



R i v e r D i s t r i c t

O W E N S O U N D

# Constitution

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**Approved by Council**

Date

**Approved by Board**

Date

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## 1. Definitions

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### 1.1. For this Constitution the following definitions shall apply:

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

"Administrator" means the City staff person designated by the City Manager from time to time;

"Board" means the Owen Sound River District Board of Management;

"City" means The Corporation of the City of Owen Sound;

"City Treasurer" means the Treasurer for the City;

"Clerk" means the Clerk for the City;

"Code of Conduct" means the Code of Conduct approved by City Council;

"Council" means the Council of the City;

"Director" means member of the Board;

"Member" means persons who are assessed on the last returned assessment roll, with respect to rateable property in the River District that is in a commercial property class prescribed by the City, and tenants of such property;

"Person" means an individual, corporation, partnership or other legal entity;

"River District" means the River District Business Improvement Area, which consists of rateable property in a prescribed business property class located in an area designated by Council and identified on Schedule 'A' to this Constitution. A reference to the River District is a reference to the geographical area and or to the local board as the context requires;

"Staff Liaison" means the City staff person designated by the City through the City's Board and Committee By-law; and

"Tenant" means persons who:

- a. rent or lease rateable property in the River District that is in a commercial property class prescribed by the City; and
- b. are required to pay all or part of the property taxes on the rateable property as part of their tenancy.

## **2. The Organization**

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### **Designation**

- 2.1. The River District is designated by City Council as an improvement area in accordance with the Act.

### **Purpose**

- 2.2. The purpose of the River District under the Act is:
  - a. to promote the commercial area of the River District as a business and shopping area; and
  - b. to oversee the improvement, beautification and maintenance of municipally owned land, buildings, and structures within the boundaries of the River District, beyond that provided at the expense of the municipality generally.

### **Vision**

- 2.3. The vision of the River District is a vibrant, safe and fun downtown.

### **Mission**

- 2.4. The mission of the River District is to develop a vibrant and sustainable business, cultural and residential community by supporting initiatives aimed at improving, beautifying and promoting the River District on behalf of its Members.

## **3. The Board**

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### **Establishment**

- 3.1. The Board is established by City Council as a board of management in accordance with the Act.
- 3.2. The affairs of the River District are governed by the Board.

### **Composition**

- 3.3. The Board shall consist of nine (9) Directors as follows:
  - a. two (2) members of Council to be appointed by City Council; and
  - b. the remaining seven (7) Directors selected by a vote of the Members of the River District and appointed by City Council.

### **Meetings**

- 3.4. The Board shall hold a minimum of six (6) meetings per year on a bi-monthly basis starting in January.

- 3.5. Meetings shall take place in Council Chambers at City Hall on the second Wednesday of the month beginning at 5:30 p.m.
- 3.6. Board meetings shall be conducted in accordance with the City's Procedural By-law in effect at the time of the meeting.

### **Term of Office**

- 3.7. Each Director shall hold office from the time of their appointment by City Council, until the expiration of the term of the Council that appointed them but continues until a successor is appointed.
- 3.8. Each Director is eligible for re-election to the Board for subsequent terms.

### **Resignation and Termination of Director**

- 3.9. A Director is deemed to have resigned when:
  - a. the Director delivers a written notice of resignation to the Administrator; or
  - b. the Director is absent from three consecutive Board meetings, without obtaining consent from the Board.
- 3.10. The Board, on a two-thirds (2/3) vote of the whole of the Board, has the right to terminate a Director for just cause, including conduct in breach of the Code of Conduct.

### **Vacancies**

- 3.11. Where a vacancy on the Board occurs, the Board may put forward a replacement for Council consideration as follows:
  - a. the Board shall provide public notice of the vacancy. The public notice shall be posted, at a minimum, on the River District website for a period of twenty (20) days;
  - b. applicants shall submit required application materials to the Administrator; and
  - c. from the applications, the Board, shall select a replacement by majority vote of the Board and advise Council in writing via the City Clerk.
- 3.12. When appointed the replacement shall hold office for the remainder of the term for which their predecessor was appointed.
- 3.13. Where the Board is unable to put forward a replacement or the replacement is not approved by Council, Council may appoint any person to fill the vacancy for the remainder of the term.

