments to include easements in favour of utility companies as required to enter upon the unclaimed closed alleys for installation, repairs and maintenance of their facilities therein, and to convey unclaimed parcels from time to time.
 - 6.2.23. Authority for the Chief Administrative Officer and Town Clerk to sign amendment acceptance pages for contract renewals or amendments with the Town of Amherstburg employee benefit carriers/providers for all employee groups as a result of annual renewals, collective bargaining or arbitration awards, satisfactory in form to the Town's Solicitor, in technical content to the Manager of Human Resources, and in financial content to the Director of Financial Services.
- 6.3 Council further delegates to the Chief Administrative Officer the authority to defend, settle, and abandon the following legal matters:
- 6.3.1 The conduct of all litigation before courts and administrative tribunals, subject to such instruction as may be issued by Council from time to time and in the conduct of such litigation, the Chief Administrative Officer shall use the most efficient combination of staff and external legal services as required to represent and defend the interests of the Town in the issue at hand.

- 6.3.2 Authority to defend, settle, and abandon all matters within the jurisdiction of the Small Claims Court provided that the authority to settle or abandon a matter is limited to an amount not to exceed \$50,000.
- 6.3.3 Authority to direct the prosecution of, to defend, settle and abandon all matters within the jurisdiction of the Ontario Court of Justice or Provincial Offences Court provided that the authority to settle or abandon a matter is limited to an amount not to exceed an aggregate penalty of \$5,000.
- 6.4 With respect to matters within the jurisdiction of the Superior Court of Justice, the Chief Administrative Officer shall have the authority to:
 - 6.4.2.1 Direct the defense of all actions against the Town and to take such steps, including all interim proceedings, as may be considered necessary or proper;
 - 6.4.2.2 To carry out the decision of Council to initiate an action or abandon an action;
 - 6.4.2.3 Recommend a settlement to Council in conjunction with the advice of the Town solicitor.
- 6.4.3 In exercising authority granted in the aforementioned sections, the Chief Administrative Officer shall have the authority to:
 - 6.4.3.1 Authorize the payment of all expenses related to the conduct of any action or matter and the payment of any costs awarded against the Town;
 - 6.4.3.2 Execute all documents required to conduct any action or conclude the settlement of any action or matter; and
 - 6.4.3.3 Take all steps required to enforce orders, decision, awards and judgements
- 6.4.4 Authority, on direction of Council, to make applications and take objection to all matters brought before administrative tribunals including the Ontario Municipal Board and other administrative tribunals.
- 6.4.5 Authority to respond to all matters brought before administrative tribunals including the Ontario Municipal Board and other administrative tribunals.
- 6.4.6 Authority, on direction of Council, to initiate all matters brought before the Ontario Labour Relations Board, the Ontario Human Rights Commission and the Canadian Human Rights Commission including arbitrations.

- 6.4.7 Authority to respond to all matters brought before the Ontario Labour Relations Board, the Ontario Human Rights Commission and the Canadian Human Rights Commission including arbitrations.
- 6.4.8 The Chief Administrative Officer shall have the authority to:
- 6.4.8.1 Appeal decisions of the Small Claims Court;
 - 6.4.8.2 Appeal decisions of the Ontario Court of Justice or Provincial Offences Court;
 - 6.4.8.3 Commence, conduct and participate in appeals regarding planning matters to the Ontario Municipal Board and similar administrative tribunals, including appeals from decisions of Council and/or the Committee of Adjustment;
- 6.4.9 For those matters for which the Chief Administrative Officer does not have delegated authority as noted in this By-law, the matter shall be brought before Council for direction at an In-Camera meeting in accordance with Section 239 of the *Municipal Act, 2001*.
- 6.4.10 Where time constraints or other circumstances will not allow for the required authority granting procedures to be followed with respect to any legal matter, the Chief Administrative Officer shall have the authority to take appropriate action and report such actions to Council and the earliest opportunity.

7. EXCLUSIONS

- 7.1. Unless specifically delegated in this Policy, all the powers and duties of Council as described in the *Municipal Act, 2001* shall remain with Council.
- 7.2. Council *cannot* delegate the following powers and duties:
- 7.2.1. The power to pass By-laws for municipal taxation or tax collection.
 - 7.2.2. The power to incorporate corporations.
 - 7.2.3. The power to adopt an Official Plan or Official Plan Amendment or pass a Zoning By-law under the *Planning Act*.
 - 7.2.4. The power to adopt a Community Improvement Plan.
 - 7.2.5. The power to adopt or amend the budget of the municipality.
 - 7.2.6. Any other power or duty that may be prescribed or legislated by Provincial Legislation or another Town By-law.