

Category: Governance

Title: Administrative Authority Policy

Policy Number: 14.16.0 (Replaces General Delegation Policy No. 14.16.0)

Approved by: CW049-2018

Administered by: City Clerk, Office of the Chief Administrative Officer

Effective: January 31, 2018

1. Purpose

The Municipal Act, 2001, S.O. 2001, c. 25 (“*Municipal Act, 2001*”), subsection 270(1) requires that all municipalities adopt and maintain a policy regarding the delegation of municipal powers and duties. In October 2017, Council enacted the Administrative Authority By-Law 216-2017 which 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.

2. Application and Scope

This policy applies to all Departments and staff.

3. Exceptions

3.1 Where the exercise of administrative authority involves the expenditure of money, or subjects the City to a potential financial loss or obligation, the funding for the expenditure must be included in an approved budget and in accordance with the Purchasing By-law 310-2015, as amended, as a condition of exercising the delegated power or duty. 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.

3.2 In accordance with subsection 23.3(1) of the *Municipal Act, 2001*, the authority to do the following may not be delegated:

- a. appoint or remove an officer of the municipality if the officer's appointment is required by the *Municipal Act, 2001*;
- b. pass a by-law to impose a tax in respect of a purchase of transient accommodation in the municipality;
- c. pass a by-law in respect of municipal taxation, limitations on taxes for certain property classes, optional tax on vacant residential units, or tax collection;
- d. incorporate or establish corporations, nominate or authorize a person to act as an incorporator, director, officer or member of a corporation, exercise any power as a member of a corporation, acquire an interest in or guarantee such securities issued by a corporation, or exercise any power as the holder of such securities issued by a corporation;
- e. adopt an official plan or an amendment to an official plan under the *Planning Act*, R.S.O. 1990, c P.13 ("*Planning Act*");
- f. pass a zoning by-law under the *Planning Act*;
- g. pass a by-law providing for the establishment of a counselling service to small businesses operating or proposing to operate in the municipality, or establish and maintain programs for the purpose of encouraging the establishment and initial growth of small businesses;
- h. pass a by-law to provide financial or other assistance at less than fair market value or at no cost to any person who has entered into an agreement to provide municipal capital facilities;
- i. adopt a community improvement plan under section 28 of the *Planning Act*, if the plan includes provisions that authorize the exercise of any power under subsections 28(6) or (7) of that Act or subsection 365.1 of the *Municipal Act, 2001*;
- j. adopt or amend the budget of the City; and
- k. any other power or duty that may be prescribed.

4. Outcome – Operation of By-Law

- 4.1 All delegations of Council authority shall be made or confirmed by by-law unless otherwise expressly authorized by statute.
- 4.2 Unless an authority has been expressly delegated by by-law, all of the authority of Council remains with Council.
- 4.3 A person to whom authority has been delegated by by-law has no authority to delegate further to another person (no sub-delegations).
- 4.4 Council may delegate legislative and quasi-judicial authority to a person who is an officer, employee or agent of the municipality provided that:
 - a. Council considers the legislative or quasi-judicial authority to be minor in nature; and,
 - b. the authorities being delegated are those legislative or quasi-judicial authorities determined as being minor in nature per subsection 23.2(5) of the *Municipal Act, 2001*.
- 4.5 In accordance with the *Municipal Act, 2001*, in addition to delegating legislative or quasi-judicial authorities as set out in section 3.4 of this policy, Council may delegate legislative or quasi-judicial authority to:
 - a. one or more members of Council or a Council committee; and
 - b. a body having at least two members, of which at least half are Council members, Council appointees, or a combination of Council members or Council appointees.
- 4.6 Administrative authorities delegated to staff by by-law are subject to the conditions set out therein, and to any further limitations in the *Municipal Act, 2001*.
- 4.7 In exercising a delegated authority, a delegate shall not exceed the scope of the authority.

- 4.8 Council may restrict or revoke a delegation at any time without notice in accordance with subsection 23.(2) of the *Municipal Act, 2001*.
- 4.9 A delegation shall not limit the right to revoke the delegation beyond the term of the council which made the delegation pursuant to subsection 23.(2) of the *Municipal Act, 2001*.
- 4.10 The Brampton Appeal Tribunal may hear appeals or review decisions made pursuant to a delegated authority in accordance with its rules and practices.
- 4.11 Delegated authority shall reside with the position, not the individual, and unless otherwise specified, shall extend to any person acting in that position.
- 4.12 Agreements and other documents approved in a Department's Usual Operations, meaning the activities and administrative decision making required as part of the day-to-day operations of a Department in the ordinary course of business, which are administrative in nature, shall include non-disclosure agreements, data sharing agreements and memoranda of understanding.

5. Policy Statements

- 5.1 This policy recognizes that the delegation of municipal authorities is essential for the effective and efficient operation of a modern and growing municipality, and recognizes that Council is accountable for all municipal authorities as prescribed in the *Municipal Act, 2001*, or any other Act.
- 5.2 The delegation of administrative authorities will be in compliance with applicable legislative requirements and have regard for principles of accountability and transparency.

6. Roles and Responsibilities

- 6.1 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.

6.2 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.

7. Monitoring and Compliance

7.1 The City 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 City Council and the Chief Administrative Officer.

7.2 Departments are responsible for reporting annually to Council on the exercise of delegated authority through the City Clerk, on the number and nature of the delegations exercised, and confirming that limitations on the exercise of the delegated power or duty have been met.

8. Definitions

8.1 **administrative authority(ies)** means all authority which may be exercised by Council, its members or Committees, and City officers and employees, which are necessary and appropriate for the effective management of the City.

8.2 **legislative authority(ies)** means all authority which may be exercised by Council in exercising a legislative or quasi-judicial function including enacting by-laws, setting policy or exercising discretion of a judicial nature that impacts the rights or interests of a member of the public.

8.3 **legislative authority of a minor nature** means legislative authority which Council has determined to be minor in nature having regard to the number of people, the size of geographic area and the time period affected by an exercise of the authority.

9. References and Resources

External references

- *Municipal Act, 2001*, S.O. 2001, c. 25
<https://www.ontario.ca/laws>

References to related bylaws, Council policies, and administrative directives

- Administrative Authority By-law 216-2017
<http://www.brampton.ca/EN/City-Hall/Bylaws/All%20Bylaws/Administrative%20Authority.pdf>

References to related corporate-wide procedures, forms, and resources

- None

10. Revision History

Date	Description
2018. 01. 31	Replaces: General Delegation Policy No. 14.16.0
2021. 01. 31	Next Scheduled Review