### **Remuneration**

- 3.14. No Director of the Board shall receive remuneration in payment for services carried out in that capacity.

- 3.15. Board Directors may be reimbursed for all reasonable expenses relating to their functions as Board Directors, provided any such expenses are budgeted for or pre-approved by Board resolution and provided that receipts for any such expenses are submitted prior to reimbursement.
- 3.16. Board Directors may be hired to perform a service or provide goods for the River District, provided that the City's Procurement By-law and related policies are followed, and the Board Director declares a conflict of interest and abstains from participating in debate(s) and vote(s) on the matter.

### **Board Office**

- 3.17. Any physical office of the Board shall be located within the geographic boundaries of the River District as outlined in Schedule "A".

## **4. Board Election Procedures**

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### **Election Manager**

- 4.1. An Election Manager shall conduct the election.
- 4.2. The Election Manager shall be an independent person, determined by the City Clerk and hired by the City.
- 4.3. The City Clerk shall oversee the Election Manager and shall act as a resource for the position.

### **Call of an Election**

- 4.4. An election will be conducted on the second (2<sup>nd</sup>) Monday in November of each year a municipal election is held.
- 4.5. Notice of the date and location of the election shall be given in a form, manner and at a time that the Election Manager considers adequate.

### **Nominations**

- 4.6. Nomination day for the Board election is the first Friday in October.
- 4.7. The Election Manager shall give notice of the nomination period and the nomination procedure in a form, manner and at a time that the Election Manager considers adequate.
- 4.8. Nominations may be filed:
  - a. on any day on or after the second Friday in September in the year of the election that is on or before nomination day at a time established by the Election Manager; and
  - b. on nomination day, between 9 a.m. and 2 p.m.
- 4.9. Nomination forms shall be made available on the River District website and at any other location specified by the Election Manager. These locations



will be advertised in the call for nomination advertisements.

- 4.10. A person may withdraw their nomination by filing a written withdrawal with the Election Manager on or before nomination day.
- 4.11. If at 4:00 p.m. on nomination day, the number of Director candidates is the same as or less than the number of Directors to be elected, the Election Manager shall immediately declare the candidate or candidates elected by acclamation.
- 4.12. The Election Manager shall extend the nomination period to 2:00 p.m. on the fourth Friday of October for additional nominations for any seats that remain to be filled. If the number of certified candidates still does not exceed the remaining number of vacancies, the Election Manager shall immediately declare the additional candidate or candidates acclaimed.
- 4.13. Immediately following the close of nominations, the Election Manager shall provide notice to the Members of all nominations received for the election or acclamation.

## **Election**

- 4.14. The Election Manager may appoint, in writing, Assistant Election Officers (AEO's) and such other officials required to assist in the Board election.
- 4.15. The Board election shall be conducted on the second (2<sup>nd</sup>) Monday in November by ballot and held at the time and location specified by the Election Manager.
- 4.16. The addition of advanced voting days shall be at the discretion of the Election Manager and, if held, shall be on the date and at the time and location specified by the Election Manager.
- 4.17. Each Member has one vote regardless of the number of properties that the Member may own or lease in the River District.
- 4.18. Every Member that is a legal entity other than an individual has one vote regardless of the number of shareholders or partners that the member has. The person representing a legal entity other than an individual must provide a written voting delegation, in the manner specified by the Election Manager, at the time the ballot for that Member is received.

## **Count and Recount**

- 4.19. A candidate may appoint a scrutineer to represent them during voting and the counting of votes, including a recount.
- 4.20. The Election Manager shall hold a recount of the votes for two or more candidates who receive the same number of votes and cannot both or all be declared elected to the Board.

