

The Corporation of the Town of Tecumseh

By-Law Number 2020 - 33

Being a By-Law to Delegate Authority during a Declared Emergency

Whereas to help protect the health and safety of people in the community

when an emergency has been declared by the Federal Government, Provincial Government, and/or the Mayor under the *Emergency Management and Civil Protection Act*, The Corporation of the Town of Tecumseh (Corporation) has or is in the process of suspending municipal programs and facilities;

And whereas the Council of the Corporation is generally required to conduct its business in meetings that are open to the public as required by the *Municipal Act, 2001*;

And whereas section 23.1 of the *Municipal Act, 2001*, authorizes Council to delegate its power and duties;

And whereas Council considers it to be in the Corporation's best interest to delegate its authority during a period when conducting Council meetings may not be feasible, subject to the restrictions prescribed by the *Municipal Act, 2001* and by this by-law;

Now Therefore the Council of The Corporation of The Town of Tecumseh enacts as follows:

Part 1: Definitions

1. In this By-law:
 - A) "Approved Budget" is the budget approved by Council;
 - B) "CAO" means the Chief Administrative Officer as described in the Municipal Act, 2001 and appointed by Council by by-law;
 - C) "Clerk" means the Municipal Clerk as described in the Municipal Act, 2001 and appointed by Council by by-law;
 - D) "Corporation" means The Corporation of the Town of Tecumseh;
 - E) "Council" means the Municipal Council of The Corporation of the Town of Tecumseh;
 - F) "Director Planning & Building Services" means the Director hired by the Chief Administrative Officer to perform the role of Director Planning & Building Services;

- G) “Emergency” means an emergency existing in the Town and declared in accordance with the Emergency Management and Civil Protection Act;
- H) “Purchasing By-law” means By-law No. 2017-63 being a By-law of the Corporation governing procurement policies and procedures;
- I) “Treasurer” means the treasurer as described in the Municipal Act, 2001 and appointed by Council by by-law; and,
- J) “Town” means The Corporation of the Town of Tecumseh.

Part 2: Delegations

2. Subject to Part 4, the Chief Administrative Officer, during an Emergency, is delegated the authority to identify and determine municipal services that are essential and non-essential and to modify services or service levels for non-essential services; enter into any agreement, incur any liability (including the award of a contract), authorize any expenditure, including those related to the acquisition or disposition of real property included or not included in the Approved Budget, and which would otherwise require Council approval, subject to the following:
 - A) that any decision to modify services or service levels for non-essential services be made with the concurrence of the Mayor or Acting Mayor;
 - B) the Treasurer’s confirmation that expenditure or liability is not detrimental to the financial interest of the municipality;
 - C) the term of any contract does not exceed 12 months, or 24 months where extending a contract under reasonable terms that was previously procured by the Town through a public procurement process;
 - D) the Town’s Purchasing By-law is complied with in all other respects; and
 - E) that any required contracts are executed by the Chief Administrative Officer and Treasurer.
3. Subject to Part 4, the Clerk, during an Emergency, is delegated the authority to enter into any agreement which would otherwise require Council approval for which Council had approved a matter by resolution but had not yet passed a by-law.
4. Despite provisions in any specific by-law or resolution, and subject to Part 3, the Treasurer, if satisfied that such action is reasonable in the circumstances, is delegated the authority to:
 - A) reduce, waive or cancel late payment penalty and interest charges on, tax and water/wastewater accounts, and reduce, waive or cancel municipal fees/charges, if such reduction, waiver or cancellation is otherwise in accordance with the law; and

- B) extend payment periods or deadlines for payment for amounts owing to the Town, if such extension is otherwise in accordance with the law; and
 - C) request extended payment periods or deadlines for payment for amounts owing to Essex Powerlines.
5. Despite provisions in any specific by-law or resolution, and subject to Part 3, the Treasurer and Chief Administrative Officer acting jointly, and if satisfied that such action is reasonable in the circumstances, are delegated the authority to resolve in writing, to transfer funds from a reserve fund subject to a determination by the Treasurer that the funds are:
- A) not available in the Approved Budget; and
 - B) required in order to continue municipal operations during an Emergency or immediately thereafter.
6. Despite provisions in any specific by-law or resolution, and subject to Part 3, the Director Planning & Building Services, if satisfied that such action is reasonable in the circumstances, is delegated the authority to extend the deadlines for decisions and the issuance of permits pursuant to the Planning Act and Building Code Act, where such extensions are authorized by law.

Part 3: Exercise of Delegations

- 7. The delegations of authority in this by-law are in addition to delegations of authority established by other by-laws and otherwise at law. In the event of any inconsistency between this By-law and any other by-law, the provision that more effectively delegates authority prevails to the extent of the inconsistency.
- 8. The delegations in this by-law are subject to any restrictions on such delegation under the Municipal Act, 2001, or any other Act.
- 9. Where by this by-law, Council delegates authority or imposes a restriction or direction of Council on the delegation, the delegate may exercise the authority subject to the restriction or direction.
- 10. Nothing in this by-law prevents a delegate from further delegating his or her authority to a person subject to the restriction or direction of Council on the delegation and any further restrictions or directions from the person delegating the authority.
- 11. Any exercise of authority delegated pursuant to this by-law that requires a document is subject to the restriction that the document's form and content are acceptable to the Town's Legal Counsel.
- 12. The Chief Administrative Officer shall report to the Council all acts taken under the authority of this by-law at a Council meeting following the conclusion of the Emergency.

Part 4: Interpretation

13. The headings in this by-law are for convenience only and do not form part of this by-law.
14. If any part of this by-law is determined to be invalid by a court of competent jurisdiction, the invalid part is severed and the remainder continues to be valid.
15. Unless otherwise stated:
 - A) a reference to a statute or regulation refers to a statute or regulation of the Province of Ontario;
 - B) a reference to a statute, regulation or by-law refers to that enactment as it may be amended or replaced from time to time; and
 - C) a reference to a section, paragraph, clause or schedule is a reference to this by-law's section, paragraph, clause or schedule.

Short Title

16. This By-law may be referred to as the "Emergency Delegation By-law".

Repeal

17. That By-law No. 2020-28 is hereby repealed.

Effect

18. This by-law comes into force and effect upon passage.

Read a first, second, third time and finally passed this 14th day of April, 2020.

Gary McNamara, Mayor

Laura Moy, Clerk