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## 10. Strong mayor powers and duties

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### Overview

In some municipalities, the head of council has additional powers and duties, known as strong mayor powers and duties. This section of the guide outlines differences in the role of head of council and the municipal council, the municipal budget process, accountability and transparency rules for the head of council, and the rules for filling a vacant head of council seat in these municipalities where strong mayor rules apply.

These additional strong mayor powers and duties apply to the head of council in any designated municipality, regardless of whether they are called “mayor” or another term, such as “warden”.

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### Designated municipalities

Additional strong mayor powers and duties for the head of council apply only to designated municipalities. A designated municipality includes a municipality designated under this regulation (<https://www.ontario.ca/laws/regulation/220530>) and the City of Toronto.

## Provincial priorities

Some strong mayor powers are related to provincial priorities that are identified in the following regulation (<https://www.ontario.ca/laws/regulation/220580>) . Provincial priorities include the following:

- building 1.5 million new homes by December 31, 2031
- constructing and maintaining infrastructure to support housing, including:
  - transit
  - roads
  - utilities
  - servicing

## Powers and duties for the head of council and council in strong mayor municipalities

### Appoint a chief administrative officer

The head of council can choose to appoint their municipality's chief administrative officer.

### Hire municipal division heads and change organizational structure

The head of council can hire certain municipal division heads — excluding statutory positions. Positions that are excluded from this power include:

- the clerk or deputy clerk
- a treasurer or deputy treasurer
- an Integrity Commissioner
- an Ombudsman
- an Auditor General

- a registrar, as described in section 223.11 (<https://www.ontario.ca/laws/statute/01m25#BK263>) of the Act
- a chief building official, as defined in the *Building Code Act, 1992* (<https://www.ontario.ca/laws/statute/92b23>)
- a chief of police, as defined in the *Police Services Act* (<https://www.ontario.ca/laws/statute/90p15>)
- a fire chief, as defined in the *Fire Protection and Prevention Act, 1997* (<https://www.ontario.ca/laws/statute/97f04>)
- a medical officer of health, as defined in the *Health Protection and Promotion Act* (<https://www.ontario.ca/laws/statute/90h07>) .
- other officers or heads of divisions required to be appointed under *the Municipal Act, 2001* (<https://www.ontario.ca/laws/statute/01m25>) , the *City of Toronto Act, 2006* (<https://www.ontario.ca/laws/statute/06c11>) , or any other Act
- any other persons identified in regulation (<https://www.ontario.ca/laws/regulation/r22530>)

The head of council can also choose to create and re-organize the structure of the municipality.

When making any changes to the organizational structure of the municipality, the head of council and municipality are subject to legal requirements including any terms in existing collective agreements or contracts that may apply.

### **Create, assign functions and appoint chairs of committees**

The head of council can create new committees of council made under the *Municipal Act, 2001* (<https://www.ontario.ca/laws/statute/01m25>) and *City of Toronto Act, 2006* (<https://www.ontario.ca/laws/statute/06c11>) , where all members are council members, and assign their functions. The head of council is also able to appoint the chairs and vice-chairs of such committees of council.

### **Bring forward matters for council consideration related to provincial priority**

The head of council can bring forward matters for council consideration if they are of the opinion that considering the matter could potentially advance a provincial priority in this regulation (<https://www.ontario.ca/laws/regulation/220580>) .

When bringing forward such a matter for council consideration, the head of council should consider whether any rules with respect to notice and public consultation apply to the exercise of a particular municipal authority.

### **By-law power related to provincial priorities**

The head of council can propose certain municipal by-laws if they are of the opinion that the proposed by-law could potentially advance a prescribed provincial priority in this regulation (<https://www.ontario.ca/laws/regulation/220580>) . When using this power, the head of council can only propose by-laws made under:

- the *Municipal Act, 2001* (<https://www.ontario.ca/laws/statute/01m25>)
- the *City of Toronto Act, 2006* (<https://www.ontario.ca/laws/statute/06c11>)
- the *Planning Act* (<https://www.ontario.ca/laws/statute/90p13>)
- section 2 of the *Development Charges Act* (<https://www.ontario.ca/laws/statute/97d27>)

When proposing the by-law, the head of council must provide a copy of the proposed by-law and their reasons for the proposal to the clerk and each member of council. The head of council can require council to consider and vote on the proposed by-law at a meeting (despite any rules in a local procedure by-law). By-laws proposed by the head of council using this power are passed if more than one-third of all council members vote in favour of the by-law. The head of council is also able to vote on passing the by-law.

Note: municipal procedure by-laws and by-laws related to filling a vacancy on council are excluded from this power. There is also a separate process related to proposing the municipal budget. Read “Municipal budget process” in this section for more information.

