

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW NO. 2016 - 30

Being a By-law to establish a policy for the delegation of powers and duties of Council.

WHEREAS Section 270 (1) 6 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, provides that a municipality shall adopt and maintain a policy for the delegation of its powers and duties with respect to Council;

NOW THEREFORE the Council of the Corporation of the Municipality of Magnetawan enacts as follows:

1. **THAT** Schedule 'A', Policy for the Delegation of Powers and Duties, attached hereto, shall be adopted and shall form part of this By-law
2. **THAT** all delegations of powers and duties that were made by Council prior to the date of passing of this By-law shall come into force, shall be confirmed, and shall be deemed to be delegations under this By-law;
3. **AND THAT** this By-law shall come into force and take effect immediately upon the final passing thereof.

READ A FIRST, SECOND, AND THIRD TIME, passed, signed and the Seal of the Corporation affixed hereto, this 10th day of August, 2016

**THE CORPORATION OF THE
MUNICIPALITY OF MAGNETAWAN**



Mayor



Clerk-Administrator

Council MTG. of Aug 10/16

Agenda Item # 8.1

SCHEDULE “A”
to By-Law No. 2016-30
POLICY FOR THE DELGATION OF POWERS AND DUTIES

1. PURPOSE

The *Municipal Act, 2001*, Section 270 (1) 6 requires that all municipalities adopt and maintain a policy with respect to the manner in which a municipality delegates its powers and duties to members of staff and certain formal bodies and committees.

The purpose of this policy is to provide guidance for the delivery of the Municipality of Magnetawan’s activities and services in accordance with the principles as outlined herein. This policy has been developed in accordance with the *Municipal Act*, Section 270 (1) 6.

2. POLICY STATEMENT

The Council of the Corporation of the Municipality of Magnetawan (hereinafter referred to as “Council”), as a duly elected municipal government, is directly accountable to its constituents for its legislative decision making, policies and administrative functions. Council’s decisions are generally expressed by by-law or resolution of Council carried by a majority vote.

The efficient management of the Municipality and the need to respond to issues in a timely fashion requires 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. Council authority must be delegated within the context and in accordance with the requirements outlined in the *Municipal Act*.

Council may delegate its powers and duties under the *Municipal Act*, the *Planning Act*, a private Act relating to the Municipality and such other Acts as may be prescribed to a person or body, subject to the restrictions as set out in this Policy and the legislative requirements of the *Municipal Act*.

This allows Council to streamline decision-making by delegating non-core powers to:

- individual staff, councillors or agents of Council;
- committees of Council; and / or
- other local bodies.

3. ADMINISTRATIVE POWERS AND DUTIES

Definition: Includes all matters required for the management of the corporation which do not involve discretionary decision making (e.g., signing authority, management of parking operations, purchasing).

- 3.1. Council may delegate any of its administrative powers and duties.
- 3.2. In order for Council to authorize the delegation of any of its administrative powers and duties, it shall first be approved by By-law.
- 3.3. Unless a power, duty, or function of Council has been expressly delegated by By-law, all of the powers, duties and functions of Council remain with Council.
- 3.4. A person to whom a power, duty or function has been delegated by By-law has no authority to further delegate to another person any power, duty or function that has been delegated, unless such sub-delegation is expressly permitted.
- 3.5. Administrative matters delegated to staff, subject to the conditions set out in the delegation and in this policy must take into account the limitations set out in the *Municipal Act*.

4. LEGISLATIVE AND QUASI-JUDICIAL POWERS

Definition: Includes all matters where Council acts in a legislative or quasi-judicial function including enacting By-laws, setting policies and exercising decision making authority (e.g., Temporary road closures for construction and/or maintenance; authority to impose conditions on the use of highways; Committee of Adjustment hearings.)

- 4.1. Legislative and quasi-judicial powers can only be delegated to the following:
 - one or more members of Council or a Council committee;
 - a body having at least 2 members, of whom at least 50% are members of Council, individuals appointed by Council or combination of the above; or
 - an officer, employee or agent of the Municipality (if the power delegated is of a minor nature).

- 4.2. Council shall approve the conditions and limitations for the delegation of any of its legislative and quasi-judicial powers by the adoption of a by-law.
- 4.3. The delegation of legislative and quasi-judicial powers of Council is restricted to powers found in the *Municipal Act*, Planning Act, and such other Acts as may be prescribed.
- 4.4. Council may only delegate legislative and quasi-judicial powers to an officer, employee or agent of the municipality which are minor in nature. In determining whether or not a power is of a minor nature, Council, in addition to any other factors it wishes to consider, shall have regard to the number of people, the size of the geographic area and the time period affected by the exercise of the power and must take into account the limitations set out in the *Municipal Act*, S.23.2(5).
- 4.5. No delegation of legislative or quasi-judicial powers to a corporation (business; company; firm) is permitted.
- 4.6. Any delegation of legislative or quasi-judicial powers may be subject to any regulations made by the Minister.

5. SCOPE OF POWER

- 5.1. 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. A delegation shall be revoked by by-law.
- 5.2. A delegation shall not limit the right to revoke the delegation beyond the term of the Council which made the delegation.
- 5.3. 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.
- 5.4. A delegation or deemed delegation, under paragraph 6 below, of a duty results in the duty being a joint duty of the Municipality and the delegate.
- 5.5. A delegation may be made subject to such conditions and limits as the Council considers appropriate. Council shall outline the procedures that the delegate is required to follow and specific measures for accountability of the delegate and the transparency of the delegate's actions.
- 5.6. 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 duties related to the power are deemed to be delegated with the power.

6. LEGISLATIVE & QUASI-JUDICIAL POWERS THAT CANNOT BE DELEGATED

Section 23.3(1) of the *Municipal Act* prohibits the Municipality from delegating any of the following powers and duties:

- 6.1. The power to appoint or remove from office an officer of the municipality whose appointment is required by the *Municipal Act*.
- 6.2. The power to pass a by-law under *Municipal Act* Parts VIII (taxation), IX (limitation of taxes) and X (tax collection).
- 6.3. The power to incorporate corporations in accordance with section 203.
- 6.4. The power to adopt an official plan or an amendment to an official plan under the *Planning Act*.
- 6.5. The power to pass a zoning by-law under the *Planning Act*.
- 6.6. The powers to pass a by-law under subsections 108(1) and (2) and 110(3), (6) and (7).
- 6.7. The power to adopt a community improvement plan under section 28 of the *Planning Act*, if the plan includes provisions that authorizes the exercise of any power under subsection 28(6) or (7) of that Act or under section 365.1 of this Act.
- 6.8. The power to adopt or amend the budget of the municipality.
- 6.9. Any other power or duty that may be prescribed.