



# Staff Report

## Administration

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**Report To:** Committee of The Whole  
**Meeting Date:** February 27, 2019  
**Report Number:** FAF.19.023  
**Subject:** Review of Delegation by Council of Powers and Duties  
**Prepared by:** Shawn Everitt, Interim CAO

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### A. Recommendations

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THAT Council receive Staff Report FAF.19.23, entitled "Review of Delegation by Council of Powers and Duties" for information;

### B. Overview

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The purpose of this report is to provide clarity and transparency to Council and the Public of the specific delegated authorities provided to staff by Council as recent as June of 2016. This report will assist Council and the Public in understanding what decisions can be made by Town staff supported by the Town's Delegation by Council of Powers and Duties Policy & Procedure POL.COR.07.04.

### C. Background

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The Municipal Act, 2001 requires a municipality to adopt a Policy with respect to the delegation and carrying out of delegated powers and duties of Council. The Town's Policy & Procedure POL.COR.07.04 fulfills the requirement of the Municipal Act, 2001. The following points are taken directly from the Application Section of POL.COR.07.04 (Attachment 1).

- In order to ensure the efficient management of the municipality and an ability to respond to issues in a timely manner, Council has the ability to delegate certain powers and duties to municipal officers, employees or agents, while maintaining accountability through this Policy document.
- The powers and duties delegated by Council are not considered to be legislative or quasi-judicial and are considered to be administrative or minor in nature and may be subject to such conditions and limits as Council considers appropriate.
- The persons to whom Council may delegate certain powers and duties shall be officers, employees or agents of the municipality.
- All delegation of powers and duties by Council shall be confirmed by By-law and may be revoked by Council at any time.

- Town Staff shall prepare regular reports for Council providing detail on any delegated approvals granted.
- Council, at their sole discretion, retains the right to hear any appeal made by a person or body of a delegated approval decision and to determine the process by which an appeal hearing shall proceed. Council may delegate the right to hear any appeal in a manner to be determined by Council.

Revisions to the Policy POL.COR.07.04 were approved in 2008, 2009, 2013, 2015 and 2016. The complete listing of the Delegation by Council of Powers and Duties are included in (Attachment 1) of this report.

To note, any proposed Corporate Policy or revisions to a Corporate Policy require the approval of Council.

## **D. Analysis**

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Staff believe that this report is critically important to provide a better understanding for Council and the Public on how the Delegation by Council of Powers and Duties provides staff with the direction and guidance in decision making and the approval process as approved and supported by the Town's Policy & Procedure POL.COR.07.04.

As noted in the Background section of this report, the Delegation by Council of Powers and Duties provides tools in order to ensure the efficient management of the municipality and an ability to respond to issues in a timely manner.

These tools by way of the Delegation by Council of Powers and Duties allow certain municipal officer(s), employee(s) or agent(s), to make decisions and may also provide certain approvals based on appropriate Policy, Standards, legislation etc. The Policy also includes for the municipal officer(s), employee(s) or agent(s) to maintain accountability of those decisions and or approvals.

With the beginning of a new Term of Council and the priority to communicate and provide important information to the Public, the review of the Delegation by Council of Powers and Duties is very timely.

Council has the option to receive this review as information. Council also has the option to review the existing Delegation of Powers and Duties and further, Council may consider having staff provide additional information in modifying, removing, or adding Delegated Powers and Duties in a future report to Committee.

It is important to note that these tools have been implemented in order to ensure efficient management of the municipality. The Delegation of these Powers and Duties are supported by professional and accountable staff at the Town, and these decisions and approvals are supported by strong Policies and Procedures and always require the testing of upper tier policies, engineering standards, legislative requirements, etc. However, staff must identify that the provision of Powers and Duties by Council will result in a process that does not require

Council approval or decisions being made in an open session of Council. Finding a balance while also providing consistency, effectiveness and efficiency in the decision making and approval process is critical and will always be based on a level of Transparency, Trust and Accountability.