### **Veto power and council override**

The head of council can choose to veto certain by-laws if they are of the opinion that all or part of the by-law could potentially interfere with a provincial priority in this regulation (<https://www.ontario.ca/laws/regulation/220580>) . Only by-laws approved by council made under the *Municipal Act, 2001*

(<https://www.ontario.ca/laws/statute/01m25>) , the *City of Toronto Act, 2006*

(<https://www.ontario.ca/laws/statute/06c11>) , the *Planning Act*

(<https://www.ontario.ca/laws/statute/90p13>) , and section 2 of the *Development Charges Act* (<https://www.ontario.ca/laws/statute/97d27>) may be vetoed by the head of council.

Note: there is a separate veto process related to the municipal budget. Read “Municipal budget process” in this section for more information.

It is up to the head of council to determine if they will consider vetoing a by-law, regardless of whether they attend a council meeting.

The head of council must provide written notice to council of their intent to consider vetoing the by-law on or before two days after council voted in favour of the by-law.

Note: municipalities may wish to work with their head of council to develop local practices and procedures that could shorten the two-day period before by-laws are deemed to be passed. For example, heads of council may wish to explore providing written approval of certain by-laws the day council votes in favour of the by-law, in order to facilitate faster passage.

If the head of council decides to use their veto within 14 days after the day council voted in favour of the by-law, the head of council must provide a written veto document (which includes the veto and reasons for the veto) to the clerk on the day they use the veto power. The clerk must then share the written document with each member of council by the next business day and also make the written document available to the public.

### **Council override**

If the head of council uses their veto power, council then has the ability to override the veto. Within 21 days after the clerk provides the written veto document to the members of council, council may override the veto if two-thirds of all council members vote to override the veto. During this process, the head of council remains as a member of council for council decision-making with one vote.

### **Direct staff**

The head of council can direct staff to do certain things related to their additional powers and duties. Direction from the head of council to staff under this authority must be provided in writing. For example, the head of council could direct staff to

undertake research and provide advice on policies and programs or to implement any decisions related to their additional powers and duties.

For more information on written documentation requirements for the head of council, please see Accountability and transparency rules for head of council in this section.

For more information about these powers and duties for the head of council, see the legislation and in particular, the following sections:

- 284.3 (<https://www.ontario.ca/laws/statute/01m25#BK361>)
- 284.5 (<https://www.ontario.ca/laws/statute/01m25#BK363>)
- 284.6 (<https://www.ontario.ca/laws/statute/01m25#BK364>)
- 284.8 (<https://www.ontario.ca/laws/statute/01m25#BK366>)
- 284.10 (<https://www.ontario.ca/laws/statute/01m25#BK368>)
- 284.11 (<https://www.ontario.ca/laws/statute/01m25#BK369>)
- 284.16 (<https://www.ontario.ca/laws/statute/01m25#BK374>)

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## Delegating certain powers

The head of council may delegate certain strong mayor powers to council. These include the following:

- appointing a chief administrative officer
- creating, assigning functions and appointing chairs of committees of council

The head of council may also delegate certain strong mayor powers to either council or the municipality's chief administrative officer (if one is appointed). These include the following:

- hiring certain municipal division heads
- changing the organizational structure of a municipality

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# Municipal budget process

Municipal budgets help define priorities for service delivery and projects each year. The budget process for designated municipalities is outlined in this regulation (<https://www.ontario.ca/laws/regulation/r22530>) . It is a local responsibility to determine the scope of a head of council's powers and how they apply in the municipality's particular circumstances.

## Annual budget process

The head of council is required to propose the budget for the municipality each year by February 1. The head of council must share the proposed budget with each member of council and the municipal clerk, and make it available to the public. If the head of council does not propose the budget by February 1, council must prepare and adopt the budget.

After receiving the proposed budget from the head of council, council can amend the proposed budget by passing a resolution within a 30-day review period. The head of council then has 10 days from the end of the council review period to veto any council amendment. To veto a council amendment, the head of council must provide written documentation of the veto and rationale to each member of council and the municipal clerk on the day of the veto. Within a 15-day period after the head of council's veto period, council may override the head of council's veto of a council amendment if two-thirds of all council members vote to override the veto.

There are mechanisms in place to enable council and the head of council to shorten their respective review, veto and override periods. For example, council could pass a resolution to shorten their review and override period, and the head of council could provide written documentation to members of council and the municipal clerk to shorten the veto period.

At the end of this process, the resulting budget is adopted by the municipality.

As part of the strong mayor budget process, heads of council and municipal councils may wish to consider a multi-year vision focusing on achieving longer term plans.

## In-year budget amendments

The head of council is also able to initiate and prepare in-year budget amendments to raise additional amounts from property tax. The head of council may propose the budget amendment by sharing the proposed budget amendment with each member of council and the municipal clerk, and making it available to the public.

After receiving the proposed budget amendment from the head of council, council can amend the proposed budget amendment by passing a resolution within a 21-day review period. The head of council then has 5 days from the end of the council review period to veto any council amendment. To veto a council amendment, the head of council must provide written documentation of the veto and rationale to each member of council and the municipal clerk on the day of the veto. Within a 10-day period after the head of council's veto period, council may override the head of council's veto of a council amendment to the proposed budget amendment if two-thirds of all council members vote to override the veto.

