

THE CORPORATION OF THE MUNICIPALITY OF TEMAGAMI

BY-LAW NO. 07-728

Being a By-law to designate a Site Plan Control Area for The Municipality of Temagami.

WHEREAS the Municipality of Temagami has deemed it desirable to promote development that limits impacts on adjacent uses, and to create attractive development;

AND WHEREAS the Planning Act Section 41 (2) states, Where in an official plan an area is shown or described as a proposed site plan control area, the council of the local municipality in which the proposed area is situated may, by by-law, designate the whole or any part of such area as a site plan control area;

AND WHEREAS the Planning Act Section 41 (3) states, A by-law passed under subsection (2) may designate a site plan control area by reference to one or more land use designations contained in a by-law passed under section 34.

AND WHEREAS The Official Plan Section 9.11 states, The entire area covered by this Plan is hereby designated as a proposed site plan control area;

AND WHEREAS the Municipality passed Zoning By-law 06-650 under Section 34 of the Planning Act on February 23, 2006.

NOW THEREFORE the Corporation of the Municipality of Temagami hereby enacts as follows:

That By-law 07-697 is hereby repealed.

1. Definitions:

- 1.1. **Development** - For the purpose of this By-law “development” shall have the same meaning as set out in Section 41(1) of the Planning act, R.S.O. 1990, c.P. 13 as follows:

“development” means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined in subsection 164 (4) of the Municipal Act, 2001 or subsection 3 (1) of the City of Toronto Act, 2006, as the case may be, or of sites for the location of three or more mobile homes as defined in subsection 46 (1) of the Planning Act or of sites for the construction, erection or location of three or more land lease community homes as defined in subsection 46 (1) of the Planning Act. R.S.O. 1990, c. P.13, s. 41 (1); 1994, c. 4, s. 14; 2002, c. 17, Sched. B, s. 14 (1); 2006, c. 32, Sched. C, s. 47 (8).

- 1.2. **Buildings or Structures** – for the purpose of this By-law “buildings or structures” shall have the same meaning as set out in the Building Code Act 2006 Section 1.-(1) as follows:

“building” means,

- (a) a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto*

- (b) a structure occupying an area of ten square metres or less that contains plumbing, including the plumbing appurtenant thereto,
- (c) plumbing not located in a structure,
- (c.1) a sewage system; or
- (d) structures designated in the building code;

1.3 **Sewage System** – For the purpose of this By-law “sewage system” shall have the same meaning as set out in Building Code 2006 Section 1.4.1.2. as follows:

Sewage system means,

- (a) a chemical toilet, an incinerating toilet, a recirculating toilet, a self-contained portable toilet and all forms of privy including a portable privy, an earth pit privy, a privy vault and a composting toilet system,
- (b) a greywater system,
- (c) a cesspool,
- (d) a leaching bed system, or
- (e) a system that requires or uses a holding tank for the retention of hauled sewage at the site where it is produced before its collection by a hauled sewage system,

Where these,

- (f) have a design capacity of 10,000 litres per day or less,
- (g) have, in total, a design capacity of 10,000 litres per day or less, where more than one of these are located on a lot or parcel of land, and
- (h) are located wholly within the boundaries of the lot or parcel of land on which is located the building or buildings they serve.

- 1.4. For the purpose of this By-law an “alteration or addition that would substantially change the size or usability thereof” shall be defined as: *an alteration or addition occupying an area greater than ten square metres.*
2. All lands and all development within the corporate limits of the Municipality of Temagami (the “municipality”) are hereby designated as a Site Plan Control Area.
 3. Notwithstanding paragraph 2 above, the following classes of development shall be exempted from site plan control:
 - (a) Any temporary building or structure as defined in the Zoning By-law,
 - (b) Wayside pits,
 - (c) Low density residential (RL) development containing less than three dwelling units except for dwelling units and accessory structures in the Lake Temagami, Marten River, Matabitchuan and Backcountry Neighbourhoods and rural and remote residential development in the Urban Neighbourhood,
 - (d) Any building or structure on land owned or leased by the Municipality,
 - (e) All Residential Mobile Home (RMH) land in the Temagami North Trailer Park.
 4. Notwithstanding Paragraph 2 above, no development may be undertaken without the approval of plans and drawings required under subsection (4) or (5) of Section 41 of the Planning Act, R.S.O. 1990, c.P.13 where:
 - (a) Site plan control is imposed as a condition of rezoning by Council,
 - (b) Site plan control is imposed as a condition of approval by the Committee of Adjustment.
 5. Notwithstanding Paragraph 2 above, the following forms of development will not require a Site Plan Control Agreement:
 - (a) A building or structure that is less than 10 sq. m. without plumbing, unless it is within the 15m Shoreline Activity Area (SAA).
 - (b) Any structure that is less than 5.4 cu.m. in the Shoreline Activity Area (SAA).
 - (c) Installation of a new or replacement of an existing Privy, greywater system, or cesspool, unless it is within the 15m Shoreline Activity Area (SAA).
 6. The Planning Co-ordinator of the Municipality of Temagami or his or her designate(s) is