## **E. The Blue Mountains Strategic Plan**

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Goal #1: Create Opportunities for Sustainability

Objective #1 Retain Existing Business

Objective #2 Attract New Business

Objective #3 Promote a Diversified Economy

Objective #4 Support Value-Added Agriculture and Culinary Tourism

Goal #2: Engage Our Communities & Partners

Objective #1 Improve External Communication with our Constituents

Objective #3 Strengthen Partnerships

Goal #4: Promote a Culture of Organizational & Operational Excellence

Objective #1 To Be an Employer of Choice

Objective #2 Improve Internal Communications Across our Organization

Objective #3 To Consistently Deliver Excellent Customer Service

Objective #4 To Be a Financially Responsible Organization

Objective #5 Constantly Identify Opportunities to Improve Efficiencies and Effectiveness

Goal #5: Ensure Our Infrastructure is Sustainable

Objective #2 Avoid Unexpected Infrastructure Failure and Associated Costs and Liability

Objective #3 Implement Best Practices in Sustainable Infrastructure

Objective #4 Ensure that Infrastructure is Available to Support Development

## **F. Environmental Impacts**

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None at this time

## **G. Financial Impact**

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No impacts identified at this time, however revisions to the Delegation by Council of Powers and Duties would include the review of potential financial impacts.

## **H. In consultation with**

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Senior Management Team

## **I. Public Engagement**

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The topic of this Staff Report has not been subject to a Public Meeting and/or a Public Information Centre as neither a Public Meeting nor a Public Information Centre are required.

However, any comments regarding this report should be submitted to Shawn Everitt,  
**CAO@thebluemountains.ca.**

## **J. Attached**

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1. Delegation by Council of Powers and Duties (POL.COR.07.04)

Respectfully Submitted,

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Shawn Everitt  
Interim Chief Administrative Officer

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Name, Title

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519-599-3131 extension 234

## TOWN OF THE BLUE MOUNTAINS

### POLICY & PROCEDURES

Delegation by Council of Powers and Duties  
 Subject Title: **Rev. 12.22.2008, 12.14.2009, 01.04.2013, 12.21.2015,  
 06.20.2016**

Corporate Policy (Approved by Council)	<input checked="" type="checkbox"/>	Policy Ref. No.:	POL.COR.07.04
Administrative Policy (Approved by CAO)	<input type="checkbox"/>	By-law No.:	As noted in Schedule "A" to Policy
Department Policy: (Approved by Mgr.)	<input type="checkbox"/>	Name of Dept.:	Administration
Date Approved: January 28, 2008		Staff Report:	A.07.35

#### Policy Statement

Policy direction for Council procedure in the delegation of its powers and duties as described section 23.1 of the *Municipal Act, 2001*.

#### Purpose

Compliance with Section 270 of the *Municipal Act, 2001*.

#### Application

This Policy applies to the actions or decisions to be undertaken or made by the municipality, its Council, its Senior Management Team and Local Boards as defined in subsection 269.1 of the *Municipal Act, 2001*, all collectively called the "municipality", for the purpose of providing accountability and transparency in the municipal decision-making process and its actions.

Council will endeavour in its actions to ensure accountability for its decisions and the manner in which decisions are made will be transparent to the public.

The *Municipal Act, 2001* requires a municipality to adopt a Policy with respect to the delegation and the carrying out of delegated powers and duties of Council as described in the *Municipal Act, 2001*, the *Planning Act*, the *Building Code Act* and any other Act so as to increase the accountability and transparency of the municipal decision-making process.

In order to ensure the efficient management of the municipality and an ability to respond to issues in a timely manner, Council has the ability to delegate certain powers and duties to municipal officers, employees or agents, while maintaining accountability through this Policy document.

The powers and duties delegated by Council are not considered to be legislative or quasi-judicial and are considered to be administrative or minor in nature and may be subject to such conditions and limits as Council considers appropriate.

The persons to whom Council may delegate certain powers and duties shall be officers, employees or agents of the municipality.

All delegation of powers and duties by Council shall be confirmed by By-law and may be revoked by Council at any time.

Town Staff shall prepare regular reports for Council providing detail on any delegated approvals granted.

Council, at their sole discretion, retains the right to hear any appeal made by a person or body of a delegated approval decision and to determine the process by which an appeal hearing shall proceed. Council may delegate the right to hear any appeal in a manner to be determined by Council.

## **Definitions**

Delegation: shall mean the transfer of approval authority of certain powers and duties from Council to designated Town officer, employee or agent positions under certain terms and conditions as identified by Policy and confirmed by By-law.

## **Procedures**

The delegations previously delegated are hereby continued to be delegated by Council to the appointed Town Officer, Employee or Agent positions. Delegations are as noted on the attached Schedule "A".

