

THE CORPORATION OF THE VILLAGE OF MERRICKVILLE-WOLFORD

BY-LAW 63-2020

**BEING A BY-LAW TO ADOPT A DELEGATION OF POWERS AND DUTIES POLICY
AND TO DELEGATE POWERS AND DUTIES**

WHEREAS Section 5(1) of the Municipal Act, 2001, as amended, provides that the powers of a municipality are to be exercised by its council;

AND WHEREAS Section 5(3) of the Municipal Act, 2001, as amended, states that municipal power, including a municipality's capacity, rights, powers and privileges, shall be exercised by by-law, unless the municipality is specifically authorized to do otherwise;

AND WHEREAS Section 8(1) of the Municipal Act, 2001, as amended, states the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 23.1(1) of the Municipal Act, 2001, as amended, authorizes 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 that Part;


AND WHEREAS Section 270 (1) of the Municipal Act, 2001, as amended, provides that a municipality shall adopt and maintain policies with respect to the delegation of its powers and duties;

NOW THEREFORE the Council of the Corporation of the Village of Merrickville-Wolford hereby enacts as follows:

1. That the Delegation of Powers and Duties Policy attached hereto as "Schedule A" and forming part of this by-law is hereby approved and adopted.
2. That the Schedule of Delegation of Powers and Duties attached hereto as "Schedule B" and forming part of this by-law is hereby approved and adopted.
3. That By-law 51-2018 and any other by-laws inconsistent with this by-law are hereby repealed.
3. That this by-law shall come into force and take effect immediately upon the passing thereof.

Read a first, second and third time and passed on the ~~23rd~~ day of November, 2020.


J. Douglas Struthers, Mayor


Doug Robertson, CAO/Clerk



MERRICKVILLE-WOLFORD
Jewel of the Rideau

Delegation of Powers and Duties Policy

1. Policy Statement

- 1.1 The Council of the Corporation of the Village of Merrickville-Wolford, as a duly elected municipal government, is directly accountable to its constituents for its legislative decision making, policies, and administrative powers. Council's decisions are generally expressed by by-law or resolution of Council carried by a majority vote. The efficient management of the Village and the need to respond to issues in a timely fashion require Council to entrust certain powers and duties to municipal staff while concurrently maintaining accountability, which can be effectively accomplished through the delegation of legislative and administrative functions. Council authority will be delegated within the context set out in the *Municipal Act, 2001*, and will respect the applicable restrictions outlined in the *Municipal Act, 2001*.

2. Purpose

- 2.1 Section 270 of the *Municipal Act, 2001*, requires that all municipalities adopt and maintain a policy with respect to the delegation of Council's legislative and administrative authority. The purpose of this policy is to set out the scope of the powers and duties which Council may delegate its legislative and administrative authority to establish principles governing such delegation.

3. Definitions

- 3.1. For the purposes of this Policy:

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

“**Administrative Powers**” means all matters required for the management of the corporation that do not involve discretionary decision-making.

“**Approval**” includes authority to sign for approval and execute an agreement, contract, release, waiver, application or document intended to bind the Corporation, and includes any renewal, amendment or termination thereof, and “Approve” has a corresponding meaning;

Schedule "A" to By-law 63-2020

- "Approved as to Content"** means that the content, substance and material dealt with in the document are approved and are in accordance with authority delegated under this by-law;
- "Approved as to Form"** means that the document is approved for execution in the correct form and procedures of the Village in accordance with the authority delegated under this By-law;
- "By-law"** means By-law ** -2020 and includes its Schedules;
- "Chief Administrative Officer"** or **"CAO"** means the Village's Chief Administrative Officer appointed by Council;
- "Chief Building Official"** or **"CBO"** means the Village's Chief Building Official appointed by Council;
- "Clerk"** means the Village Clerk as appointed by Council;
- "Corporation"** means The Corporation of the Village of Merrickville-Wolford;
- "Council"** means the elected Council of The Corporation of the Village of Merrickville-Wolford;
- "Department Head"** means the head of an operating department appointed by Council and includes the Chief Administrative Officer;
- "Delegation of Powers and Duties Policy"** or **"Policy"** means this policy that has been approved by Council in accordance with Section 270(1) paragraph 6 of the Act;
- "Fire Chief"** means the Village's Fire Chief appointed by Council;
- "Legislative Powers"** means all matters where Council acts in a legislative or quasi-judicial function including enacting by-laws, setting policies, and exercising decision-making authority.
- "Restricted Acts Period"** means the period of time after nomination day but before voting day when Council's powers are limited pursuant to section 275(1) of the Act;
- "Solicitor"** means a solicitor licensed to practice law in Ontario retained by the Village to provide legal advice;
- "Treasurer"** means the Village's Treasurer appointed by Council;
- "Usual Operations"** means the activities and administrative decision making required as part of the day-to-day operations of the department in the ordinary course of business, which are not legislative or quasi-judicial in nature.

