

The Corporation of the City of Port Colborne

By-law No. 7172/114/23

Being a By-law to Delegate Certain powers and Duties under the *Municipal Act*, S.O. 2001 c.25, the *Planning Act*, R.S.O. 1990 c. P. 13, and other Acts to Municipal Officers and Employees

Whereas Section 23.1 of the *Municipal Act, 2001, S.O. 2001, c. 25* (the Act) authorizes a municipality to delegate its powers and duties under the Act or any other Act to a person or body, subject to the rules and restrictions set out in Part II of the Act;

And whereas Section 224 (d) of the Act states that it is the role of Council to ensure that administrative policies, practices, and procedures are in place to implement the decisions of Council;

And whereas Section 227 of the Act states that it is the role of officers and employees of the municipality to: (a) implement Council's decisions and establish administrative practices and procedures to carry out Council's decisions; and (c) carry out other duties under this or any other Act and other duties assigned by the municipality;

And whereas the Council of the Corporation of the City of Port Colborne deems it expedient to delegate certain routine administrative functions to staff to improve business efficiencies while adhering to the principles of accountability and transparency,

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

Definitions

For the purposes of this by-law the following words shall mean:

"Act" means the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended;

"CAO" shall mean the Chief Administrative Officer of The Corporation of the City of Port Colborne;

"City" means The Corporation of the City of Port Colborne,

and "Corporation" has a corresponding meaning;

"City Clerk" shall mean the City Clerk of The Corporation of the City of Port Colborne, whose duties are assigned under subsection 228 (1) of the Act, and includes the Deputy Clerk or any Deputy acting under the direction of the City Clerk or any successor position thereof;

"Council" means the elected Council of The Corporation of the City of Port Colborne;

"Delegation" means duties conferred by Council on City staff, and is inclusive of both powers delegated from Council to City staff and powers granted by Council to City staff;

and "delegated power" has a corresponding meaning;

"Department Head" means a member of the Corporate Leadership Team;

"Designate" means a person appointed by an individual named in Schedule "A" to exercise their authority under this by-law;

and "delegate" has a corresponding meaning;

“Document” means any written instrument whether on paper or in electronic form including, without limiting the foregoing, any contract, agreement, deed, memorandum, letter of intent, application, permit, release, waiver or acknowledgement which, when executed, will have or is intended to have the effect of causing the City to be bound in a legally enforceable relationship with any other person, but shall not include:

- a) any cheques, bank drafts, orders for payment of money, promissory notes, acceptances, bills of exchange, debentures, and any similar instruments; and
- b) correspondence, whether by letter or in electronic form, intended to convey information or confirm a position on a matter, but not intended to create a contract or agreement between the City and any other person, whether or not a legally enforceable right or remedy is created thereby;

And “documents” has a corresponding meaning;

“Execute” means to complete the formalities intended to give effect to a document and may include any one or more of the following formalities as may be required in the circumstances:

- a) signing the document;
- b) causing the seal of the City to be affixed to the document; and
- c) causing delivery of the document to be made to the other parties thereto;

“Procurement Policy” means Administrative Policy No. FIN – 05, amended; and

“Signing officer(s)” has the meaning ascribed to it in section 18 of this By-law.

Administration

1. The short title of this By-law is the “Delegation of Authority By-law”.
2. Any reference to legislation, regulations, and to by-laws in this By-law shall be interpreted to include all amendments to and any successor legislation thereof.
3. It is the opinion of Council that any of the legislative powers delegated pursuant to this By-law are of a minor nature within the meaning of subsection 23.2(4) of the Act.
4. If a court of competent jurisdiction declares any provision, or any part of a provision, of this By-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-law that each and every other provision of this By-law, authorized by law, be applied and enforced in accordance with its terms to the extent possible according to law.
5. All documents to be executed shall be prepared in a sufficient number of identical originals to permit at least one executed original, which may be executed in counterparts, to be retained by the City, except that, if the document provides that electronic signatures or execution in counterparts with exchange by PDF and e-mail are sufficient, an executed original is not required.
6. The initiator of any document shall arrange for the execution of such document by the appropriate signing officers.
7. A copy of each fully executed document shall be forwarded to the Office of the City Clerk after execution, and the remaining originals, if any, shall be kept by the Department Head with primary oversight for the contract or agreement to which the document pertains.
8. The Department Head with primary oversight for a contract or agreement shall be responsible for the distribution of the executed document.