4.21. A recount shall be held within one (1) week of voting day.

## Results

4.22. The Election Manager shall place the results of the election on the River District website and indicate that all appointments are subject to Council approval.

## Council Consideration

4.23. The Election Manager shall forward the results of the election to the City Clerk who shall place the results before Council for consideration.

4.24. Directors approved by Council shall be appointed by by-law.

4.25. Any positions left vacant shall be addressed in accordance with the Act.

## First Meeting

4.26. Following the enactment of the Board appointment by-law, the City Clerk shall provide notice of the appointed Directors to the Administrator.

4.27. The Administrator shall contact Directors to advise of the date of the first meeting of the Board, which meeting shall take place in January of the year following the election.

## 5. Duties of the Board

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5.1. The Board as a whole is responsible for:

- a. Subject to this Constitution and the Act, making decisions on policy affecting itself and the River District; and
- b. managing the affairs of itself and the River District.

5.2. Every Director of the Board shall:

- a. exercise the powers and discharge the duties of the office honestly, in good faith, and in the best interests of the River District;
- b. exercise the degree of care, diligence, and skill that a reasonable and prudent person would exercise in comparable circumstances;
- c. follow the City's Code of Conduct;
- d. declare interests in accordance with the City's Procedural By-law;
- e. observe the laws, policies, and practices governing all matters related to confidentiality, privacy, and access to information; and
- f. act in accordance with applicable City policies including but not limited to the City's Purchasing By-law, Records Management By-law, Indemnification By-law, and Procedural By-law.

- 5.3. In exercising its duties pursuant to this Constitution, the Board shall not:
  - a. offer to provide support to political candidates or political parties; or
  - b. engage in or pay for political advertisements.

## **6. Board Executive**

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### **Election**

- 6.1. At the first meeting, the Board shall elect the Executive Officers of the Board following the City Clerk's procedure for nominations in effect at the time. These positions shall be Chair, Vice-Chair, and Treasurer.
- 6.2. The Executive Officers shall be elected from among the appointed Directors, save and except the Directors appointed directly by the municipality (Council members).

### **Term**

- 6.3. The Executive Officers shall hold their offices for the term of their appointment.

### **Vacancies**

- 6.4. Where a vacancy arises for any office on the Board during the term, the remainder of the Board shall elect a replacement Executive Officer at their next regular meeting following the City Clerk's procedure for nominations in effect at the time.

### **Additional Positions**

- 6.5. The Board may appoint additional positions to the Executive only if approved by resolution of the Board and presented to Council as an amendment to this Constitution outlining the responsibilities of the position.

### **Chair Duties**

- 6.6. The duties of the Chair shall include all responsibilities outlined in the City's Procedural By-law and:
  - a. having general supervision of the affairs of the River District;
  - b. acting as a co-signer, along with the Vice-Chair or Treasurer of the Board, for all cheques, documents, contracts or agreements, as required;
  - c. sitting as a non-voting ex-officio member on all Board committees;
  - d. being the public representative of and spokesperson for the Board;
  - e. working with the Staff Liaison and Administrator to ensure legislative obligations of the Board are met; and

- f. performing any other duties that the Board may assign from time to time.

### **Vice-Chair Duties**

- 6.7. The duties of the Vice-Chair shall include:
- a. performing all of the duties of the Chair in their absence or if the Chair is unable for any reason to perform those duties;
  - b. acting as a co-signer, along with the Chair or Treasurer of the Board, for all cheques, documents, contracts or agreements, as required; and
  - c. performing any other duties that the Board may assign from time to time.

### **Treasurer Duties**

- 6.8. The duties of the Treasurer shall include:
- a. providing advice and liaising with the City Treasurer or designate respecting the financial records of the River District including the budget and liaising with the external auditor to complete the year end audit report;
  - b. acting as a co-signer, along with the Chair or Vice-Chair of the Board, for all cheques, documents, contracts or agreements, as required;
  - c. providing a financial update at each regular Board meeting;
  - d. providing the City with all requested financial records for purposes of record keeping; and
  - e. performing any other duties that the Board may assign from time to time.