## **Exclusions**

Unless specifically delegated in this or any subsequent Policy, all the powers and duties of Council as described in the *Municipal Act, 2001* shall remain with Council.

The following powers and duties cannot be delegated by Council:

- a) The power to appoint or remove from office an officer of the municipality whose appointment is required by the *Municipal Act, 2001*.
- b) The power to pass By-laws for municipal taxation or tax collection.

- c) The power to incorporate corporations.
- d) The power to adopt an Official Plan or Official Plan Amendment or pass a Zoning By-law under the *Planning Act*.
- e) The power to pass a By-law for the establishment of a counselling service to small businesses operating in the municipality or for the provision of municipal capital facilities.
- f) The power to adopt a Community Improvement Plan.
- g) The power to adopt or amend the budget of the municipality.
- h) Any other power or duty that may be prescribed.

### **References and Related Policies**

By-Laws referenced on Schedule "A"

### **Consequences of Non-Compliance**

Non-compliance with the *Municipal Act, 2001* is subject to the remedies prescribed therein.

### **Review Cycle**

This policy will be reviewed each term of Council by the Senior Management Team for report to Council in open session.

**SCHEDULE "A"**  
**DELEGATION BY COUNCIL OF POWERS AND DUTIES**

	<b>Delegated Authority</b>	<b>Delegated To</b>	<b>Relevant Legislated Authority</b>	<b>Date Delegation Authorized</b>
<b>1. PLANNING &amp; DEVELOPMENT SERVICES</b>				
1.1	Review and comment on "red-line" revisions to Draft Plan of Subdivision/Condominium to the County of Grey	Director of Planning & Development Services, or designate		By-Law 2008-10 dated January 28, 2008
1.2	Minor Site Plan approvals that would otherwise be in compliance and would not generate extensive site works and where Staff would not ordinarily recommend a Site Plan Agreement as being required	Director of Planning & Development Services, or designate		By-Law 2008-10 dated January 28, 2008
1.3	Review and comment on Niagara Escarpment Development Permit Applications that would otherwise be in compliance with zoning regulations were they in effect. Any application that would not be in compliance shall be reviewed by Council	Director of Planning & Development Services, or designate		By-Law 2008-10 dated January 28, 2008
1.4	Model Home Agreements required for sales and display where permitted by zoning regulations and contemplated by development agreement	Director of Planning & Development Services, or designate		By-Law 2008-10 dated January 28, 2008



**SCHEDULE "A"**  
**DELEGATION BY COUNCIL OF POWERS AND DUTIES**

	<b>Delegated Authority</b>	<b>Delegated To</b>	<b>Relevant Legislated Authority</b>	<b>Date Delegation Authorized</b>
1.5	Tree Preservation Agreements, in a form approved by the Town's solicitor, required by a Subdivision Agreement	Director, Planning & Development Services, or designate		By-Law 2009-85 dated December 14, 2009
1.6	Municipal Clearances to the County of Grey with respect to Draft Plan Approval to facilitate registration upon fulfillment of conditions	Director, Planning & Development Services, or designate		By-Law 2009-85 dated December 14, 2009
1.7	The provision of consent to the County of Grey with respect to a Draft Plan extension be delegated to the Director of Planning and Development Services provided: a) municipal services continue to be available b) new legislation, regulations, policies and/or by-laws would not preclude the proposed development; and c) the request for Draft Plan extension does not apply to a Draft Plan Approval given prior to December 13, 2002.	Director, Planning & Development Services, or designate		By-Law 2009-85 dated December 14, 2009  Revised October 7, 2013
1.8	Site Plan Approval, with such delegation limited to those developments that are in conformity with the applicable Zoning By-Law. Where an owner or designated agent does not agree with the terms and/or conditions of a delegated Approval, the owner and/or agent may request that Council review and / or modify such terms and / or conditions of the Approval.	Director, Planning & Development Services, or designate		By-Law 2012-76 dated December 17, 2012

