

**The Corporation of the Municipality of Temagami**  
**By-law No. 11-1020**

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Being a By-law to repeal and replace By-law 03-542, a by-law to govern the proceedings of the Committee of Adjustment for the Municipality of Temagami.

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WHEREAS By-law 03-542, being a by-law to govern the proceedings of the Committee of Adjustment for the Municipality of Temagami, was passed on the 19<sup>th</sup> day of February, 2003 in accordance with Sections 44 and 45 of the Planning Act R.S.O., Chapter 13, as amended;

AND WHEREAS said By-law has been reviewed and the Council of the Corporation of the Municipality of Temagami deems it necessary to replace said By-law;

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

1. That By-law No. 03-542, being a By-law to appoint a Committee of Adjustment is hereby repealed.
2. That a Committee of Adjustment be hereby established in accordance with Sections 44 and Section 45 of the Ontario Planning Act, as amended.
3. That the Council of the Corporation of the Municipality of Temagami hereby delegates to the Committee of Adjustment the power to approve minor variances to the Municipal Zoning By-law pursuant to Section 44 and to grant consents for land severances within the Municipality of Temagami, pursuant to Section 54 of the Planning Act R.S.O. Chapter 13.
4. That the Committee of Adjustment shall consist of no fewer than three (3) and a maximum of nine (9) members plus the Mayor (ex-officio), to be made up of members of Council and appointed members outside of Council as follows:
  - a) Representatives from Council - one Councillor;
  - b) Each member of the Committee of Adjustment shall be a qualified elector and continue to be so qualified during the term of his or her appointment, or he or she shall be deemed to have resigned.
  - c) Pursuant to subsection 44(7) of the Planning Act, the Chairperson for the Committee of Adjustment shall be elected by the Committee and confirmed by a Committee of Adjustment Resolution.

5. That each member of the Committee, who is not a member of Council, shall hold office for the term of the Council that appointed them (Section 44 (3) Planning Act)
6. The member of the Committee who is a member of the Municipal Council shall be appointed annually (Section 44(3) Planning Act).
7. Members of the Committee shall hold office until their successors are appointed, and are eligible for reappointment (Section 44(4) Planning Act).
8. When the Committee of Adjustment has received a letter of resignation from a member, the vacancy on the committee shall be filled as follows:
  - a) A notice will be placed in the local papers of general circulation, in local flyers where applicable, and on the Planning web site;
  - b) Prospective members shall submit a letter of interest to the Committee of Adjustment;
  - c) The Committee of Adjustment shall consider the applications and recommend by resolution first, second and third choices;
  - d) The Council of the Corporation of the Municipality of Temagami shall make the final decision and appoint a person to fill the vacancy.
9. In accordance with Section 8(3) of the Planning Act R.S.O. 1990, Chapter 13, the members of the committee shall be paid such compensation, including honorariums and travel in respect to Committee of Adjustment meetings, as the Council may provide. These are set out in Schedule "A" of this by-law, which may be amended by Council from time to time.
10. The Committee of Adjustment members shall be paid travel expenses as per the current Municipal Travel Expenses Policy By-law for site visits within the Municipality and for out-of town travel to training workshops, conferences, etc.
11. The Committee shall appoint a Secretary-Treasurer, who shall be a member of municipal staff, generally the Municipal Planner, and consultants may be hired through the Planning Department as required, within the limits of the money budgeted for the purpose.
12. The Secretary-Treasurer shall keep on file minutes and records of all applications and the decisions thereon and of all official business of the Committee, and Section 253 of the Municipal Act, regarding inspection of records, applies with necessary modification of such documents. (Section 44(10) Planning Act)

## **COMMITTEE MEETINGS**

13. Committee of Adjustment meetings shall be held at the call of the Chair, as needed, with sufficient notice as required by the Planning Act and accompanying regulations.
14. The Secretary-Treasurer shall provide notice of all Committee of Adjustment meetings to the members of the Committee and shall also post notice at the Welcome Centre and on the municipal website.
15. The Chairperson shall preside at all meetings of the Committee of Adjustment.
16. In the event that the Chairperson is not present, the members may appoint another presiding officer from amongst themselves for the purpose of chairing a particular meeting.
17. The Chairperson or presiding officer may expel, from a meeting, anyone who engages in improper conduct, as per the Municipal Procedural By-law.
18. The Committee of Adjustment meetings shall be open to the public.
19. No decision of the committee on an application is valid unless it is concurred with by the majority of the members of the committee that heard the application, and the decision of the committee, whether granting, refusing, or deferring an application, shall be in writing and shall set out the reasons for the decision, and shall be signed by the members who concur with the decision.

## **AGENDAS AND SUPPORTING MATERIAL**

20. The Secretary-Treasurer shall prepare agendas for the Committee of Adjustment meetings as assigned.
21. Insofar as is practicable, Committee of Adjustment agendas shall be prepared and made available to members in electronic and paper form a minimum of 3 days prior to the meeting.
22. Agendas shall be generally formatted as follows but modifications to the matters to be included or the order of business may be effected without requiring amendment to this By-law.
  - i) Call to Order
  - ii) Adoption of the Agenda
  - iii) Reading of the Committee of Adjustment procedures

- iv) Declaration of Pecuniary Interest and Conflict of Interest
- v) Minutes of Previous Meetings
- vi) Applications to be heard
- vii) Other Business
- vii) Adjournment

23. The hearing procedure is set out in Schedule C to this by-law.

24. The business of the Committee of Adjustment shall be taken up in the order on the agenda unless otherwise decided by a majority vote of committee members present.

