

STAFF

Chapter 133 CITY SOLICITOR - APPOINTMENT

CHAPTER INDEX

Article 1 CONFIRMATION

- 133.1.1 Confirmation
- 133.1.2 General duties
- 133.1.3 Other duties
- 133.1.4 Appointment by Council
- 133.1.5 Administrative structure - location

Article 2 AUTHORITY

- 133.2.1 Actions - commencement
- 133.2.2 Actions - defence
- 133.2.3 Administrative tribunals
- 133.2.4 Prosecutions
- 133.2.5 Local boards
- 133.2.6 Wholly-owned subsidiaries

Article 3 PROFESSIONAL CONDUCT AND INDEPENDENCE

- 133.3.1 Rules of Professional Conduct
- 133.3.2 Independence
- 133.3.3 Prosecutorial independence
- 133.3.4 Assistance - access to information

SOLICITOR - APPOINTMENT

- 133.3.5 Access to Council
- 133.3.6 Instructions - Council - staff - authority
- 133.3.7 City Solicitor - designate

Article 4 REPEAL - ENACTMENT

- 133.4.1 By-law previous
- 133.4.2 Effective date

Article 1 CONFIRMATION

133.1.1 Heidi Faith de Vries

The appointment of Heidi Faith de Vries as the City Solicitor is hereby affirmed and acknowledged.

133.1.2 General duties

The City Solicitor shall serve as an employee of the municipality, with general responsibility for the legal affairs of the municipality and for giving professional legal advice, recommendations, and direction to the municipal Council of the City of Brantford and its administrative staff in relation to legal matters. Such advice, recommendations, and direction shall be given either upon request or at the initiative of the City Solicitor.

133.1.3 Other duties

The City Solicitor shall also serve as the Director of Legal and Real Estate Services, and shall oversee the administration and operation of the Provincial Offences Court. Staff employed within the Legal and Real Estate Department and the Provincial Offences Court shall report to the City Solicitor and be subject to his/her direction. The City Solicitor shall also perform such further duties of a legal nature as are from time to time assigned by the Council of the City of Brantford. Other duties shall include the requirement for regular litigation update reports for non-insurable matters to be provided to Council every two months.

133.1.4 Appointment by Council

The position of City Solicitor shall hereinafter be an appointment of the Council of the City of Brantford.

133.1.5 Administrative structure - location

Legal and Real Estate Services and the Provincial Offences Court shall form part of the Corporate Services Commission for administrative purposes and, except where such reporting would be contrary to any provision of this Chapter, the City Solicitor shall report to the General Manager of Corporate Services and City Treasurer and shall be subject to his/her direction.

**Article 2
AUTHORITY**

133.2.1 Actions - commencement

The City Solicitor shall have the authority to commence an action before the appropriate Court, including appellate proceedings, to collect debts or to assert rights on the part of the municipality:

- (a) When, in his/her opinion, immediate action is required to protect the City's interests;
- (b) when a debt has been added to the tax roll or is for unpaid municipal taxes;
- (c) when the amount to be claimed, exclusive of costs and pre-judgment and post-judgment interest, is less than \$100,000 and the Chief Administrative Officer or responsible General Manager has requested that an action be commenced; or
- (d) when approved by Council.

133.2.2 Actions - defence

The City Solicitor shall have the authority to defend any Court action commenced against the City which is not covered by insurance, and shall have the ability to commence any counterclaims, cross-claims, third-party proceedings, or appellate proceedings required in connection therewith.

133.2.3 Administrative tribunals

The provisions of Sections 133.2.1 and 133.2.2 shall apply with necessary modifications to proceedings before administrative tribunals.

133.2.4 Prosecutions

The City Solicitor shall have the authority to commence and continue prosecutions and appellate proceedings arising therefrom under any and all City by-laws and statutes administered by any City Department or Commission.

