

THE CORPORATION OF THE MUNICIPALITY OF TEMAGAMI

BY-LAW NO. 21-1559

A By-law to amend the Municipality of Temagami By-law No. 06-650 as amended to include updated regulations regarding home industries and home occupations

WHEREAS the Council of the Corporation of the Municipality of Temagami is empowered to pass By-laws to regulate the use of land pursuant to Section 34 of the Planning Act, R.S.O. 1990, c.P.13; and,

AND WHEREAS, the Council of the Corporation of the Municipality of Temagami passed By-law No. 21-1558 adopting a Official Plan for the Municipality of Temagami regarding home industries and home occupations; and,

AND WHEREAS, a public meeting was held in accordance with the provisions of Section 34(12) of the *Planning Act*, R.S.O. 1990; and

AND WHEREAS, in accordance with Section 34 (17) of the *Planning Act*, R.S.O. 1990, changes have been made to the By-law following the public meeting and Council has determined that no further notice is required to be given; and

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

1. That the Zoning By-law No. 06-650 be amended in accordance with Appendix 1 to this By-law.

This By-law will take effect on the date of its passage, subject to the provisions of Section 34(30) and (31) of the Planning Act, R.S.O. 1990, c.P.13.

READ A FIRST AND SECOND TIME on the 15th day of April, 2021.

READ A THIRD TIME and finally passed this 15th day of April, 2021.

Dan O'Mara, Mayor

Suzie Fournier, Municipal Clerk

THE CORPORATION OF THE MUNICIPALITY OF TEMAGAMI

BY-LAW NO. 06-650 AS AMENDED

CONSOLIDATED OFFICE VERSION, as amended by By-laws 06-675, 07-722, 07-745, 07-694, 07-695, 08-813, 08-823, 08-768, 08-785, 09-828, 09-834, 09-860, 11-1037, 11-1038, 11-1040, 12-1053, 12-1093, 13-1105, 13-1106, 13-1121, 13-1127, 13-1146, 14-1177, 15-1236, 15-1240, 15-1254, 15-1258, 15-1537, 16-1280 and OMB decisions contained in OMB File PL080067 and OMB File PL131380.

Being a By-law to regulate the use of land and the character, location and use of buildings and structures in the Municipality of Temagami.

WHEREAS it is considered desirable to regulate the use of land, the character, location and use of buildings and structures within the Municipality of Temagami;

AND WHEREAS authority is granted under Section 34.1 of the Planning Act R.S.O. to the Council of the Municipality of Temagami to exercise such powers subject to appeals to the Ontario Municipal Board;

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

SECTION 1

This By-law shall be known as the "Zoning By-law for the Municipality of Temagami".

SECTION 2 - DEFINED AREA

This By-law applies to all land within the boundaries of the Municipality of Temagami, hereafter known as the "Municipality", and to the adjoining shores of various lakes and rivers including land covered by water wherever there is or may be erected any jetty, dock, boathouse, pier or other building or structure.

SECTION 3 - INTERPRETATION

3.01 GENERAL

In their interpretation and application, the provisions of this By-law shall be held to be the minimum requirement adopted for the promotion of the public health, safety, convenience or general welfare. Whenever the requirements of this By-law are at variance with the requirements of any other By-law, the more restrictive, or the By-law imposing the higher standards, shall govern and apply. Nothing in this By-law shall be construed to exempt any person from complying with the requirements of any other By-law of the Municipality or from any law of the Province of Ontario or of Canada.

SECTION 5 - DEFINITIONS

In this By-law, unless the context otherwise requires:

ACCESS ROAD shall mean a temporary road constructed on Crown land to facilitate the extraction of natural resources.

ACCESSORY APARTMENT shall mean a second dwelling unit in a single detached dwelling for use as a complete, independent living facility with provision within the accessory apartment for cooking, eating, sanitation, and sleeping. Such dwelling is an accessory use to the main dwelling.

ACCESSORY BUILDING shall mean a detached building located on the same lot as the main building, the use of which is incidental or secondary to that of the main building and which is not used for human habitation, and includes a detached garage, a boathouse or a sleep cabin on a residential lot. (By-law 07-745)

ACCESSORY USE shall mean a use that is normally incidental, subordinate and exclusively devoted to a principle use located on the same lot.

ALTER shall mean any alteration in a bearing wall or partition, column, beam, girder or other supporting member of a building or structure or any alteration in the area or volume of a building or structure.