hereby delegated to exercise Council's powers and authority under Section 41 of the Planning Act, to approve plans and drawings, to impose conditions and to require site plan control agreements, where appropriate, for:

- (a) Waterfront properties
 - (b) All residential zones (except RL in which the development consists of fewer than three units)
 - (c) Contractors' yards
 - (d) Home industries
 - (e) Sleep cabins
 - (f) Minor Revisions to any approved site plan or site plan agreement, which do not involve additional building area or other new works on the site.
7. Notwithstanding the above, the Planning Co-ordinator at his or her discretion, may refer site plan control applications to Council.
8. If the Planning Co-ordinator and/or designate(s) does not execute a regular site plan control agreement within ten (10) days of receipt of a "complete application," the site plan control agreement may be referred to Council at its next regular meeting.
9. The Committee of Adjustment is hereby delegated the committee of Council to exercise Council's powers and authority under Section 41 of the Planning Act, to approve plans and drawings, to impose conditions, and to require site plan control agreements for minor variances and for new lots created through consent.
10. Council will retain the powers and authority under Section 41 of the Planning Act, with the assistance of the Planning Advisory Committee, to approve plans and drawings, to impose conditions and to require site plan control agreements for all other designated lands including but not limited to:
- (a) Lake access points
 - (b) Lands designated for aggregate operations,
 - (c) Development that will substantially alter the use or size of structures, or change the use of the subject lands,
 - (d) All lands designated as commercial or industrial
 - (e) Any development in the SMA surrounding Lake Temagami
 - (f) Parks (P) and Open Spaces (OS) Zones
 - (g) Private development on Crown Land tenure in the IMA and SMA zones
 - (h) Development on non-conforming and non-complying lots
11. After approval of an application by the Planning Co-ordinator or Council, the Mayor and Clerk are hereby authorized to sign any site plan agreement and any documents which may be required to implement the conditions of approval.
12. All site plan agreements shall be registered on title and shall be subject to fees as described in the Tariff of Fee Schedule for Planning Related Matters.
13. As stated in section 67 of the Planning Act, **R.S.O. 1990, c.P.13**

Penalty

67. (1) Every person who contravenes section 41, section 46, subsection 49 (4) or section 52 or who contravenes a by-law passed under section 34 or 38 or an order made under section 47 and, if the person is a corporation, every director or officer of the corporation who knowingly concurs in the contravention, is guilty of an offence and on conviction is liable,

- (a) *on a first conviction to a fine of not more than \$25,000; and*
- (b) *on a subsequent conviction to a fine of not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which the person was first convicted. 1994, c. 2, s. 48.*

Corporation

(2) Where a corporation is convicted under subsection (1), the maximum penalty that may be imposed is,

- (a) on a first conviction a fine of not more than \$50,000; and*
- (b) on a subsequent conviction a fine of not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted,*

and not as provided in subsection (1).

Order of prohibition

(3) Where a conviction is entered under subsection (1), in addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted. R.S.O. 1990, c. P.13, s. 67 (2, 3).

Proceeds of Fines

67.1 *If an offence has been committed under section 41, 52 or 67 or under a by-law passed under section 34 or 38, and a proceeding in respect of the offence is undertaken by the municipality or planning board and a conviction has been entered, the proceeds of any fine in relation to the offence shall be paid to the treasurer of the municipality or secretary-treasurer of the planning board and section 2 of the Administration of Justice Act and section 4 of the Fines and Forfeitures Act do not apply in respect of the fine. 1996, c. 4, s. 34; 1997, c. 24, s. 226 (8).*

READ A FIRST TIME ON THE 12TH DAY OF JULY, 2007.

READ A THIRD TIME AND FINALLY PASSED ON THIS ____ DAY OF _____ 2007

Ike Laba, Mayor

Brian Koski, CAO/Clerk