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**Consolidated Version**

*Revised August 14, 2018*

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2018-046	April 9, 2018
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*Consolidated for Convenience Only*

This is a consolidation copy of a City of Owen Sound By-law for convenience and information. While every effort is made to ensure the accuracy of this by-law, it is not an official version or a legal document. The original by-law should be consulted for all interpretations and applications on this subject. For more information or to view by-laws please contact the Clerks Department.

# The Corporation of the City of Owen Sound

## By-Law No. 2014-109

### A By-law to Adopt a Policy Respecting the Delegation of Powers and Duties of the City of Owen Sound

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WHEREAS section 23.1 of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that sections 9, 10 and 11 of that act authorize a municipality to delegate its powers and duties under any Act to a person or body subject to listed restrictions; and

WHEREAS section 270 of the *Municipal Act, 2001*, provides that a municipality shall adopt and maintain policies respecting the delegation of its powers and duties; and

WHEREAS the Council of the Corporation of the City of Owen Sound (the "City") passed various by-laws delegating the powers and duties of the municipality; and

WHEREAS on November 19, 2007, City Council passed a resolution to adopt the delegation of powers and duties policy CrS-C27; and

WHEREAS City Council passed resolution R-140609-012 to enact the subject by-law in place of the Delegation of Powers and Duties Policy CrS-C27;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

#### **Part I. Short Title, Purpose and Scope**

##### **Short Title**

1. This by-law shall be known as the "Delegation of Powers and Duties By-law".

##### **Purpose**

2. This by-law has been enacted to:
  - a. establish a policy respecting the delegation of powers and duties, and
  - b. acknowledge existing powers and duties of the City which have been delegated.

##### **Scope**

3. This by-law shall apply to all City staff or persons acting on behalf of the City.
4. This by-law does not apply to powers and duties provided to officers of the City under the *Municipal Act, 2001* or any other Act.

#### **Part II. Interpretation**

##### **Headings**

5. The division of this by-law into parts and the insertion of headings are for convenient reference only and shall not affect interpretation of the by-law.

##### **References to Applicable Law**

6. All references to applicable law are ambulatory and apply as amended from time to time.

##### **Definitions**

7. For the purposes of this by-law:
  - "City" means the Corporation of City of Owen Sound;
  - "Council" means the Council of the City;

"Delegate" means an officer, employee, agent or body which has been delegated powers or duties;

"Legislative Powers" means all matters where Council acts in a legislative or quasi-judicial function including enacting by-laws, setting policies, and exercising decision-making authority.

"Municipal Act, 2001" means the *Municipal Act, 2001*, S.O. 2001, c 25; and

"Planning Act" means the *Planning Act*, RSO 1990, c P.13.

### **Part III. Delegation**

#### **Delegation of Powers and Duties**

8. All powers and duties of Council shall remain with Council unless a power or duty has been expressly delegated by by-law.
9. Within each row of Schedule 'A' and Schedule 'B' which are attached to and form part of this by-law, Council acknowledges the delegated powers and duties described in the "Delegated Powers and Duties" column to the officers, employees, agents or bodies listed in the "Delegate" column subject to the conditions, limits, procedures or notice requirements, if any, listed in the "Delegation Limits" column.
10. Where Council delegates a power or duty to an officer or employee of the City, the delegation also applies to a person appointed by the City Manager or the Delegate to act in the capacity of the Delegate from time to time.

#### **Rules Respecting Delegations**

11. The following rules apply to all powers or duties delegated by Council:
  - a. Council may, by by-law, repeal or amend the delegation at their discretion and without notice;
  - b. both Council and the delegate may exercise the power, unless Council expressly provides that only the delegate can exercise the power;
  - c. all delegations are subject to any conditions and limits Council considers appropriate, which may include matters such as:
    - i. a requirement that the delegate act by by-law, resolution or otherwise;
    - ii. procedures that the delegate is required to follow; and
    - iii. the accountability of the delegate and the transparency of the delegate's actions and decisions;
  - d. where a power is delegated:
    - i. the power is deemed to be delegated subject to any limits on the power and to any procedural requirements, including conditions, approvals and appeals which apply to the power; and
    - ii. any duties related to the power are deemed to be delegated with the power.