25. The Municipal staff member will complete a planning report consisting of the following information;

- i) Property Description
- ii) Proposed Development
- iii) Official Plan Policies
- iv) Zoning By-law
- v) Potential Impacts
- vi) Conclusions
- vii) Recommendations
- viii) Schedule "A" (to be a property diagram, and/or map(s), photo(s), etc. if available)

26. The planning report shall be distributed to the Committee members at least one (1) week prior to the Committee of Adjustment meeting

## **QUORUM**

27. Where the Committee is composed of three (3) members, two members constitute a quorum, and where a Committee is composed of more than three members, three members constitute a quorum (Section 44(5)).

28. If no quorum (see No. 35 of this By-law) is present one half hour after the time appointed for the Committee of Adjustment meeting, the Secretary-Treasurer shall record the names of the members present and the meeting shall stand adjourned until rescheduled.

## **GENERAL**

29. The duties of the Chairperson shall be as set out in the Municipal Procedural By-law.

30. The conduct of the members of the Committee of Adjustment shall be pursuant to the Municipal Procedural By-law and all members shall follow the Municipality of Temagami Code of Conduct attached herein as Schedule B.

31. In all matters and under all circumstances the members shall be guided by and shall have regard to the Municipal Conflict of Interest Act.

32. Any member who declares Conflict of Interest shall leave the hearing room while the matter in which he/she declares conflict of interest is discussed.

33. Following appointments of new Committee members, the Secretary-Treasurer shall provide each member a copy of this by-law, including any amendments thereto.

34. If any member of the Committee of Adjustment misses three (3) consecutive regularly scheduled meetings or has an attendance record of less than sixty (60%) percent on an annual basis, the chairperson must report such attendance failure immediately to Council. At this time a replacement may be made after consideration of the relevant facts.

35. This By-law shall take effect on the final passing thereof.

READ a first time this 11<sup>th</sup> day of August, 2011.

READ a second and third time and finally passed this 11<sup>th</sup> day of August, 2011.

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Mayor

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Clerk

## **SCHEDULE “A”**

### Compensation for the Committee of Adjustment (COA)

1. Remuneration of \$1.00 per meeting for all regular and special meetings shall be paid to Committee of Adjustment members attending the meeting.
2. Remuneration shall not be made to Council members attending COA meetings.
3. No remuneration shall be paid to absentees.
4. Committee members may claim mileage as per the current travel expense policy by-law of the Municipality of Temagami for travel to and from COA meetings.
5. Where a PAC meeting is held on the same day as a COA meeting and the same person serves on both committees, compensation for travel shall only be paid in respect to one meeting.
6. Members shall travel together whenever possible. When members travel together, only one claim for mileage shall be submitted by the person whose vehicle is used for travel.

## **SCHEDULE B**

### **Municipality of Temagami Code of Conduct For Elected Officials and Council Appointed Board Members**

1. Members shall attend and actively participate in all meetings
2. Members shall not interfere with the operational decisions and responsibilities of the day to day operation of the Municipal work force.
3. Members are encouraged to undergo any training that may be provided for them through the Ministry of Municipal Affairs and Housing
4. Members shall keep confidential any information disclosed or discussed at a meeting that was closed to the public.
5. No member other than the Mayor shall purport to speak on behalf of Council unless he or she is authorised by the Council to do so.
6. A Member who expresses disagreement with a decision of the Council shall make it clear that he or she is expressing a personal opinion.
7. Members shall discharge their duties loyally, faithfully, impartially and according to the Municipal act or any regulation, rule or by-law.
8. Members shall uphold the letter and spirit of the Code of conduct set out herein and shall discharge their duties in a manner that will inspire public confidence in the abilities and integrity of the Council
9. Members shall discharge their duties in a manner that respects the dignity of individual and in accordance with the Human Rights Code and the Charter of Rights and Freedoms (Canada).
10. Members shall not use their office to advance their interests or the interests of any person or organisation with whom or with which they are associated.
11. Members shall notwithstanding the right to debate; refrain from engaging in conduct that would discredit or compromise the integrity of the Council.
12. If the Council determines that a member has breached the Code of Conduct set out herein, the Council shall record that determination in its minutes and may,
  - a) Require the Member to appear before Council and be reprimanded
  - b) Request that the Ministry of Municipal Affairs and Housing conduct an investigation into the Member's conduct.

## **SCHEDULE C**

### **HEARING PROCEDURE**

The procedure for reading an application shall be as follows;

1. The Chairperson shall read the application to be heard.
2. The Secretary-Treasurer shall read any correspondence that has been received relating to this application.
3. The Chairperson will ask the applicant or the agent on behalf of the applicant if they would like to speak. It is expected that the applicant generally provide a brief outline of their request/proposal. This should be kept to 10 minutes or less.
4. All interested parties are then allowed to express their objections, concerns, or comments. This should be limited to 10 minutes a person. Written correspondence can be submitted to the Secretary-Treasurer at the Municipal Office anytime prior to the meeting.
5. The applicant is then allowed to respond to concerns raised by the public. Responses should be kept to 10 minutes or less.
6. The Chairperson asks the Committee members if they have any questions to direct at the applicant.
7. The applicant is given the opportunity to respond to the Committee.
8. The Chairman then asks for a motion from the Committee, and the application is either approved or denied, or may be deferred depending on the circumstances.
9. The Chairperson will then read aloud the decision of the Committee.

**NOTE: No member of the Committee of Adjustment shall be permitted to take their seat and participate in the hearing of an application once the hearing for that application has commenced.**