

POLICY

POLICY NO: GG. 3.7
SECTION: GENERAL GOVERNMENT - CLERK
TITLE/SUBJECT: DELEGATION OF POWERS AND DUTIES POLICY
ADOPTED DATE: November 21st 2007
Adopted by By-law No. 2007-355

REVISION DATE:

1. PURPOSE/APPLICATION

The *Municipal Act, 2001, S.O. 2001* (the Act) requires that all municipalities adopt and maintain a policy with respect to the delegation of its powers and duties.

The purpose of this policy is to set out the scope of the powers and duties which Council may delegate its legislative and administrative authority and to establish principles governing such delegation. This policy has been developed in accordance with the Act in order to comply with its other applicable sections, including section 270. This policy applies to all committees of Council, departments and staff.

2. DEFINITION(S)

i) 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.

ii) Administrative Powers - Includes all matters required for the management of the corporation which do not involve discretionary decision making.

3. POLICY STATEMENT

The Council of The Corporation of the Municipality of Kincardine, as a duly elected municipal government is directly accountable to its constituents for its legislative decision making, policies, 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 municipal corporation 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 Act and will respect the applicable restrictions outlined in the Act.

4. POLICY REQUIREMENTS

4.1. All delegations of Council powers, duties or functions shall be effected by by-law.

- 4.2. Unless a power, duty, or function of Council has been expressly delegated by by-law, all of the powers, duties and functions of Council remain with Council.
- 4.3. A delegation of a power, duty or function under any by-law to any member of staff includes a delegation to a person who is appointed by the Chief Administrative Officer or selected from time to time by the delegate to act in the capacity of the delegate in the delegate's absence.
- 4.4. Subject to section 3, a person to whom a power, duty or function has been delegated by by-law has no authority to further delegate to another person any power, duty or function that has been delegated, unless such sub-delegation is expressly permitted.
- 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. A delegation may be revoked by by-law at any time without notice unless the delegation by-law specifically limits the municipality's power to revoke the delegation.
- 4.7. A delegation shall not limit the right to revoke the delegation beyond the term of the Council which made the delegation.
- 4.8. Administrative Matters are 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.
- 4.9. In exercising any delegated power, the delegate shall ensure the following:
 - i) Any expenditure related to the matter has been provided for in the current year's budget (or authorized by the Purchasing and Procurement By-law).
 - ii) The scope of the delegated authority shall not be exceeded by the delegate.
 - iii) Where required by the specific delegated authority, reports shall be submitted to Council advising of the exercise of a delegated power and confirming compliance with the delegated authority and this policy.
 - iv) All policies regarding insurance and risk management shall be complied with.
 - v) Delegates shall ensure the consistent and equitable application of council policies and guidelines