

Delegation of Authority

This document is to provide the Mayor and City Councillors with information on how the legislated powers, duties, and functions of the City of Edmonton are delegated from City Council to Administration, Council Committees, and Designated Officers. Delegations of authority are an important part of the governance structure of the City to ensure decisions are made at the right level for efficient and effective municipal government.

Please note that as legal advice is considered privileged and confidential, this briefing will be limited to legal information, not legal advice.

Key Messages:

Proper delegation of authority is fundamental to the legal exercise of authority given to a municipality. City Council must understand the parameters of their own authority as set by legislation and how that authority is properly delegated to different levels within the municipality. The law requires that decision making be exercised by the proper authority within the boundaries of that authority. If decisions made at the City of Edmonton are not exercised properly by the correct authority, the decisions that Edmontonians rely upon to conduct their daily life can be overturned or altered, thereby creating uncertainty and confusion.

Background:

Where does the Authority held by City Council come from?

Municipalities are statutorily created bodies, accordingly, all authority is derived through legislation. The key source of authority for municipalities in Alberta is the *Municipal Government Act* (the “MGA”). Under the MGA, a municipality is a “corporation” but unlike a regular corporation, a municipality’s constituting documentation with its purpose, powers, duties and functions come from legislation. A municipality does not have inherent power such as the Crown (provincial and federal). However, in addition to legislated authority, municipalities also have been deemed “natural persons” under the MGA which gives the same authority for contracting and acting as a natural person would have as long as it falls within the overall purpose of a municipality.

Section 3 of the MGA sets out the purpose of a municipality as follows:

- Provide good government;

- Foster the well-being of the environment;
- Provide services and facilities necessary or desirable for all or part of the municipality;
- Develop and maintain safe and viable communities; and
- Work collaboratively with neighbouring municipalities for intermunicipal services.

How is authority delegated from City Council?

City Council can delegate almost all of its authority to a council committee or any person, including the City Manager and other designated officers, unless the legislation says otherwise. Delegation of authority from City Council can only be made by bylaw - it cannot be passed through resolution, policy or procedure.

The following authority cannot be delegated and must be exercised by City Council:

- Passing a Bylaw;
- Appointing the City Manager;
- Adoption of budgets;
- Cancel, reduce, refund or defer taxes; and
- Decide appeals unless the bylaw allows a Council Committee to hear the appeal.

City Council can also set the parameters for the exercise of authority through the bylaw itself or by way of resolution, policy or procedure.

Generally speaking, the law provides that the person who properly delegated to another cannot later unmake the decision that has been made. It is considered best practice for City Council to either set the parameters in which the authority is to be exercised before it is exercised or take back the authority for themselves before exercised.

Who is authority delegated to?

City Council can delegate authority to a council committee or any person. The main delegations are made to:

1. City Manager (also called the Chief Administrative Officer)
Most of the authority that has been passed from City Council to the City Manager is through Bylaw 16620, the City Administration Bylaw ("CAB") and most authority granted to the City Manager may be sub-delegated further

from the City Manager to various levels of Administration. The key areas of authority covered in CAB include:

- Financial management and budget adjustments;
- Contracting authority and land agreements;
- Legal matters and insurance;
- Permits, licenses and enforcement;
- Subdivision and development; and
- Freedom of Information and Protection of Property.

2. Council Committees

Section 1(f) of the MGA defines a “council committee” to include boards or other bodies established by a council under the MGA but does not include either the Assessment Review Board (“ARB”) or the Subdivision and Development Appeal Board (SDAB).

The current delegations made by Council to council committees include:

- Standing committees can approve agreements that exceed City Manager authority;
- Community Standards and Licence Appeal Committee decides statutory appeals on behalf of Council; and
- Some of Council's advisory committees can approve sponsorship agreements.

The main bylaw that delegates authority from Council to the 10 standing committees of City Council is Bylaw 18156, Council Committees Bylaw, or the specific bylaw that established the standing committee.

3. Designated Officers

Designated officers are established by specific Bylaws. The City Manager is also a designated officer. The key designated officers at the City of Edmonton and to whom delegated authority is granted by bylaw are currently:

- City Auditor;
- Integrity Commissioner;
- City Assessor; and
- Executive Director of Combative Sports.

City owned corporations

City owned corporations are separate legal entities from the City of Edmonton.

City Council has 3 distinct roles with respect to City owned corporations:

1. Council as Council (or Committee)
In this role, Council (or Committee) is instructing or directing the City Manager or Administration on how they want the municipality to interact with the corporation in the same manner as if the corporation were not wholly owned by the City.
2. Council as representative of the shareholder
For a City owned corporation, the City of Edmonton itself is the shareholder. City Council often serves as the shareholder's representative. City Council as the shareholder representative can only direct the Board of Directors for the corporation as provided by the corporation's constituting documents and governing legislation (eg. Business Corporations Act, Societies Act). In this role, City Council will be limited to such matters as: whether the corporation is meeting its mandate, how the board is performing, whether the corporation is financially stable and what dividends should be paid out.
3. Council as regulator.
City Council also performs regulatory functions in relation to EPCOR Utilities Inc. and can set certain utility rates.

No matter what role City Council is exercising with respect to City owned corporations, Council must always consider the welfare and interests of the municipality as a whole (s. 153 of the MGA).

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