

Meeting Date: October 21, 2024
Department: Chief Administrative Officer
Report No.: CAO-2024-31
Submitted by: Trisha McKibbin, Chief Administrative Officer
Approved by: Trisha McKibbin, Chief Administrative Officer

SUBJECT: Delegation of Authority By-laws - Revised

RECOMMENDATION: THAT: Council receive Report CAO-2024-31 Delegation of Authority By-laws for information, and further; THAT: Bylaw 104-24 - Delegation of Council Authority Policy, Bylaw 102-24 – Temporary Road Closure Bylaw and Bylaw 103-24 – Sale and Disposition of Land Policy be forwarded to Consideration of By-laws section of the agenda.

BACKGROUND:

Delegation of authority in municipalities is well established, and is both necessary and useful in the effective and efficient management of municipal affairs.

*Section 270 (1)(6) of the Municipal Act, 2001 stipulates that a municipality shall adopt and maintain policies for the delegation of its powers and duties. *Section 23.1* of the Act also refers specifically to the delegation of powers and duties.*

General power to delegate

23.1 (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to delegate its powers and duties under this or any other Act to a person or body subject to the restrictions set out in this Part. 2006, c. 32, Sched. A, s. 15.

Scope of power

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

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.
2. A delegation shall not limit the right to revoke the delegation beyond the term of the council which made the delegation.

3. 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.
4. 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. A delegation may be made subject to such conditions and limits as the council of a municipality considers appropriate.
6. Where 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. 2006, c. 32, Sched. A, s. 15.

Restriction re: delegation of legislative and quasi-judicial powers

23.2 (1) Sections 9, 10 and 11 do not authorize a municipality to delegate legislative and quasi-judicial powers under any Act except those listed in subsection (2) and the legislative and quasi-judicial powers under the listed Acts may be delegated only to,

- (a) one or more members of its council or a council committee;
- (b) a body having at least two members of whom at least 50 per cent are,
 - (i) members of its council,
 - (ii) individuals appointed by its council,
 - (iii) a combination of individuals described in subclauses (i) and (ii); or
- (c) an individual who is an officer, employee or agent of the municipality. 2006, c. 32, Sched. A, s. 15.

Restriction re: applicable Acts

(2) For the purposes of subsection (1), the listed Acts are this Act, the *Planning Act*, a private Act relating to the municipality and such other Acts as may be prescribed. 2006, c. 32, Sched. A, s. 15.

Restriction re: certain corporations

(3) Despite clause (1) (b), no delegation of a legislative or quasi-judicial power shall be made to a corporation incorporated in accordance with section 203. 2006, c. 32, Sched. A, s. 15.

Restriction re: officers, employees, etc.

(4) No delegation of a legislative power shall be made to an individual described in clause (1) (c) unless, in the opinion of the council of the municipality, the power being delegated is of a minor nature and, in determining whether or not a power is of a minor nature, the council, in addition to any other factors it wishes to consider, shall have regard to the number of people, the size of geographic area and the time period affected by an exercise of the power. 2006, c. 32, Sched. A, s. 15.

Same

(5) Without limiting subsection (4), the following are examples of powers considered to be of a minor nature:

1. The power to close a highway temporarily.
2. The power to issue and impose conditions on a licence.
3. The powers of the council of a municipality that are described in the following provisions of the old *Municipal Act*, as those provisions read on December 31, 2002:
 - i. Paragraphs 107, 108, 109 and 110 of section 210.
 - ii. Paragraph 3 of section 308.
 - iii. Subsection 312 (2) and clauses 312 (4) (a) and (b). 2006, c. 32, Sched. A, s. 15.

Powers that cannot be delegated

23.3 (1) Sections 9, 10 and 11 do not authorize a municipality to delegate any of the following powers and duties:

1. The power to appoint or remove from office an officer of the municipality whose appointment is required by this Act.
2. The power to pass a by-law under section 400.1 and Parts VIII, IX, IX.1 and X.
3. The power to incorporate corporations in accordance with section 203.
4. The power to adopt an official plan or an amendment to an official plan under the *Planning Act*.
5. The power to pass a zoning by-law under the *Planning Act*, except as provided under section 39.2 of that Act.
6. The powers to pass a by-law under subsections 108 (1) and (2) and 110 (3), (6), (7) and (7.1).
7. The power to adopt a community improvement plan under section 28 of the *Planning Act*, if the plan includes provisions that authorize the exercise of any power under subsection 28 (6) or (7) of that Act or under section 365.1 of this Act.
8. The power to adopt or amend the budget of the municipality.
9. Any other power or duty that may be prescribed. 2006, c. 32, Sched. A, s. 15; 2017, c. 8, Sched. 19, s. 2; 2021, c. 34, Sched. 19, s. 2; 2023, c. 17, Sched. 2, s. 21 (1).