## **7. Board Financials and Budgets**

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### **Financials**

- 7.1. The Board shall follow all City procurement policies when purchasing goods or services. Should a question arise, the City's Treasurer shall be consulted.
- 7.2. The Board shall not:
- a. spend any money unless it is included in the overall budget approved by the municipality or in a reserve fund;
  - b. incur any indebtedness extending beyond the current year without the prior approval of Council; or

- c. borrow money including bank account overdrafts, credit cards, lines of credit, private loans from members of the public or businesses, or loans from Board Directors or any other person, business, group, or organization.
- 7.3. All new bank accounts, investment accounts (GICs, brokerage accounts, mutual funds, and any other type of investment account), and any other accounts involving money (paypal, gofundme, or similar) must be approved by the Board prior to being opened.

### **Budgets**

- 7.4. The fiscal year of the Board shall be January 1st to December 31st.
- 7.5. The annual budget of the Board shall be presented to the Members for consideration at a public meeting prior to being approved by the Board.
- 7.6. Upon approval by the Board, the budget shall be submitted for Council consideration and approval during the City's budget process.

### **Audited Financial Statements**

- 7.7. The Board shall use the auditor appointed by the City. All books, documents, transactions, minutes and accounts of the River District shall at all times be open to the auditor's inspection.
- 7.8. The Board shall submit its audited financial statement for the preceding year for City Council's approval by the date and in the form required by the City Treasurer. This includes all books, documents, transactions, minutes, and accounts of the River District.

### **Reserve Fund**

- 7.9. The Board may provide in its budget for the establishment and maintenance of a reserve fund for any purpose for which it has authority to spend money in accordance with subsection 417(1) of the Act.
- 7.10. The establishment of a reserve fund shall be done so with the assistance and consultation of the City Treasurer to ensure compliance with financial reporting requirements.

### **River District Levy**

- 7.11. The City shall annually set the amount required for the purpose of the River District, which amount shall be managed by the Board. This amount includes any interest payable by the City on money borrowed by it or for the purposes of the Board in accordance with section 208 of the Act.
- 7.12. The City shall establish a special charge by levy on rateable property within the River District in accordance with section 208 of the Act.

- 7.13. Council each year shall levy the special charge upon rateable property within the River District boundary that is in a prescribed business property class as defined in the *Assessment Act, R.S.O. 1990*.
- 7.14. Payment of the special charges or rates levied in accordance with section 208 of the Act shall be the responsibility of the assessed property owner(s).
- 7.15. It shall be the responsibility of the assessed property owner(s) to apportion and collect the share of the taxes or special charges from each tenant that may be required to reimburse the owner.

## **8. Committees of the Board**

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### **Committee Criteria**

- 8.1. The Board may establish committees to assist in carrying out the objectives of the River District or to provide recommendations to the Board. In order to establish a committee, at least three (3) of the following criteria must be met:
  - a. the subject matter is of significant importance to the Board;
  - b. the mandate will align with the River District Action Plan or other plans or guiding documents;
  - c. the establishment of the committee would significantly help to streamline discussion and decision-making;
  - d. the committee would handle tasks or work that staff do not perform; or
  - e. the committee would require citizen voice(s) or external stakeholder expertise to develop the subject matter.
- 8.2. The Board shall establish all committees by resolution which shall include the mandate and reporting structure of the committee.
- 8.3. Committees of the Board shall:
  - a. include no more than four (4) Directors;
  - b. be chaired by a Director; and
  - c. choose a secretary from amongst the committee members if minutes are to be taken.
- 8.4. Committees of the Board shall not:
  - a. commit Board funds to any project;
  - b. direct City staff to undertake any activities; and
  - c. act on behalf of the Board.
- 8.5. Committee members selected by the Board need not be Members but shall be individuals committed to the advancement of the purposes of the River District.

