



# WHO CAN MAKE BYLAWS?

## TABLE OF CONTENTS

1 Does it matter who does the job? ..... 1

2 The Golden Rule ..... 1

3 Why the Golden Rule? ..... 2

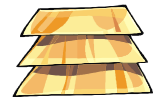
4 What *can* council do? ..... 2



### 1 DOES IT MATTER WHO DOES THE JOB?

In municipalities officials often do the groundwork and then submit a report to council or EXCO for approval of their work. This is a normal and necessary part of municipal governance. There are even certain matters where an official or committee can be delegated the job of making a decision on behalf of the council. But what about bylaws ...?

### 2 THE GOLDEN RULE



[Section 160\(2\)](#) of the [Constitution](#) provides that ...

A municipal council may not delegate the passing of bylaws.

Think it through!

The Rule is that only a municipal council may make a by-law and the making of a by-law cannot be delegated to –

- ⊕ EXCO;
- ⊕ a committee;
- ⊕ the Municipal Manager; or
- ⊕ even the mayor.



### 3 WHY THE GOLDEN RULE?

Why does the law prohibit the delegation of the making of bylaws?

The reason is that bylaws ...

- ✚ have high status (the same status in the local sphere as Acts of the national Parliament);



- ✚ play a critical part in implementing municipal policy and effective service delivery; and



- ✚ are binding on the public.

### 4 WHAT CAN COUNCIL DO?

The Golden Rule does not mean that council has to write the by-law itself.



Council can brief an official or a committee to –

- ✚ investigate whether a by-law should be prepared;



- ✚ conduct initial consultations; and



- ✚ write a draft by-law for consideration by council.





## BYLAWS

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The bottom line is that council can have any assistance in the making of by-laws, provided that the assistance is in the form of a recommendation, which council may or may not adopt.

YOU

HAVE

COMPLETED

THE

“WHO CAN MAKE BYLAWS?”

MODULE

WELL DONE!!!