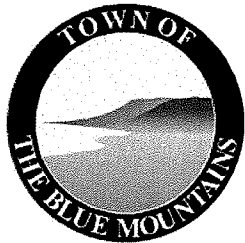


**STAFF REPORT: PLANNING & BUILDING SERVICES (PLANNING)**



**REPORT TO:** Planning & Building Committee  
**MEETING DATE:** December 7, 2009  
**REPORT NO.:** PL.09.134  
**SUBJECT:** Delegation Policy  
**PREPARED BY:** David Finbow, Director Planning & Building Services

**A. Recommendations**

**That** Council receive Staff Report PL.09.134 respecting the Town's Delegation Policy and that Council enact a by-law to amend the Town's Delegation Policy as it relates to specific Planning & Building Services Department related matters.

**B. Background**

Council at its meeting of December 28, 2008 approved the Corporate Policy entitled "Delegation by Council of Powers and Duties" (Addendum "A"). Council subsequently adopted an amendment to the Policy in December 2008 to delegate to staff the responsibility for the provisions of comments related to MNR Shoreline Permit Applications. As anticipated by the Policy, Town Staff have completed an annual review and recommend that the Policy be further amended as follows:

1. Tree Preservation Agreements, in a form approved by the Town's solicitor, required by a Subdivision Agreement, be delegated for execution by the Director, Planning & Building Services.
2. Delayed Demolition Agreements, in a form approved by the Town's solicitor, be delegated for execution by the Chief Building Official.
3. 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, be delegated for execution by the Manager, Building & By-law Services.
4. Municipal clearances to the County of Grey with respect to Draft Plan Approval to facilitate registration upon fulfillment of conditions be delegated to the Director, Planning & Building Services.
5. The provision of consent to the County of Grey with respect to a Draft Plan extension be delegated to the Director, Planning & Building Services, provided
  - a) municipal services continue to be available;
  - b) new legislation and/or by-laws would not preclude the proposed development; and,
  - c) the request for Draft Plan extension does not exceed 5 years from the original expiry date.

**C. The Blue Mountains' Strategic Plan**

*"Providing a strong, well managed municipal government"*

*"Ensuring long-term financial stability"*

**D. Environmental Impacts**

N/A

**E. Budget Impact**

N/A

**F. Attached**

1. Delegation Policy
2. Draft By-law

Respectfully submitted,

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David Finbow  
Director, Planning & Building Services

# TOWN OF THE BLUE MOUNTAINS

## POLICY & PROCEDURES

Subject Title: Delegation by Council of Powers and Duties Rev. 12.22.08

|   |                                     |                  |                |
|---|-------------------------------------|------------------|----------------|
| 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.:      | 2008 - 10      |
| 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**

That the following approvals have been previously delegated and are hereby continued to be delegated by Council to the appointed Town Officer, Employee or Agent positions:

- a) 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 be delegated for execution to the Director of Planning or designate (Manager of Development Planning).
- b) Review and comment on Niagara Escarpment Development Permit Applications that would otherwise be in compliance with zoning regulations were they in effect be delegated for execution to the Manager of Development Planning or designate (Director of Planning). Any Application that would not be in compliance shall be reviewed by Council.
- c) Authorization of reduction of Letters of Credit related to progress of development works subject to recommendation by Town Staff be delegated for execution by the Town Treasurer or designate (Deputy Treasurer) and Director of Engineering and Public Works.

d) Certification of Title Applications noting no objection to land description for development lands, subject to review and recommendation by Town Staff, be delegated for execution to the Town Clerk.

e) 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 Town Staff and Town Solicitor, be delegated for execution to the Mayor and Town Clerk.

f) Franchise Agreements addressing use of public highway allowances by public corporations and utility and service providers, be delegated for execution to the Director of Engineering and Public Works or his or her designate (Roads and Drainage Superintendent).

g) Agreements with Registered Code Agencies to perform specified functions with regard to the *Building Code Act, S.O. 1992*, be delegated for execution to the Chief Building Official.

h) Conditional Building Permit Agreements made under the *Building Code Act, S.O. 1992*, be delegated for execution to the Chief Building Official.

i) Model Home Agreements required for sales and display where permitted by zoning regulations and contemplated by development agreement, be delegated for execution to the Chief Building Official.

j) Review and comment on Ministry of Natural Resources Work on Shoreland Permit Applications be delegated to the Clerk or designate (Deputy Clerk), such Applications to be presented to Council for review and consideration where concerns with the Application are noted by Staff. (Rev. 12.22.08)

### **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**

Town By-laws 2005-49, 2005-53 and 2006-31 and Town Policies POL.COR.07.01 through POL.AD.07.03 inclusive and POL.AD.07.05 through POL.AD.07.07 inclusive, as approved, together with this Policy.

**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 annually by the Senior Management Team for report to Council in open session.

2.

**CORPORATION OF THE TOWN OF  
THE BLUE MOUNTAINS**

**By-law No. 2009 -**

**Being a By-law to amend a policy of the Town detailing the procedure for delegation by Council of powers and duties**

**WHEREAS** subsection 5(3) of the Municipal Act, 2001, chapter 25, S.O. 2001 (the Act), as amended, states that a municipal power, including a municipality's capacities, rights, powers and privileges under section 9, shall be exercised by by-law;

**AND WHEREAS** subsection 23.1 of the Act states that Council is authorized to delegate certain powers and duties;

**AND WHEREAS** section 270 of the Act states that a municipality shall adopt and maintain policies with respect to certain matters including delegation by Council of powers and duties;

**AND WHEREAS** Council are desirous of delegating certain powers to staff in accordance with Staff Report PL.09.134;

**AND WHEREAS** it is deemed expedient by Council to amend a previously approved Delegation Policy to include these further delegations;

**NOW THEREFORE** Council of the Corporation of the Town of The Blue Mountains hereby enacts as follows:

1. THAT Town Policy POL.AD.07.04, "Delegation by Council of Powers and Duties", is hereby further amended with the addition of the following delegated powers:
  - k) Tree Preservation Agreements, in a form approved by the Town's solicitor, required by a Subdivision Agreement, be delegated for execution by the Director, Planning & Building Services.
  - l) Delayed Demolition Agreements, in a form approved by the Town's solicitor, be delegated for execution by the Chief Building Official.
  - m) 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, be delegated for execution by the Manager, Building & By-law Services.
  - n) Municipal clearances to the County of Grey with respect to Draft Plan Approval to facilitate registration upon fulfillment of conditions be delegated to the Director, Planning & Building Services.
  - o) The provision of consent to the County of Grey with respect to a Draft Plan extension be delegated to the Director, Planning & Building Services, provided
    - a) municipal services continue to be available;
    - b) new legislation and/or by-laws would not preclude the proposed development; and,
    - c) the request for Draft Plan extension does not exceed 5 years from the original expiry date.

**AND FURTHER** that this By-law shall come into force and take effect upon the enactment thereof.

Enacted and passed this \_\_\_\_\_ day of December, 2008

.....  
Ellen Anderson, Mayor

.....  
Stephen Keast, Clerk