#### **Legislative Powers**

12. Council hereby deems all Legislative Powers delegated by this by-law to be minor in nature having regard to:
  - a. subsection 23.2 (4) of the *Municipal Act, 2001*; and
  - b. the number of people, the geographic size and the time period affected by an exercise of the power.

### **Powers that Cannot be Delegated**

13. Council shall not delegate the following powers or duties, in accordance with the limits set out in subsection 23.3 (1) of the *Municipal Act, 2001*:
  - a. to appoint or remove from office an officer of the municipality whose appointment is required by the *Municipal Act, 2001*;
  - b. to pass a by-law under Parts VIII, IX and X of the *Municipal Act, 2001*;
  - c. to incorporate corporations in accordance with section 203 of the *Municipal Act, 2001*;
  - d. to adopt an official plan or an amendment to an official plan under the *Planning Act*;
  - e. to pass a zoning by-law under the *Planning Act*;
  - f. to pass a by-law under subsections 108 (1) and (2) and 110 (3), (6) and (7) of the *Municipal Act, 2001*;
  - g. to adopt a community improvement plan under section 28 of the *Planning Act*, if the plan includes provisions that authorize the exercise of any power under subsection 28 (6) or (7) of that Act or under section 365.1 of the *Municipal Act, 2001*;
  - h. to adopt or amend the City budget; or
  - i. any other power or duty that may be prescribed.

### **Part IV. Conflict and Transition**

#### **Conflict**

14. In the event the provisions of this by-law are inconsistent with the provisions of another by-law, the provisions of this by-law shall apply.
15. In the event the provisions of this by-law are inconsistent with the provisions of the *Municipal Act, 2001*, its Regulations or any other Act, the provisions of the Act or Regulation shall prevail.

#### **Terms Severable**

16. The terms and provisions of this by-law shall be severable and should any term or provision be found by a court of competent jurisdiction to be legally unenforceable, in operative or invalid, the remainder of the by-law shall continue to be in full force and effect.

#### **Repeal**

17. Policy No. CrS-C27 is hereby repealed.

#### **Enactment**

18. This by-law shall come into full force and effect upon the final passing thereof at which time all by-laws, policies and resolutions that are inconsistent with the provisions of this by-law are hereby repealed insofar as it is necessary to give effect to the provisions of this by-law.

FINALLY PASSED AND ENACTED this 23<sup>rd</sup> day of June, 2014.

*Signature on File*

\_\_\_\_\_  
Mayor Deborah A Haswell

*Signature on File*

\_\_\_\_\_  
Kristen M. Van Alphen, City Clerk

## Schedule 'A' to By-law 2014-109

### Administrative Powers and Duties

Delegated Powers and Duties	Delegate	Delegation Limits
<b>General Management and Administration</b>		
1. Powers and duties as the senior administrative official	City Manager	Set out in the Employment Agreement and job description authorized by By-law No. 2011-098
<p><i>Amended by By-law No. 2018-084</i></p> 2. Disposition of any real or personal property of the municipality that has a value exceeding \$50,000 at the time of disposal	City Manager and Director of Corporate Services to act jointly	Only if lame duck provision applies, as determined by the City Clerk, between Nomination Day and the beginning of the term of office  A report being provided to Council to advise of action(s) to be taken
<p><i>Amended by By-law No. 2018-084</i></p> 3. Making expenditures or incurring any other liability that exceeds \$50,000	City Manager and Director of Corporate Services to act jointly	Only if lame duck provision applies, as determined by the City Clerk, between Nomination Day and the beginning of the term of office  A report being provided to Council to advise of action(s) to be taken
<b>Building, Planning, Heritage and Development</b>		
4. Authority under the Heritage Act	Heritage Planning Coordinator Community Planner Director of Community Services	Set out in By-law No. 2010-053
5. Site Plan Approval Authority	Director of Community Services	Set out in By-law No. 2011-034
6. Signing Authority Final Subdivision Plans and Condominium Plans	Director of Community Services	Subject to receiving final approval by City Council  Set out in Policy CS66 and By-law No. 2004-178

