



By-law No. 2014-109

Delegation of Powers and Duties By-law

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Consolidated Version

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*Consolidated for Convenience Only*

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# 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.

"Director of Community Services" means, the Director of Community Services of the Corporation of the City of Owen Sound and who possesses the Registered Professional Planner (RPP) designation.

"Director of Public Works & Engineering" means, the Director of Public Works & Engineering of the Corporation of the City of Owen Sound and who possesses that Professional Engineer (P. Eng) designation.

"Director of Corporate Services" means, the Director of Corporate Services of the Corporation of the City of Owen Sound and who possesses the Chartered Professional Accountant (CPA) designation.

### **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>		
<i>Amended by By-law No. 2020-049</i> 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. 2020-043
<i>Amended by By-law No. 2018-084</i> 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
<i>Amended by By-law No. 2018-084</i> 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

Administrative Powers and Duties

Delegated Powers and Duties	Delegate	Delegation Limits
<i>Amended by By-law No. 2024-077</i> 3.1 Flag flying requests	City Manager	As set out in Policy No. CE002
<b>Building, Planning, Heritage and Development</b>		
4. Authority under the Heritage Act	Heritage Planning Coordinator Manager of Planning & Heritage 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. 2019-185
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
7. Determine public safety issues and withdraw permission to cross reserve - Heritage Grove	Chief Building Official Director of Community Services Director of Public Works & Engineering	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
<i>Amended by By-law No. 2019-057</i> 9. Commenting Authority for Cannabis Retail Store Authorization requests	City Clerk Director of Community Services	In accordance with the Municipal Cannabis Policy Statement as set out in Policy CS85 and By-law No. 2019-057
10. 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



## Administrative Powers and Duties

Delegated Powers and Duties	Delegate	Delegation Limits
<p><i>Amended by By-law No. 2020-065</i></p> <p>10.1 Approval Authority for Sidewalk Patios:</p> <ul style="list-style-type: none"> <li>• Design, layout and placement</li> <li>• Execute agreements</li> <li>• Provide correspondence to the Alcohol and Gaming Commission of Ontario (AGCO) indicating no objection to extension of liquor licence</li> <li>• Waive all fees</li> </ul>	City Manager	<p><i>Amended by By-law No. 2021-039</i></p> <p>In consultation with the Director of Community Services, Director of Public Works and the Manager of Planning</p> <p>AGCO approval in accordance with provisions established in the Province’s Stage 2 re-opening guidelines</p>
<p><i>Amended by By-law No. 2021-029</i></p> <p>10.2 Approval Authority for applications and Signing Authority for agreements related to Financial Incentive Programs under the Community Improvement Plan</p>	City Manager and Director of Community Services acting jointly	Set out in By-law No. 2021-028
<p><i>Amended by By-law No. 2022-076</i></p> <p>10.3 Approval authority for applications for exemptions to Part Lot Control</p>	Director of Community Services	<p>Applications being considered for delegation to be summarized and circulated to Mayor and Council. Any member of Council, the delegate or the applicant may direct that Council consider any given application. The delegate is not empowered to refuse applications.</p>

Administrative Powers and Duties

Delegated Powers and Duties	Delegate	Delegation Limits
<p><i>Amended by By-law No. 2022-076</i></p> <p>10.4 Approval authority for applications for deeming</p>	Director of Community Services	Applications being considered for delegation to be summarized and circulated to Mayor and Council. Any member of Council, the delegate or the applicant may direct that Council consider any given application. The delegate is not empowered to refuse applications.
<p><i>Amended by By-law No. 2022-076</i></p> <p>10.5 Approval authority for final plan of subdivision or condominium.</p>	Director of Public Works & Engineering and the Director of Community Services acting jointly.	Applications being considered for delegation to be summarized and circulated to Mayor and Council. Any member of Council, the delegate or the applicant may direct that Council consider any given application. The delegate is not empowered to refuse applications.
<p><i>Amended by By-law No. 2023-048</i></p> <p>10.6 Approval authority for Community Gardens Applications</p>	City Manager and Director of Community Services acting jointly	Application must be consistent with the City’s Community Gardens policy
<p><i>Amended by By-law No. 2023-130</i></p> <p>10.7 Approval authority for Short-Term Rental licensing applications</p>	City Clerk	Set out in By-law No. 2023-115

## Administrative Powers and Duties

Delegated Powers and Duties	Delegate	Delegation Limits
<b>Financial and Purchasing</b>		
11. 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
12. 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
13. 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
<i>Amended by By-law No. 2023-130</i>  13.1 Authority to implement and administer the Municipal Accommodation Tax	Treasurer	Set out in By-law No. 2023-127
<b>Operations, Engineering, Traffic and Parking</b>		
14. Designate construction zones and lower speed limits or close highways in construction zones	Director of Operations	Set out in By-law No. 2009-075
15. Temporarily designate accessible parking spaces during public events	Director of Operations Director of Community Services	Set out in By-law No. 2009-075
16. Approve the installation of municipal traffic control signs and systems	Director of Operations	Set out in By-law No. 2007-231
17. <i>Amended by By-law No. 2018-124</i>  Approve the appointment of Special Parking Enforcement Officers at private locations	<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
18. <i>Amended by By-law No. 2018-124</i> Approve the appointment of Parking Enforcement Officers on City Property	<i>City Clerk or designate</i>	<i>The requirements of the current public parking enforcement contract</i>
<b>Human Resources</b>		
19. Hiring of Employees	City Manager	Set out in CrS-HR18, Staffing Policy and Procedures
<b>Records and Information</b>		
<i>Amended by By-law No. 2016-006</i> 20. Powers and duties respecting freedom of information and protection of privacy	City Clerk	Set out in By-law No. 2023-039
21. 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>		
22. Issue business licences	City Clerk	Set out in the Business Licencing By-law
23. Approve street vendor agreements	<i>Amended by By-law No. 2023-130</i> City Manager	Set out in the Business Licencing By-law