‘**APARTMENT BUILDING** shall mean a building containing four (4) or more dwelling units which units have a common entrance from the street level and common halls and/or stairs, elevators and yards.’ (By-law 13-1121)

AUTO BODY REPAIR SHOP shall mean an industrial establishment for the repair of damage to a motor vehicle caused by collision, accident, corrosion or age, and, without limiting the generality of the foregoing, includes the reconstruction of motor vehicles, the painting or repainting of motor vehicles and the rebuilding or conversion of automotive engines or engine parts. (By-law 13-1121)

AUTOMOBILE SERVICE STATION shall mean a building or place where petroleum products and new supplies, parts and accessories are kept for sale to service motor vehicles, snowmobiles, and machinery and where minor and/or emergency repairs are performed to motor vehicles, snowmobiles and machinery but no other activities of an auto body repair shop or a motor vehicle repair shop are conducted.

BASEMENT shall mean that portion of a building which is partly underground but which has more than one-half of its height, from finished floor to underside of floor joists of the next above storey, above the adjacent average finished grade level adjacent to the exterior walls of the building and in which the height from finished grade to underside of the floor joists of the next above storey is less than one and eight-tenths (1.8) metres. (See plate #6).

BASEMENT, WALKOUT shall mean that portion of a building which is partly underground, but which has more than fifty per cent (50%) of the floor area not greater than one (1.0) metre below grade, and which has an entrance and exit at grade level. This definition shall only apply in an area where the natural terrain permits construction of a walkout basement. (See plate #7).

BED AND BREAKFAST ESTABLISHMENT shall mean a single detached dwelling unit or portion thereof, in which the proprietor resides and supplies for hire or gain to other persons, particularly tourists, on a temporary or day to day basis, lodging with or without meals, but shall not include a boarding house, hotel, motel, tourist cabin establishment, sleep cabin or restaurant accommodating the general public. Such an establishment shall be licensed by the Municipality and shall provide for no more than two (2) guest rooms, with no facilities for cooking, used or maintained for the

CLUB shall mean an association of persons, whether incorporated or not, united by some common interest, meeting periodically for co-operation or conviviality. Club shall also mean, where the context requires, premises owned or occupied by members of such associations within which the activities of the club are conducted.

COMMERCIAL shall mean the use of land, a building or structure for the purpose of buying or selling commodities and supplying of services as distinguished from such uses as manufacturing or assembling of goods, warehousing, construction and other similar uses.

COMMUNITY CENTRE shall mean any tract of land, or building or buildings or any part of any buildings used for community activities whether used for commercial purposes or not, and the control of which is vested in the Municipality, a local board or agent thereof except that in the case of a Community Centre located within a Mobile Home Park, the control of such use may be vested in the owner of the Mobile Home Park.

CONTRACTOR'S YARD shall mean a yard of any general contractor or builder where tools, equipment and in-transit materials are stored outdoors on a temporary basis. A contractor's yard does not include any other yard or establishment otherwise defined or classified herein. A contractor's yard does not include a home industry. (By-law 13-1121) For rural or remote residential lots, an accessory contractor's yard shall mean land used for the storage of tools and equipment and the temporary storage of surplus or in-transit building materials.

COUNCIL shall mean the Council of the Municipality of Temagami.

COVERAGE shall mean the percentage of lot area covered by all buildings.

DAYLIGHTING TRIANGLE shall mean an area free of buildings or structures, which area is to be determined by measuring from the point of intersection of street lines on a corner lot, the distance required by this By-law along each such street line and joining such points with a straight line. The triangular shaped land between the intersecting street lines and the straight line joining the points the required distance along the street lines is the "daylighting triangle".

DAY NURSERY shall mean an establishment providing care and maintenance of children separated from their parents or guardian during the part of the day between 6 a.m. and 7 p.m. except an elementary school having at least four grades.

DENSITY shall mean the maximum number of dwelling units allowed by this By-law on a lot.

DEVELOPMENT shall mean the creation of a new lot, a change in land use or the construction of buildings and structures, requiring the approval under the Planning Act or the Public Lands Act; but does not include activities that create or maintain infrastructure authorised under an environmental assessment process; or works subject to the Drainage Act.

DRY INDUSTRY shall mean an industry which by nature of its operation, process, or fabrication of raw materials or service rendered does not require a water supply other than that available from within the limits of the lot upon which the use is located, does not discharge effluent from the limits of the lot upon which the use is located and from which the only sewage effluent to be disposed of within the limits of the said lot will be that produced from normal sanitary and eating facilities required for the employees.

DWELLING, CONVERTED shall mean a single detached dwelling unit altered to contain more than one but less than 4 self contained dwelling units.

DWELLING, DUPLEX shall mean a building of two or more storeys that is divided horizontally into two dwelling units each of which has an independent entrance either directly or through a common vestibule.