**SCHEDULE "A"**  
**DELEGATION BY COUNCIL OF POWERS AND DUTIES**

	<b>Delegated Authority</b>	<b>Delegated To</b>	<b>Relevant Legislated Authority</b>	<b>Date Delegation Authorized</b>
1.9	Agreements with Registered Code Agencies to perform specified functions with regard to the <i>Building Code Act, S.O. 1992</i>	Chief Building Official	Building Code Act, S.O. 1992	By-Law 2008-10 dated January 28, 2008
1.10	Conditional Building Permit Agreements made under the <i>Building Code Act, S.O. 1992</i>	Chief Building Official	Building Code Act, S.O. 1992	By-Law 2008-10 dated January 28, 2008
1.11	Delayed Demolition Agreements, in a form approved by the Town's Solicitor	Chief Building Official		By-Law 2009-85 dated December 14, 2009
1.12	Alteration of Grade / Fill Agreements in a form approved by the Town's Solicitor required under the Town's Alteration of Grade / Fill By-Law	Manager, Building and By-Law Services		By-Law 2009-85 dated December 14, 2009
1.13	Execution of Holding Tank Agreement	Chief Building Official	Ontario Building Code, Part 8	By-law 2014-18 dated March 31, 2014
1.14	Execution of subdivision and condominium agreements, in a form approved by the Town's solicitor, that reflect the approved conditions of a plan of subdivision or a plan of condominium	Director, Planning and Development Services, or designate, being the Manager of Development Engineering		By-law 2015-63 dated December 21, 2015

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<b>Delegated Authority</b>	<b>Delegated To</b>	<b>Relevant Legislated Authority</b>	<b>Date Delegation Authorized</b>
1.15	Authority for determining and notifying if the information and material required to accompany Official Plan and Zoning By-law Amendment applications made under the Planning Act, R.S.O. 1990, c.P.13 has, or has not been provided, to the Director of Planning and Development Services, or in his absence to the Manager of Development Planning	Director, Planning and Development Services, or Manager of Development Planning	<i>Planning Act</i> , R.S.O. 1990 c.P.13 By-Law 2007-35 dated April 16, 2007
<b>2. FINANCE AND IT SERVICES</b>			
2.1	Authorization of reduction of Letters of Credit related to progress of development works subject to recommendation by Town Staff	Town Treasurer or designate (Deputy Treasurer) and Director of Planning and Development Services, or designate	By-law 2008-10 dated January 28, 2008
2.2	Delegation of authority to sign agreements to accept grants, or funding agreements where no municipal contribution is required or where the municipal contribution has been budgeted for and does not exceed the purchasing limits assigned to the Director of Finance, delegated to the Director of Finance, or designate and Appropriate Department Director, or designate	Director of Finance or designate, being the Manager of Accounting and Budgets, <b>AND</b> Appropriate Department Director, or designate	By-law 2015-63 dated December 21, 2015
2.3	Delegate the Powers and Duties of the Municipality in respect of filing complaints with the Assessment Review Board	Treasurer, Town of The Blue Mountains	Assessment Act, R.S.O. 1990 c.A.31 By-law 2003-29 dated March 31, 2003

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	<b>Delegated Authority</b>	<b>Delegated To</b>	<b>Relevant Legislated Authority</b>	<b>Date Delegation Authorized</b>
2.4	Delegate the Execution of all Information Technology, Confidentiality, Non-Disclosure and Data Security Agreements shall be delegated to the Director of Finance and IT or designate, being the Manager of Accounting and Budgets	Director of Finance & IT or designate being the Manager of Accounting and Budgets		By-law 2016-5 dated January 25, 2016
<b>3. INFRASTRUCTURE AND PUBLIC WORKS</b>				
3.1	Municipal Consents under Franchise Agreements addressing use of public highway allowances by public corporations and utility and service providers	Director of Infrastructure and Public Works, or designate (Roads and Drainage Manager)		By-law 2008-10 dated January 28, 2008
3.2	Prepare, maintain, update and administer Town Engineering Standards. Modifications which may result in a significant increase in liability or long term costs be endorsed by Council. Each edition of the Engineering Standards should be provided as information to Council	Director of Infrastructure and Public Works		By-law 2008-47 dated May 26, 2008
3.3	Authority to temporarily close a highway under the jurisdiction of the Town for any period of time during the construction, repairing or improvement of such highway or any works under, over, along, across or upon such highways	Director of Infrastructure and Public Works, or designate		By-Law 2013-26 dated June 17, 2013