Administrative Powers and Duties

Delegated Powers and Duties	Delegate	Delegation Limits
<b>Election Advertising</b>		
<i>Amended by By-law No. 2018-046</i> 24. 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
<b>Agreements</b>		
<i>Amended by By-law No. 2022-076</i> 25. Signing authority for Subdivision and Condominium Agreements	Director of Community Services and Director of Public Works & Engineering, acting jointly.	Planning Act, Sec. 51(26). Only where an agreement is required to satisfy a condition of approval imposed by City Council, or its delegate. Council may direct that an agreement come forward for authorization by the Mayor and Clerk through resolution.
<i>Amended by By-law No. 2022-076</i> 26. Signing authority for Servicing Agreements	Director of Public Works & Engineering and the Manager of Engineering Services, acting jointly.	Only where an agreement is required to satisfy a condition of Planning Act application approval imposed by the City’s approval authority and where prior notice has been provided to City Council through an open report.

## Administrative Powers and Duties

Delegated Powers and Duties	Delegate	Delegation Limits
<p style="text-align: center;"><i>Amended by By-law No. 2022-076</i></p> <p>27. Signing authority for Site Plan Agreements</p>	Director of Community Services and the Manager of Planning & Heritage, acting jointly.	<p>Planning Act, Sec. 41(7).</p> <p>Only where required an agreement is required to satisfy a condition of approval imposed by City's approval authority.</p>
<p style="text-align: center;"><i>Amended by By-law No. 2022-076</i></p> <p>28. Signing authority for Development Charges Exemption Agreements</p>	Director of Corporate Services and the City Clerk, acting jointly.	<p>Only where an agreement is required to satisfy a condition of Planning Act application approval imposed by the City's approval authority and where prior notice has been provided to City Council through an open report.</p>
<p style="text-align: center;"><i>Amended by By-law No. 2022-076</i></p> <p>29. Signing authority for Consent and/or Minor Variance Agreements</p>	Director of Community Services and the Manager of Planning & Heritage, acting jointly.	<p>Planning Act, Sec. 45(9.1) &amp; Sec. 53(12).</p> <p>Only where an agreement is required to satisfy a condition of approval imposed by the Committee of Adjustment or the Director of Community Services, as delegate.</p>

Administrative Powers and Duties

Delegated Powers and Duties	Delegate	Delegation Limits
<p><i>Amended by By-law No. 2022-076</i></p> <p>30. Signing authority for Model Homes Agreements</p>	Director of Community Services and the Director of Public Works & Engineering, acting jointly.	<p>Only where an agreement is required to satisfy a condition of approval imposed by City Council or the Committee of Adjustment.</p> <p>Council may direct that an agreement come forward for authorization by the Mayor and Clerk through resolution.</p>
<p><i>Amended by By-law No. 2022-119</i></p> <p>31. Signing authority for Facility Use Agreements and approval authority for conditions of delegated Facility Use Agreements</p>	Director of Community Services and Manager of Community Development and Marketing, acting jointly	<p>Only where the event:</p> <ol style="list-style-type: none"><li>has previously been approved by Council;</li><li>is being held in the same location, with the same format and subject to the same conditions as the event that was approved by Council; and</li><li>has been running regularly since the approval with no more than a two-year hiatus.</li></ol>
<p><i>Amended by By-law No. 2023-048</i></p> <p>32. Signing authority for Community Gardens Agreements</p>	City Manager and Director of Community Services acting jointly	Community Gardens application must be approved
33. Approval authority for Nuisance By-law exemptions	City Clerk	Set out in By-law No. 2024-026

Administrative Powers and Duties

Delegated Powers and Duties	Delegate	Delegation Limits
34. Approval authority for Noise By-law exemptions	City Clerk	Set out in By-law No. 2024-027
35. Signing authority for agreements respecting easements to and from the City	Director of Public Works and Engineering and City Manager acting jointly	Where an easement is required for the operations of a utility company or the City to service lands
36. Signing authority for Alternate Locate Agreements	Director of Public Works and Engineering	Includes authority to execute all documents necessary to establish or renew Alternative Locate Agreements
37. Signing authority for Land Use Agreements respecting snowmobile trails with snowmobile clubs	Director of Community Services	N/A



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>• 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
<i>Amended by By-law No. 2022-076</i> 7. Authority to grant approval of consents under the <i>Planning Act</i> (s. 54(2)).	Director of Community Services	Where the consent is “undisputed” only, as set out in By-law No. 2022-074.
<b>Administering Notice</b>		

<p><i>Amended by By-law No. 2022-076</i></p> <p>8. Determine and notify if the information and material required to accompany an application made under the Planning Act has or has not been provided.</p>	<p>Manager of Planning &amp; Heritage</p>	<p>Planning Act, ss. 22(6.1), 34(104), 41(3.6), 51(19.1)</p>
<p><i>Amended by By-law No. 2022-076</i></p> <p>9. Give statutory notice under the Planning Act to the prescribed persons and bodies, in the prescribed manner and accompanied by the prescribed information and make the prescribed information and material available to the public.</p>	<p>City Clerk or their designate.</p>	<p>Planning Act, ss. 22(6.4), 34(10.7), 51(19.4)</p>