## Administrative Powers and Duties

Delegated Powers and Duties	Delegate	Delegation Limits
7. Determine public safety issues and withdraw permission to cross reserve - Heritage Grove	Chief Building Official Director of Community Services Director of Operations	Set out in By-law No. 2013-063
8. Commenting Authority for Planning Notices	Director of Community Services	Set out in Policy CS81 and By-law No. 2014-039
9. Grant permission to operate a food vending cart or stand in certain City Parks	Director of Community Services	Set out in By-law No. 2005-125
<b>Financial and Purchasing</b>		
10. Signing Authority for Banking Services	Director of Financial Services City Manager Manager of Accounting Purchasing Agent	Set out in By-law No. 2014-102 Signing Authority requires any two signatures
11. Purchase or Disposition of Goods and Services	Set out in the City's Purchasing By-law	Set out in the City's Purchasing By-law
12. Approve expenditures under \$100,000.00 for the Regional Recreation Centre	City Manager Manager of Special Capital Projects	Set out in By-law No. 2010-177
<b>Operations, Engineering, Traffic and Parking</b>		
13. Designate construction zones and lower speed limits or close highways in construction zones	Director of Operations	Set out in By-law No. 2009-075
14. Temporarily designate accessible parking spaces during public events	Director of Operations Director of Community Services	Set out in By-law No. 2009-075
15. Approve the installation of municipal traffic control signs and systems	Director of Operations	Set out in By-law No. 2007-231
16. <i>Amended by By-law No. 2018-124</i> <i>Approve the appointment of Special Parking Enforcement Officers at private locations</i>	<i>City Clerk or designate</i>	<i>Private parking locations as laid out in Schedule A of the Unauthorized Parking By-law No. 2014-094</i>

## Administrative Powers and Duties

Delegated Powers and Duties	Delegate	Delegation Limits
17. Amended by By-law No. 2018-124 Approve the appointment of Parking Enforcement Officers on City Property	City Clerk or designate	The requirements of the current public parking enforcement contract
<b>Human Resources</b>		
18. Hiring of Employees	City Manager	Set out in CrS-HR18, Staffing Policy and Procedures
<b>Records and Information</b>		
Amended by By-law No. 2016-006 19. Powers and duties respecting freedom of information and protection of privacy	Set out in By-law No. 2016-006	
20. Cause the destruction of documents under the control of a department which have been retained for the established retention period	Each Department Head	Set out in Policy CrS-C20 and By-law No. 2004-140
<b>Business Licencing</b>		
17. Issue business licences	City Clerk	Set out in the Business Licencing By-law
18. Approve street vendor agreements	Manager of Economic Development and Tourism	Set out in the Business Licencing By-law
<b>Election Advertising</b>		
Amended by By-law No. 2018-046 19. Power to enforce section 88.7 of the Municipal Elections Act, 1996 respecting election advertising	By-law Enforcement Officers under the supervision of the City Manager	Council expressly provides that only the delegates may exercise this power

## Schedule 'B' to By-law 2014-109

### Legislative Powers and Duties

Delegated Powers and Duties	Delegate	Delegation Limits
<b>Licencing, Regulation and Governance</b>		
1. Licence, Regulate and Govern Escort Services	Owen Sound Police Services Board	Set out in By-law No. 2006-191
2. Licence, Regulate and Govern Adult Entertainment Establishments	Owen Sound Police Services Board	Set out in By-law No. 2004-023
3. Licence Regulate and Govern Body Rub, Tattoo and Piercing Establishments	Owen Sound Police Services Board	Set out in By-law No. 2003-053
4. Licence Regulate and Govern Salvage Shops, Salvage Yards, Second Hand Goods Shops and Dealers in Second Hand Goods	Owen Sound Police Services Board	Set out in By-law No. 1998-050
5. Licence Regulate and Govern Taxis	Owen Sound Police Services Board	Set out in By-law No. 1996-153
<b>Consent Granting Authority</b>		
6. Consent Granting Authority for: <ul style="list-style-type: none"> <li>• Minor Variances under the <i>Planning Act</i> (s. 45(3))</li> <li>• Giving of Consents under the <i>Planning Act</i> (s. 54(2))</li> <li>• Fence Viewers under the <i>Line Fences Act</i></li> <li>• Court of Revision under the <i>Local Improvement Act</i></li> <li>• Property Standards under the <i>Building Code Act</i></li> </ul>	Committee of Adjustment	Set out in By-law No. 2001-102