4. Policy Requirements

- 4.1 Council supports the delegation of powers and duties to provide efficient management of municipal operations and to respond to matters in a timely fashion. The following shall be the general rules and guidelines relative to the delegation of Council powers and duties:
- 1) All delegation of powers and duties that are made by Council on or after the date of this By-law comes into force shall be made:
 - a) In accordance with Sections 23.1 to 23.5 of the Municipal Act S.O. 2001 inclusive, or with any other applicable legal requirement; and
 - b) By resolution confirmed by by-law or by by-law alone.
 - 2) Unless otherwise specified, a delegation of power or duty to any officer or employee of the Village includes a delegation to a person who is appointed by the Chief Administrative Officer or by the delegate to act in the capacity of the delegate in their absence.
 - 3) Council shall not delegate any of the following powers and duties under Section 23.3(1) of the Act:
 - a) The power to appoint or remove from office an officer of the Village whose appointment is required by the Municipal Act, S.O. 2001.
 - b) The power to pass a by-law under section 400.1, Parts VIII, IX, IX.1 and X of the Municipal Act S.O. 2001.
 - c) The power to incorporate corporations in accordance with section 203 of the Municipal Act S.O. 2001.
 - d) The power to adopt an Official Plan, Zoning by-law, Development Permit System, or amendments to any of the aforementioned under the Planning Act.
 - e) The power to pass a by-law under Subsections 108 (1) and (2) and 110 (3), (6) and (7) of the Municipal Act S.O. 2001.
 - f) 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 38 (6) or (7) of that Act or under Section 365.1 of the Municipal Act S.O. 2001.

Schedule "A" to By-law 63-2020

- g) The power to adopt or amend the budget of the Village.
- h) Any other power or duty that may be prescribed by law.

4.2 A document executed under authority delegated by this by-law shall first be Approved as to Content by the Department Head, Chief Administrative Officer or delegate, and should be initially Approved as to Form by the Village Solicitor.

4.3 In the event of any inconsistency between this By-law or any other Village By-law, the more restrictive provision shall prevail to the extent of the inconsistency.

4.4 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.

5. Interpretation

5.1 Throughout this By-law (i) the term "including" or the phrases "e.g.," or "for example" shall be interpreted to mean "including, without limitation", (ii) the singular includes the plural and vice-versa and (iii) any gender includes the other gender, unless the context requires otherwise.

5.2 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.

6. Policy Management

6.1 Staff are authorized and directed to take the necessary action to give effect to this policy.

6.2 Any reference to legislation, regulations or By-laws in this By-law shall be interpreted to include all amendments and any successor legislation thereof.

Schedule "B" to By-law 63-2020

Authority Being Delegated	Person(s) to whom the Authority is being Delegated	Limitations of Authority
Execution of Professional Services Agreements	CAO and Treasurer, or designates	For all planning matters where the Village requires a deposit of \$50,000 or less
To perform the duties of the Head under the Municipal Freedom of Information and Protection of Privacy Act	CAO, or designate	All decisions may be reviewed by the Head, who shall retain final approval authority in the event that they disagree with any decision. To confer with Council should the decision to grant or refuse the request have significant consequences of the interests of the Corporation.
Authority to execute extensions on Council approved agreements concerning grants that the Village has received from other agencies (Province etc.).	CAO and Treasurer, or designates	