

If this information is required in an alternate format, please contact the Accessibility Coordinator at 905-623-3379 ext. 2131.

The Corporation of the Municipality of Clarington
By-law 2024-XXX

Being a By-law to provide delegations of authority from the Council of the Municipality of Clarington to Committees and Clarington Municipal Staff.

Whereas Subsection 23.1(1) of the Municipal Act, 2001, as amended, authorizes a municipality to delegate its powers and duties under the Municipal Act or any other Act to a person or body, subject to the restrictions set out in the Municipal Act;

And whereas Subsection 270(1)6 of the Municipal Act, 2001, as amended, states that a municipality shall adopt and maintain policies with respect to the delegation of its powers and duties;

And whereas Subsection 275(6) of the Municipal Act, 2001, as amended, states that nothing in this section prevents any person or body exercising any authority of a municipality that is delegated to the person or body prior to nomination day for the election of the new council;

And whereas the efficient management of the municipal corporation and the need to respond to issues in a timely manner 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;

And whereas, arising out of Report LGS-026-24, the Council of the Municipality of Clarington has deemed it desirable and efficient to delegate certain powers pursuant to the provisions of the Municipal Act, 2001 to enhance the efficiency of its decision making and administrative processes;

Now, therefore, the Council of the Municipality of Clarington enacts as follows:

Short Title

1. The short title of this by-law is the “Delegation of Authority By-law.”

Definitions

2. In this By-law:
- (a) “Administrative Powers” includes all matters required for the management of the Corporation which includes Staffing and the provision of services.
 - (b) “Agreement” means a contract, or other legally binding document.
 - (c) “By-law” means this By-law, as it may be amended from time to time, including schedules.
 - (d) “CAO” means the Municipality’s Chief Administrative Officer and the person who holds that position, or another person designated by Council as described in Section 229 of the Municipal Act, 2001.
 - (e) “Chief Building Official” means the Municipality’s Chief Building Official or any acting or deputy Chief Building Official.
 - (f) “Council” means the Council of the Municipality of Clarington.
 - (g) “Deputy CAO/Planning & Infrastructure” means the Municipality’s Deputy CAO/Planning & Infrastructure, or any acting Deputy CAO/Planning & Infrastructure.
 - (h) “Deputy CAO/Public Services” means the Municipality’s Deputy CAO/Public Services, or any acting Deputy CAO/Public Services.
 - (i) “Deputy CAO/Solicitor” means the Municipality’s Deputy CAO/Solicitor, or any acting Deputy CAO/Solicitor.
 - (j) “Deputy CAO/Treasurer” means the Municipality’s Deputy CAO/Treasurer, where “Treasurer” meets the definition of “Municipal Treasurer” as set out in Section 286 of the Municipal Act, 2001.

- (k) “Deputy Treasurer” means one of the Municipality’s Deputy Treasurer or any acting Deputy Treasurer.
- (l) “Designate” means any individual within the Municipality appointed from time to time to act on behalf of the appointing person in respect of the exercise of their delegated authority.
- (m) “Head of Department” means a person who is responsible for a Department, and their delegate(s) or, in the event of organizational changes, another person designated by Council or the CAO.
- (n) “Lease” means a contract by which one conveys real estate, equipment, or facilities for a specified term, for specified conditions and for a specified rent.
- (o) “Legislative Powers” includes all matters where Council acts in a legislative and quasi-judicial function, including enacting by-laws, setting policies, and exercising adjudicative decision-making authority.
- (p) “Licence” means an authorization by a regulatory authority.
- (q) “Mayor” means the head of Council or, as applicable, the Acting Mayor.
- (r) “Municipal Clerk” means the Municipality’s Municipal Clerk or any acting or Deputy Clerk, or their designate, appointed by Council to perform the duties of the Clerk described in Section 228 of the Municipal Act, 2001.
- (s) “Municipality” means the Corporation of the Municipality of Clarington.
- (t) “OLT” means the Ontario Land Tribunal under the Ontario Land Tribunal Act, 2021, or its successor organization.

General

3. For the purpose of subsection 270(1)6 of the Municipal Act, 2001, this By-law shall satisfy the requirement to adopt and maintain a policy on the delegation of its powers and duties.

4. Pursuant to subsection 23.2(4) of the Municipal Act, 2001, any legislative powers delegated within this By-law are expressly of a minor nature having regard to the number of people, the size of geographic area, and the time period affected by the exercise of each such power.

