

**NO. 2020 –**

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**BEING A BY-LAW TO AUTHORIZE THE DELEGATION OF AUTHORITY FOR CERTAIN ACTS DURING THE COVID-19 PANDEMIC**

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**WHEREAS** Section 8 (1) and 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provide that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues and has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

**AND WHEREAS** the Province of Ontario declared a State of Emergency on March 17, 2020 to deal with the COVID-19 Pandemic;

**AND WHEREAS** the Municipality of Kincardine declared a State of Emergency at 1:00 p.m. on March 24, 2020 to deal with the COVID-19 Pandemic;

**AND WHEREAS** the COVID-19 Pandemic is affecting the operations and continuity of services to residents of the Municipality of Kincardine;

**AND WHEREAS** a municipality is authorized to delegate its powers and duties under section 23.1 of the Act, subject to the restrictions set out in Part II;

**AND WHEREAS** Council deems it advisable to delegate authority to the Chief Administrative Officer to take action, where necessary, on certain acts during the COVID-19 Pandemic;

**NOW THEREFORE** the Council of The Corporation of the Municipality of Kincardine **ENACTS** as follows:

1. That the Chief Administrative Officer, or designates, be delegated authority to exercise any corporate actions in response to unforeseen circumstances that arise and to exercise delegated authority where such authority has not already been provided by Council until the end of the COVID-19 (Novel Coronavirus) Pandemic:
2. Without limiting the generality of Section 1, the Chief Administrative Officer is delegated the authority for the following:

**Finances**

- i) Expenditures outside the current approved budgets exceeding \$40,000.00.
- ii) Accept and award tenders to compliant contractors when recommended by the Municipal Engineers and/or Senior Managers if within twenty percent (20%) of the amount included in the 2020 Municipal Budget.

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- iii) Accept and award tenders for all other projects if within twenty percent (20%) of the amount included in the 2020 Municipal Budget.
- iv) Approve exemptions to GG. 2.17 The Purchasing and Procurement By-law to allow for changes in process including but not limited to allow tender and requests for proposals to be accepted electronically.
- v) Approve payment of the accounts and to evaluate any donation requests made by community organizations. Approve budget variances within fifteen percent (15%) of the amount allocated in the 2020 Municipal budget.
- vi) Approve waiving interest per Policy GG 2.20 Accounts Receivable for general receivables.
- vii) Approve amendments and additions to the Rates and Fees By-law as necessary.
- viii) Approved exemptions to the Bank and Investments Signing Authorities By-law No 2016 – 148 to the requirement for the number of approvals and to have all cheques printed with digital signatures, including cheques greater than \$5,000.

**Building and Planning**

- ix) Approve and execute any Site Plan and or Development Agreement and or amendments to Agreements.

**Emergency Services**

- x) Approve and execute any agreements and or amendments to agreements, whether verbal or written, for the provision of fire dispatch services by the Municipality of Kincardine and to reduce or restrict fire dispatch to ensure capacity to respond to fire suppression calls within the Municipality of Kincardine.

**Public Works**

- xi) Extend, reduce or terminate hours or service for the Municipal Waste Management Centre.

**Human Resources**

- xii) Remove, terminate, recruit, discipline or replace any employee or senior manager with the exception of the positions required in the Municipal Act, 2001.

**General**

- xiii) Develop, approve, implement or amend any administrative policies, procedures and practices, and shall be authorized to execute any other documents related to the general control and management of the affairs of the Municipality of Kincardine for the purpose of ensuring its efficient and effective operations.
- xiv) Execute any Agreements with the Government of Ontario, the Government of Canada, or an agency of the Government of Ontario or the Government of Canada with respect to funding commitments for Municipality of Kincardine initiatives. The delegation also applied equally to any amendment or termination of such agreements.

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- xv) Commence, defend or continue any legal proceeding, whether before a court or administrative tribunal, and can jointly approve any settlement up to a monetary value of \$100,000.00. The Chief Administrative Officer and Director of Finance/Treasurer shall also be permitted to retain or refer any matter to external counsel.
  - xvi) Acceptance of electronic signatures unless otherwise prohibited.
  - xvii) Authority to issues licences, to revoke licences, to suspend licences, and to prevent the carrying on of such business without a licence pursuant to the 2009 Tax By-law No. 2009-168
  - xviii) In the event of unforeseen exceptional circumstances arising out of the emergency, the Chief Administrative Officer, in consultation with the Head of Council, may take any action outside the normal or strict terms of the delegated authority necessary to protect the health and well-being of residents or protect the property of the Municipality of Kincardine and shall report such action as soon as possible to Council.
- 3) The authority delegated to the Chief Administrative Officer in Section 1 and 2 may only be exercised in accordance with the following criteria:
- a) It is necessary to utilize the authority to address the Emergency in a timely manner.
  - b) In the opinion of the Mayor and the Chief Administrative Officer, it is reasonable to believe that the harm or damage will be alleviated by the exercise of the delegated authority and exercising the delegated authority is a reasonable alternative to other measures that might be taken to address the situation.
  - c) The actions authorized under the delegated authority are exercised in a manner which, consistent with the objectives of the exercise of the delegated authority, reasonably limits their intrusiveness.
  - d) The exercise of the delegated authority only applies to the areas of the Municipality of Kincardine where it is necessary.
- 4) The Chief Administrative Officer shall advise Council of any exercise of delegated authority within 24 hours of the date of exercise of the authority.
- 5) That the Mayor and Chief Administrative Officer be authorized and directed to execute such agreements, instruments, conveyances and other related documents necessary to give effect to the transactions authorized by the Chief Administrative Officer under the delegated authority approved until the end of the COVID-19 (Novel Coronavirus) Pandemic.
- 6) To the extent of a conflict between this By-law and any other by-law or policy, or to the extent of a conflict between the exercise of delegated authority under this By-law and the exercise of any other authority delegated by Council, this By-law and the exercise of authority delegated under this By-law shall prevail, despite the fact that any other delegated authority provides that it prevails in the event of a conflict.
- 7) The person appointed as Treasurer/Director of Finance shall act in place of the Chief Administrative Officer when the Chief Administrative Officer is absent, unavailable, or refuses to act, or the office of the Chief Administrative Officer is vacant, and the Treasurer/Director of Finance shall have all the powers and duties of the Chief Administrative Officer for the purposes of this By-law.

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8) That this by-law shall come into full force and effect upon its final passage.

9) That this by-law may be cited as the "Delegation of Authority By-law"

**READ a FIRST and SECOND TIME** this 30<sup>th</sup> day of March, 2020.

**READ a THIRD TIME and FINALLY PASSED** this 30<sup>th</sup> day of March, 2020.

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Mayor

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Clerk