9. A document executed under authority delegated by this By-law shall first be approved as to content by the CAO and the Department Head responsible for the relevant department, or a delegate of the Department Head and, when required, approved as to form by the City Solicitor.
10. Schedule "A" – "Delegation of Powers and Duties" attached hereto forms part of this By-law.
11. Where specified, delegated authority set out in Schedule "A" to this By-law and exercised shall be reported on an annual basis to Council, or a Committee of the Council, by the Deputy CAO described as responsible for the delegated authority.

Nature and Scope of the Delegation of Powers and Duties

12. Section 23.3 (1) of the Act sets out the specific circumstances in which a municipality cannot delegate its powers or duties as follows:
 - a) appointing or removing officers of the municipality whose appointment is required by the Act (i.e. Clerk or Treasurer);
 - b) imposing taxes;
 - c) incorporating corporations;
 - d) adopting or amending the official plan;
 - e) passing zoning by-laws;
 - f) passing bonusing by-laws related to small businesses operating or proposing to operate in the municipality or bonusing by-laws related to the provision of municipal capital facilities;
 - g) adopting community improvement plans which include bonusing arrangements;
 - h) adopting or amending the municipal budget; and
 - i) other powers or duties as prescribed;
13. Council delegates the powers and duties set out in the attached Schedule "A" to those officers, employees, committees or tribunals listed therein and subject to any limitations specified therein.
14. Council retains the authority to revoke any power delegated by this By-law at any time.
15. All delegations shall be deemed to include the CAO, with the exception of delegations to the City Clerk and the City Treasurer.
16. Unless otherwise noted, where there a delegation has been assigned in Schedule "A", the Delegate may further designate an individual, in writing, to act in their place. In the event of the sudden departure of a delegate, the CAO may designate an individual, in writing, to act in the delegate's place. Sub-delegations may be time-limited to service temporary absences, or long-term to facilitate corporate workflow. The maintenance of the written sub-delegation is the responsibility of delegator.
17. Where the exercise of a delegated power or duty requires the expenditure of money or subjects the Corporation to a potential financial loss or obligation, funding for the expenditure or provision for the potential loss or obligation must be included in an approved budget or managed in alignment with reserve fund policies under the advisement of the City Treasurer. All relevant requirements of the City's policies, including the Procurement Policy shall be followed as a condition to the exercise of the delegated authority.

Appointment of Signing Officers

18. Subject to the requirements of this By-law and any statute regarding the execution of any particular kind of document, an employee or officer of the City, who at the time of execution of any document holds any of the following offices or positions, is a signing officer of the City and has the authority to execute the document on its behalf:
- a) the Mayor;
 - b) the CAO; and
 - c) the City Clerk.
19. In addition to the signing officers designated in section 18 of this By-law, a document listed in the delegation column of Schedule A of this By-law is considered a routine document, which may be executed by an employee or officer of the City of Port Colborne who, at the time of execution of the particular document, holds any one of the offices or positions set out in the delegate column of Schedule A, and they shall be considered to be signing officers but only for the limited purposes of the documents set out in Schedule A, that they are authorized to sign, provided that all other provisions of this By-law are complied with.
20. Should any position listed as a delegate in Schedule "A" become vacant, or should any such delegate be absent or otherwise unable to carry out the delegation pursuant to this By-law:
- a) if there is a By-law which designates a deputy or other acting person as having the authority of the person holding the position or office of the Delegate, such deputy or acting person is authorized to exercise the authority of the Delegate under this Bylaw; and
 - b) unless otherwise prohibited, any employee or officer of the City appointed in writing by the Delegate as acting in the position or office of the Delegate in their absence is authorized to exercise the authority of the Delegate under this By-law.

Enacted and passed this 28th day of November, 2023.



Eric Beauregard
DEPUTY MAYOR



Saima Tufail
ACTING CITY CLERK