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**DELEGATION BY COUNCIL OF POWERS AND DUTIES**

	<b>Delegated Authority</b>	<b>Delegated To</b>	<b>Relevant Legislated Authority</b>	<b>Date Delegation Authorized</b>
3.4	Preparation and execution of Municipal Land Use Permits and Agreements. With the exception of Building Permits, any permit that affects the Georgian Trail within the Town of The Blue Mountains jurisdiction shall be issued and approved by Council	Director of Infrastructure and Public Works, or designate		By-Law 2014-65 dated September 22, 2014  Revised June 20, 2016
3.5	Designate Reduced Load Periods	Manager of Roads and Drainage, or designate		By-Law 2010-54 dated August 9, 2010
3.6	Execution of various governmental forms and applications related to proposed Works on Town lands as applicable (Permit to Take Water, Environmental Compliance Approval, Applications.)	Director of Infrastructure and Public Works, or designate, being the Manager of Water and Wastewater Services		By-law 2015-63 dated December 21, 2015
3.7	Execution of Form 1 – Record of Watermains Authorized as a Future Alteration	Director of Infrastructure and Public Works, or designate, being the Manager of Water and Wastewater Services		By-law 2015-63 dated December 21, 2015
<b>4. CHIEF ADMINISTRATIVE OFFICER and TOWN CLERK</b>				
4.1	Certification of Title Applications noting no objection to land description for development lands, subject to review and recommendation by Town Staff	Town Clerk		By-law 2008-10 dated January 28, 2008

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**DELEGATION BY COUNCIL OF POWERS AND DUTIES**

	<b>Delegated Authority</b>	<b>Delegated To</b>	<b>Relevant Legislated Authority</b>	<b>Date Delegation Authorized</b>
4.2	Pre-Servicing Agreements authorizing developers to install certain works at their own risk, prior to finalization of Subdivision and Development Agreements, subject to recommendation of CAO, Director of Planning and Development Services and Town Solicitor	Mayor and Town Clerk		By-law 2008-10 dated January 28, 2008
4.3	Review and comment on Ministry of Natural Resources Work on Shoreland Permit Applications. Such applications to be presented to Council for review and consideration where concerns with the Application are noted by Staff	Town Clerk or designate		By-Law 2008-124 dated December 22, 2008
4.4	Execution of Site Plan Agreements, Plans of Subdivision and Consents (subject to appropriate internal controls including receiving advice from the CAO, Director of Planning and Development Services and other Town employees, officers and/or agents as are deemed necessary)	Mayor and Town Clerk	Planning Act, Section 41 Site Plan Approval, Section 51 Plans of Subdivision, Section 53 Consents	By-Law 2012-76 dated December 17, 2012
4.5	Execution of Expropriation Documents, with approval of CAO and Solicitor	Town Clerk, or designate, being the Deputy Clerk		By-law 2015-63 dated December 21, 2015

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	<b>Delegated Authority</b>	<b>Delegated To</b>	<b>Relevant Legislated Authority</b>	<b>Date Delegation Authorized</b>
4.6	During the time that regular Council meetings are suspended (summer vacation or any other reason) delegation to approve tenders, and requests for proposals, award contracts and execute contracts provided that the total costs are within the approved budget contained in the relevant departmental budget and that a report regarding these matters be brought to Council at its next regular meeting	Chief Administrative Officer, or designated Department Director		By-law 2015-63 dated December 21, 2015
4.7	Delegation of "head" under the Municipal Freedom of Information and Protection of Privacy Act	Town Clerk	Municipal Freedom of Information and Protection of Privacy Act	By-law 2014-32 dated June 2, 2014
<b>5. COMMUNITY SERVICES</b>				
5.1	Designated authority to approve Special Events in accordance with the Special Events Policy	Director of Community Services, or designate		By-law 2013-39 To Regulate Special Events dated September 16, 2013
5.2	Designated authority to approve activities taking place within a park	Director of Community Services, or designate		By-Law 2015-10 Parks and Facilities By-law dated March 9, 2015

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**DELEGATION BY COUNCIL OF POWERS AND DUTIES**

<b>Delegated Authority</b>	<b>Delegated To</b>	<b>Relevant Legislated Authority</b>	<b>Date Delegation Authorized</b>
5.3	Preparation and execution of Municipal Land Use Permits and Agreements. With the exception of Building Permits, any permit that affects the Georgian Trail within the Town of The Blue Mountains jurisdiction shall be issued and approved by Council	Director of Community Services, or designate	By-Law 2014-65 dated September 22, 2014  Revised June 20, 2016