There are mechanisms in place to enable council and the head of council to shorten their respective review, veto and override periods. For example, council could pass a resolution to shorten their review and override period, and the head of council could provide written documentation to members of council and the municipal clerk to shorten the veto period.

At the end of this process, the resulting budget amendment is adopted by the municipality.

## **Accountability and transparency rules for head of council**

Section 2 of the guide outlines the legislated accountability and transparency framework (<https://www.ontario.ca/document/ontario-municipal-councillors-guide/2-accountability-and-transparency>) for all members of council in Ontario, including the head of council. In municipalities with strong mayor powers, the head of council is also subject to additional rules.

For example, when the head of council uses any of these additional powers or duties, they are required to provide written documentation to the municipal clerk and



members of council by the next business day. They must also make this written documentation available to the public. It is up to the municipality to work with their head of council to establish a process for making this documentation available to the public. For example, a municipality may wish to consider creating an online repository for written documentation.

Note: there are separate written documentation requirements for the head of council when using the veto power and by-law power related to provincial priorities, and for the municipal budget process.

Additionally, when a head of council directs municipal staff to do certain things related to these additional strong mayor powers and duties, they must do so in writing and are required to provide written documentation to the municipal clerk and chief administrative officer (if one is appointed) by the next business day.

Municipalities and the head of council may wish to work together to determine a local process for sharing written documentation that considers general accountability and transparency requirements, as well as confidentiality requirements.

The head of council is also subject to rules in the *Municipal Conflict of Interest Act* (<https://www.ontario.ca/laws/statute/90m50>) that limit the use of their strong mayor powers or duties when they have certain pecuniary (financial) interests in a municipal matter. If the head of council is prohibited from preparing aspects of the budget due to a financial interest, the council can pass a resolution to amend the budget to address the matter. The head of council cannot veto these amendments. See the Accountability and Transparency (<https://www.ontario.ca/document/ontario-municipal-councillors-guide/2-accountability-and-transparency#section-4>) section of this guide for more information on *Municipal Conflict of Interest Act* matters.

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## Filling a vacant head of council seat

At times, a head of council's seat may become vacant. Municipalities that have strong mayor powers are required to fill the head of council's seat through a by-election (see section 284.12 (<https://www.ontario.ca/laws/statute/01m25#BK370>) of the Act).

Note: in the event of a dual vacancy where a lower-tier head of council also sits as a member on the upper-tier council, the lower-tier municipality (not the upper-tier) is required to fill the vacancy (see section 263(2) (<https://www.ontario.ca/laws/statute/01m25#BK333>) of the Act).

A vacant head of council seat must be declared vacant at the next council meeting after the seat becomes vacant (except in situations where the vacancy is due to death of the head of council).

The rules for municipal by-elections would apply. For example, after declaring the vacancy, council has 60 days to pass a subsequent by-law to initiate the by-election. Nominations can be filed once the by-law has been passed. Municipalities continue to have flexibility within these timelines. For example, they could wait the full 60 days to pass the by-law if municipal staff need time to plan and prepare for the by-election.

Additionally, a municipality is not required to fill the position if a head of council's seat becomes vacant within 90 days before voting day in the year of a regular election.

If a head of council's seat becomes vacant after March 31 in the year of a regular municipal election, the municipality is required to appoint a head of council. This appointed head of council would not have these additional powers and duties outlined in this section of the guide.

These rules are specific to the head of council and do not impact the flexibility designated municipalities have in deciding how to fill other vacant council seats (<https://www.ontario.ca/document/ontario-municipal-councillors-guide/6-changes-council-composition#section-1>) .

Strong mayor powers and duties do not transfer to an interim or acting head of council. Once a new head of council has been elected pursuant to a by-election, that person will be the head of council and will be able to exercise the strong mayor powers and duties. The head of council may choose to delegate certain strong mayor powers. If the head of council chooses to delegate certain powers, these powers can still be exercised by the individual(s) to whom the powers were delegated to, in the event that head of council's seat becomes vacant.

- Be aware of the legal framework within which your municipality must operate and whether your municipality is a designated municipality.
- Familiarize yourself with all of the following:
  - the provincial priorities as the use of certain strong mayor powers is related to them.
  - the roles of the head of council and council in a designated municipality.
  - the municipality's policies and procedures (for example, procedure by-law, council-staff relations policy) and consider whether updates are necessary.
  - the *Municipal Conflict of Interest Act*, which sets out a primary set of ethical rules for council and local board members regarding pecuniary (financial) conflicts of interest.
- If you are the head of council of a designated municipality:
  - you must follow all legal requirements when exercising your strong mayor powers and duties.
  - it is your duty to prepare and propose the municipal budget by February 1 (if you do not, council must prepare and adopt the budget).
  - you should consider whether to delegate certain strong mayor powers that could continue to be exercised when you are away.
- The council of a designated municipality may override a head of council veto by a two-thirds vote or approve certain by-laws proposed by the head of council by a more than one-third vote. These thresholds refer to all council members of the municipality, regardless of their presence at the council meeting or if they are on a leave of absence.

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