

Corporation of the Town of Bancroft Delegation Policy 12/11

1. Purpose

The *Municipal Act, 2001* requires that all municipalities adopt and maintain a policy with respect to the delegation of Council's legislative and administrative authority. The purpose of this policy is to set out the scope of the powers and duties that Council may delegate its legislative and administrative authority and to establish principles governing such a 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. Definitions

- 2.1. "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.
- 2.2. "Administrative Powers" means all matters required for the management of the Corporation which do not involve discretionary decision making.
- 2.3. "CAO" means the Chief Administrative Officer of the Corporation of the Town of Bancroft.
- 2.4. "Department" means any department within the Corporation of the Town of Bancroft.
- 2.5. "Municipal Council" or "Council" means the Council of the Corporation of the Town of Bancroft.
- 2.6. "Town" means the Corporation of the Town of Bancroft.
- 2.7. "The Act" means the *Municipal Act, 2001*

3. Policy Statement

The Municipal Council of the Town of Bancroft, 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 a Delegation of Authority by-law and reviewed every term by Council.
- 4.2. Unless a power, duty, or function of Council has been expressly delegated by by-law, all of the power, duties and functions of Council remain with Council.
- 4.3. Subject to Section 3 of the *Act*, 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.
- 4.4. Legislative matters may be delegated by Council where they are minor in nature or where Council has explicitly provide for the terms and conditions under which the powers shall be exercised, and must take into account the limitations set out in the *Act*.
- 4.5. Administrative matters may generally be 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*.
- 4.6. No delegation of power, duty, or function shall exceed the term of Council.

In exercising any delegated power, the delegate shall ensure the following:

- Any expenditure related to the matter shall have been provided for in the current year's budget (or authorized by the purchasing by-law).

- The scope of the delegated authority shall not be exceeded by the delegate.
- 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.
- All policies regarding insurance and risk management shall be complied with.
- Delegates shall ensure the consistent and equitable application of Council policies and guidelines.
- Any undertaking or contract with a third party shall be subject to the approval of legal counsel.

5. Scope of Power

The following rules apply to a Delegation of Authority by-law delegating any of the municipality's powers or duties:

- 5.1. A delegation may be revoked at any time without notice unless the delegation by-law specifically limits the municipality's power to revoke the delegation.
- 5.2. A delegation may provide that only the delegate can exercise the delegated power or that both the municipality and the delegate can exercise the power.
- 5.3. A delegation or deemed delegation under Paragraph 6 of a duty results in the duty being a joint duty of the municipality and the delegate.
- 5.4. A delegation may be made subject to such conditions and limits as the council considers appropriate. Council shall outline the procedures that the delegate is to follow and specific measures for accountability of the delegate and the transparency of the delegate's actions.
- 5.5. When a power is delegated, the power is deemed to be delegated subject to any limits on the power and to any procedural requirements, including conditions, approvals, and appeals which apply to the power, and any duties related to the power are deemed to be delegated with the power.

6. Restrictions of Delegation

Council is not authorized to delegate any of the following power and duties:

- To appoint or remove from office statutory officers of the municipality.
- To pass a by-law and deal with issues regarding taxes.
- To incorporate corporations.
- To pass a zoning by-law under The Planning Act.
- To adopt a community improvement plan under Section 28 of The Planning Act.
- To pass a by-law related to municipal capital facilities.
- To adopt or amend the municipal budget.
- Any other power that may be prescribed in a Delegation of Authority by-law.

7. Responsibilities of Town Staff

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