COMMENTS:

1. Delegation of Authority Bylaw -

The municipality's first Delegation of Authority Policy was adopted in 2009, and the Municipality's current Delegation of Authority Policy was approved by Council in 2022. There were no material changes between the 2022 version and the previous policy adopted in 2018. Changes included delegated authority to approve severances to the Committee of Adjustment, change of staff titles, and the authority to delegate certain planning approvals to staff.

These existing delegated authorities have been implemented in order to ensure efficient management of the municipality. The Policy delegates routine authority to various staff across the municipality. 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 maintaining accountability, which is effectively accomplished through the delegation of administrative and legislative functions.

The Delegation of Authority Policy should be updated regularly to reflect recent changes to provincial legislation.

Based on discussion at the July 6, 2024 Strategic Priorities Meeting, the following updates have been made to the Delegation of Council Authority Policy;

Page Number	Updates
Page 3	Sub-Delegation - In the event the CAO's Office is the vacant position, the position shall remain vacant until designated by Council.
Page 4	1.0 Chief Administrative Officer a) Removal of "formal and informal" directives of Council and condensed a) and e) into one item.
Page 7	8.0 Police Services Act has been updated to the Community Safety and Policing Act.
Page 7	9.0 Director of Information Technology – wording has been updated to including "following the purchasing policy and within budget approvals".

2. Sale and Disposition of Land Policy - [By-law-64-20-Sale-and-Disposition-of-Land-By-law.pdf \(strathroy-caradoc.ca\)](#)

The current Sale and Disposition of Land Policy lays out the procedures for disposition of municipal property. In review of the Policy it has been determined that additional detail and information should be added to the policy in order to clarify roles and processes for the sale of municipal land.

Based on discussion at the July 6, 2024 Strategic Priorities Meeting, the following updates have been made to the Sale and Disposition of Land Policy;

Page Number	Updates
Page 4	5.0 Notice – wording has been updated to include “all of the following methods”
Page 5	6.0 Method of Sale a) Unsolicited Offers ii) “All unsolicited offers will be presented to Council” has been added
Page 8	7.0 Sale of Unopened Road Allowances (URA) a) d) language was revised to be clearer – “That the permanently closing or altering of a URA does not result in restricting access to and from the person’s land over any highway”

3. Site Plan Control Bylaw - [By-law 46-22 - Site Plan Control by-law update.docx \(strathroy-caradoc.ca\)](#)

On April 14th 2022, Bill 109, the More Homes for Everyone Act, 2022 was passed by the Legislature and received Royal Assent. Bill 109 proposes changes to several acts including the *Planning Act*, the *City of Toronto Act, 2006*, the *Development Charges Act, 1997*, the *New Homes Construction Licensing Act, 2017*, and the *Ontario New Home Warranties Plan Act*. This report focuses on changes to section 41 of the *Planning Act* regarding Site Plan Approval.

Of the many changes that Bill 109 made to the *Planning Act*, one of them now required Council to pass a by-law designating areas for site plan control and appoint an officer, employee, or agent of the Municipality as an authorized person for site plan approval. The legislation no longer allows a Municipal Council to be the approval authority for site plan control applications. This change took effect July 1st 2022. By-law 46-22 was passed by Council designating the CAO and Director of Planning as the authorized individuals for site plan approvals in accordance with legislation.

4. Procurement Bylaw (Purchasing Policy)

The updated Procurement Bylaw was reviewed and discussed by Council at the June 10 Strategic Priorities meeting and will be returning to Council for final approval. Within the Bylaw authority has been delegated to staff for purchasing.

5. Temporary Road Closure - [By-law-49-19---Temporary-Road-Closure-By-law-.pdf \(strathroy-caradoc.ca\)](#)

On September 16, 2019 the Temporary Road Closure By-law was passed which repealed the previous by-law which approved in 2013. This By-law provides authority to staff to temporary close roads for the purposes of construction/repair, social, recreation, community or athletic purposes.

The Temporary Road Closure Bylaw has been updated to include the title of Director of Engineering and Public Works.

CONSULTATION:
Senior Management Team

FINANCIAL IMPLICATIONS:

N/A

STRATEGIC PLAN ALIGNMENT:

This matter is in accord with the following strategic priorities:

Customer Service: The municipality offers seamless, responsive service and an exceptional experience of every customer.

ATTACHMENTS:

BY-LAW 104-24 - Delegation of Council Authority Policy

Bylaw 102-24 – Temporary Road Closure Bylaw

Bylaw 103-24 – Sale and Disposition of Land Policy