133.2.5 Local boards

To the extent allowed by the Rules of Professional Conduct and the coverage requirements of the Lawyers' Professional Indemnity Company or the requirements of any other applicable law, and in the discretion of the City Solicitor having regard to issues of work load and capacity, the City Solicitor may provide legal representation to local boards of the municipality (other than any school boards) such as the Police Services Board, the Brantford Public Library Board, the Brant County Board of Health (in connection with issues within the City of Brantford only) and the Committee of Management of the John Noble Home.

133.2.6 Wholly-owned subsidiaries

To the extent allowed by the Rules of Professional Conduct and the coverage requirements of the Lawyers' Professional Indemnity Company or the requirements of any other applicable law, and in the discretion of the City Solicitor having regard to issues of work load and capacity, the City Solicitor shall provide legal services to wholly-owned subsidiaries of the City.

Article 3

PROFESSIONAL CONDUCT AND INDEPENDENCE

133.3.1 Rules of Professional Conduct

In performing duties for the City of Brantford, the City Solicitor shall abide by the applicable Rules of Professional Conduct set forth by the Law Society of Upper Canada, as amended from time to time.

133.3.2 Independence

In giving legal advice, recommendations, and direction to the municipal Council of the City of Brantford and to the administrative staff of the City, the City Solicitor shall exercise independence of thought and action, free of inappropriate political or administrative influences.

133.3.3 Prosecutorial independence

Without limiting the generality of Section 133.3.2 and the requirements of any other applicable law, the City Solicitor and prosecution staff reporting to the City Solicitor shall exercise prosecutorial independence in the same manner as such independence is exercised by Crown Attorneys employed by the Provincial Government.

133.3.4 Assistance - access to information

The City Solicitor shall be entitled to the full cooperation and assistance of all City Council and staff of the City of Brantford. Without limiting the generality of the foregoing, the City Solicitor shall be granted access to all records and files of the municipality, and may interview any members of Council or staff of the municipality in connection with any matters being investigated by the City Solicitor and may attend any meeting of staff or Council in connection with such matter.

SOLICITOR - APPOINTMENT

When prosecuting or defending litigation on behalf of the City, City commissions and their component departments shall provide the City Solicitor whatever assistance, research, or support as is reasonable and necessary in the matter.

133.3.5 Access to Council

The City Solicitor shall be entitled to attend any and all meetings of the Council of the Corporation, including any meetings to be held on an in camera basis, and shall receive a full agenda package including any materials in respect of any such in camera meetings, with the exception of meetings of the Council called for the purpose of interviewing candidates for staff positions or evaluating the performance of staff. The City Solicitor shall be entitled to meet with Council as necessary in order to fulfill his/her responsibilities pursuant to this Chapter.

133.3.6 Instructions - Council - staff - authority

Instructions and requests for legal services shall be directed to the City Solicitor or his/her designate and,

- (a) where such instructions and requests for legal services are given by Council, such instructions and advice shall have been given by by-law, resolution or other written instrument which has been passed at a meeting at which a majority of Council present shall have voted to give such instructions or requests for legal services; or
- (b) where such instructions and requests for legal service are given by the Mayor, the City Solicitor shall confirm such instructions, in writing, to the Mayor and all members of Council; or
- (c) where such instructions and requests for legal services are given by a staff person, the City Solicitor shall satisfy himself/herself that the same have been given by a staff person having authority to give such instructions and make such requests.

133.3.7 City Solicitor - designate

The rights, privileges and duties of the City Solicitor defined in Articles 2 and 3 of this Chapter may be exercised by another lawyer (or lawyers) designated by the City Solicitor.

Article 4
REPEAL - ENACTMENT

133.4.1 By-law previous

Chapter 133 to the City of Brantford Municipal Code is hereby repealed in its entirety and replaced with the revised Chapter 133.

133.4.2 Effective date

This Chapter shall come into force and effect on Wednesday, June 28, 2017, the start date for Heidi Faith de Vries as City Solicitor. By-law 107-2017, June 27, 2017.