- 8.6. The Chair of a committee shall present progress reports and make recommendations to the Board on all projects undertaken by the committee.
- 8.7. Committee(s) of the Board are at the discretion of the Board and can be restructured at any time.

## **9. Members**

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### **Member Rights**

- 9.1. Every Member is entitled to:
  - a. attend any Board meeting that is open to the public;
  - b. provide comments on the River District budget annually; and
  - c. vote for Directors for each new term.

### **Notice**

- 9.2. Where Members' are required to receive notice under the Act, notice will be provided in accordance with the Act.

## **10. City Staff Support**

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### **Operating Agreement**

- 10.1. The administration of the Board shall be undertaken by City staff in accordance with the River District Operating Agreement in effect from time to time.

### **Direction to Staff**

- 10.2. Direction to staff will be provided by resolution of the Board and the staff contacts for the Board shall be the Staff Liaison and the Administrator.

### **Staff Liaison Duties**

- 10.3. The Staff Liaison is a resource to the Board and their duties shall include:
  - a. providing guidance and advice on matters before the Board;
  - b. remaining impartial during discussions of Board matters;
  - c. ensuring necessary reports are prepared for the Board's consideration;
  - d. acting as a resource to the Board on matters pertaining to City operations to ensure River District practices are aligned with those of the City;
  - e. acting as a liaison between the Board and City staff where opportunities for additional support and collaboration are identified; and

- f. providing updates to the Board regarding City special events, economic development and possible opportunities for partnership on projects.

### **Administration Duties**

- 10.4. The Administrator is a resource to the Board and their duties shall include:
  - a. providing all required notices in accordance with the City's Procedural By-law and the Act;
  - b. maintaining records of the Board in accordance with the City's records management by-laws and policies;
  - c. providing notice to the City Clerk of any Board vacancies;
  - d. taking minutes of each Board meeting in accordance with the City's Procedural By-law;
  - e. Act as a resource to the Board on matters pertaining to City by-laws, policies and procedures to ensure River District practices are aligned with those of the City; and
  - f. providing the Board meeting schedule to the City Clerk to include on the City meeting calendar.

## **11. Regulatory Matters**

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### **Closed Meeting Investigator**

- 11.1. In accordance with s. 239.1 of the Act, unless the Board has appointed an investigator referred to in s. 239.2(1), the Board's closed meeting investigator shall be the Ontario Ombudsman.
- 11.2. All Directors and City staff shall participate in closed meeting investigations in accordance with the Act.

### **Integrity Commissioner**

- 11.3. Unless the Board has appointed an Integrity Commissioner, the Board's Integrity Commissioner shall be the Integrity Commissioner appointed by the City.
- 11.4. Directors of the Board may contact the Integrity Commissioner at no cost to the Director, for the following services:
  - a. to receive advice under the Code of Conduct;
  - b. to request advice regarding the Director's obligations and responsibilities under the *Municipal Conflict of Interest Act*, or
  - c. to submit a complaint under the Code of Conduct.
- 11.5. All Directors and City staff shall participate in integrity commissioner inquiries in accordance with the Act.



## **Freedom of Information**

- 11.6. Under subsection 2(3) of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), as amended, records relating to the business of the Board can be accessible to the public upon request.
- 11.7. Any formal requests for Board records made under MFIPPA shall be processed through the City Clerk's office.

## **12. Consistency with Legislation**

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- 12.1. Nothing contained in this Constitution shall require the commission of any act which is contrary to the Act.
- 12.2. Where reference is made in this Constitution to legislation (municipal, provincial and federal) it shall be meant to include all amendments made to that legislation from time to time or the introduction of new legislation.
- 12.3. If there is any conflict between any provisions contained in this Constitution and any provision of the Act and other legislation the latter shall prevail, and the provisions herein affected shall be modified to the extent necessary to remove such conflict, and as so modified this Constitution shall remain in full force and effect.

### 13. Schedule "A" - River District Boundary Map

The below map of the River District boundaries was originally established by City By-law No. 1973-5.