General Delegation

5. All delegations of Council powers, duties, and functions shall be listed in Schedule "A" of this By-law or otherwise affected by by-law or may be authorized by resolution of Council.
6. Unless a power, duty, or function of Council has been expressly delegated by by-law or resolution, all the powers, duties and functions of Council remain with Council.
7. A delegation of power, duty, or function under any by-law or resolution to any member of Staff shall include a delegation to the CAO and to any member of Staff selected from time to time by the CAO, or delegate, to act in the capacity of the delegate in the delegate's absence.
8. Staff with delegated signing power may use their signature in forms that may be written, printed, including by electronic means or measures, or otherwise reproduced.
9. In exercising any delegated power, the delegate shall ensure the following:
 - (a) Any expenditure related to the matter shall have been provided for in the approved year's budget or otherwise authorized by the Purchasing By-law or related policies).
 - (b) The scope of the delegated authority shall not be exceeded by the delegate.
 - (c) Compliance with all Corporate policies, including those related to insurance and risk management; and,
 - (d) The consistent and equitable application of Council policies and guidelines.

Further Delegation

10. Within each row of a table in Schedule “A” to this By-law, the delegated authority may be exercised by any such person(s) identified. However, the CAO is in effect the head of all Departments and may intervene, sub-delegate, or exercise any authority delegated in this By-law, where legally permitted to do so, if done in writing.
11. Where authority is delegated to a specific Staff member in this By-law, the authority may be further delegated by the authorized person to staff members within the applicable department, or division, provided that such delegation is legally permissible, authorized in writing and does not exceed the authority delegated by this By-law to the authorized person.

Title Change and Conflicts

12. Where delegations of authority have been assigned to a Staff position, such authority includes the person temporarily acting in that position.
13. Where a delegation of power, duty or function is to a Staff position that no longer exists in title, those delegations shall be deemed transferred to the staff person is assuming the responsibilities of the obsolete position.
14. The CAO is hereby authorized to resolve any conflict, or ambiguity, regarding the individual, or individuals, of the Municipality authorized to exercise any delegation.

Emergency or Special Circumstances

15. In cases of emergency or special circumstances, as determined by the CAO and/or Mayor, where it is necessary to act within the normal mandate of a department, but such action is not strictly within the terms of a delegated authority, a Deputy CAO, in respect of their specific department, may take such action as necessary to rectify the situation. Any such action shall be reported immediately to the CAO, and to Council within a reasonable timeframe.

Inconsistency

16. In the event of any contradiction between this By-law and any other Municipal by-law, this By-law prevails to the extent of the inconsistency.

Validity of Actions Taken

17. Any variation or revocation of a delegated authority pursuant to this By-law shall have no effect on the validity of any action taken pursuant to a valid delegation of authority and occurring before the terms of such delegation were varied or revoked.

Severability

18. If a court of competent jurisdiction declares any portion of this By-law to be illegal or unenforceable, that portion of this By-law shall be considered to be severed from the balance of the By-law, which shall continue to operate in full force and effect.

Amendment of Previous By-law

19. By-law 2014-059, the Traffic By-law, Subsection 18.1(1) is amended to delete the following wording:

“The Director may designate temporary permissive truck routes and temporary prohibitive no heavy truck routes and may erect official signs to those effects.”

And replace it with the following wording:

“The Delegation of Authority By-law indicates who may designate temporary permissive truck routes and temporary prohibitive no heavy truck routes and may erect official signs to those effects.”

20. By-law 2023-033, the Procedural By-law is amended to delete subsections 7.20.5 and 7.20.6 regarding authority to make minor deletions, additions, or changes to by-laws.

21. By-law 2010-139, regarding Site Plan Control Agreements, be amended as follows:

by replacing the words “to the Director of Planning and Development Services of the Municipality of Clarington” with the words “as indicated in the Delegation of Authority By-law” in section 7.

by replacing the words “to the Manager of Development Review” with the words “as indicated in the Delegation of Authority By-law” in section 7.

Repeal of By-laws

22. The following by-laws are hereby repealed, effective the date of passing of this by-law:

- By-law 2021-005, delegating authority to exercise powers and functions of Council regarding applications, to the Assessment Review Board.
- By-law 2003-031, delegating authority to make appeals to the Assessment Review Board.
- By-law 2016-087, delegating authority to make decisions and hold meetings related taxes.
- By-law 2021-004, delegating authority to make negotiate and execute tax extensions.
- By-law 2005-225, appointing the former Manager of Municipal Law Enforcement.
- By-law 90-193, appointing the head for the Municipal Freedom of Information and Protection to Privacy Act.
- By-law 2020-045, delegating authority to establish retention periods.
- By-law 2004-253, and its amendments thereto, regarding the provision of civil marriages.

- By-law 2001-072, and its amendments thereto, regarding authority for “removal of holding” symbols, temporary use zoning by-law amendments, and housekeeping by-laws related to the Zoning By-law.
- By-law 2011-119 delegating functions related to planning applications.
- By-law 92-43 delegating authority to execute agreements related to conditions of Land Severances.

Effectivity

This by-law shall come into force and effect on the date of passing.

Adrian Foster, Mayor

June Gallagher, Municipal Clerk