HEREIN shall mean anywhere in this By-law

HOME INDUSTRY shall mean a gainful occupation, secondary to a residential use, including fabrication, light manufacturing, processing, assembly or repair of goods, that is conducted in or part of an enclosed accessory building to a single detached dwelling, and/or in part of single detached dwelling. A home industry may include, but is not limited to, such uses as an electrical, woodworking, carpentry, window framing, welding, plumbing, machine or small engine repair shop, or a live bait supplier. A Home Industry is conducted entirely in an accessory building or part of an accessory building on a Rural Residential or Remote Residential lot by the residents. A home industry does not include a contractor's yard. (By-law 13-1121)

HOME OCCUPATION shall mean any gainful occupation which is conducted within the dwelling unit, or within an enclosed accessory building by the resident(s) of the dwelling, and such home occupation that is clearly secondary to the main residential use, does not change the residential character of the dwelling and as further defined in this Zoning By-law. A home occupation may include, but is not limited to, such uses as a service or repair shop, artisan shop, a personal service shop, tradesperson, the office of a doctor, dentist, lawyer, or a real estate agent, insurance agent, planner, architect, or engineer, professional offices, indoor teaching/tutoring/instruction, but a clinic, a hospital, a nursing home, a tea room and an animal hospital shall not be deemed to be home occupations.

HOSPITAL shall mean any institution, building or other premises or place established for the maintenance, observation, medical and dental care and supervision and skilled nursing care of persons afflicted with or suffering from sickness, disease or injury or for the convalescent or chronically ill persons.

HOTEL shall mean a building or part of a building or a group of buildings used primarily for the purpose of providing overnight guest room accommodation to the travelling public, with or without accessory restaurants, dining rooms or refreshment rooms, and includes any establishment containing guest rooms which is defined as a "hotel" in the Hotel Registration of Guests Act, R.S.O. 1990, Chapter H.17. The owner or caretaker may live in the hotel accessory to the use'. (By-law 13-1121)*

HUNT CAMP shall mean an area where one or more tents are used for sleeping accommodation, the preparation and serving of food and is intended for use as a base camp for hunting. The hunt camp is to be used on a temporary or seasonal basis and shall not be a commercial facility.

INDUSTRIAL USE shall mean the use of land, buildings or structures for the manufacturing, processing, fabricating, transporting, or assembly of raw materials or goods, warehousing or bulk storage of goods and related accessory uses.

INSTITUTIONAL USE shall mean the use of land, buildings or structures for a public or non-profit purpose and without limiting the generality of the foregoing, may include such uses as schools, places of worship, indoor recreation facilities, community centres, public hospitals and government buildings.

LANDSCAPING shall mean any combination of trees, shrubs, flowers, grass or other horticultural elements, together with decorative stonework, paving, screening or other architectural elements, all of which is designed to enhance the visual amenity of a property and/or to provide a screen to mitigate any objectionable adjacent land use but does not include parking areas, patios, walkways, driveways or ramps.

LANE shall mean a public thoroughfare that affords only a secondary means of access to abutting lots and which is not intended for general traffic circulation.

LAUNDROMAT shall mean a building or structure where the services of coin-operated laundry machines, using only water, detergents and additives are made available to the public for the purpose of laundry cleaning.

6.08 BUILDINGS TO BE MOVED

In all zones, no building, residential or otherwise normally requiring a building permit for construction shall be moved within the area covered by this By-law or shall be moved into the limits of the area covered by this By-law without a permit from the Building Inspector.

6.09 CHANGE OF USE

A use of a lot, building or structure which, under the provisions hereof, is not permissible within the zone in which such lot, building or structure is located, shall not be changed except to a use which is permissible within such zone.

6.10 COMMERCIAL MOTOR VEHICLE PARKING

In any residential zone, the temporary parking of one commercial motor vehicle shall be permitted provided that:

- a) the gross weight of the vehicle is not greater than 4,475 kg;
- b) the vehicle is operated by the owner or occupant of the dwelling unit on the lot;
- c) the vehicle is not parked in the front yard; and
- d) the vehicle is not stored on the lot.

6.11 CONTRACTOR'S YARD

A contractor's yard may be carried out in the R1, R2 and R3 Zones in accordance with the following and in accordance with the provisions of Section 7.4.3, Section 7.5.3 and Section 7.6.3.

- (a) in the case of a lot fronting on a public road, a contractor's yard shall be located in the rear yard;
- (b) in the case of a lot fronting on both a public road and a navigable body of water, a contractor's yard shall be located in the yard abutting the road;
- (c) in the case of a water access lot, a contractor's yard may be located in the front yard, subject to the provisions of this By-law, and must be located a minimum of 10 metres from the shore;
- (d) there is no external advertising other than a sign erected in accordance with any by-laws of the Municipality regulating signs;
- (e) a contractor's yard shall be used only for the outdoor storage of tools, equipment and in-transit building materials, except noxious or hazardous good or materials;
- (f) neither accessory buildings nor boathouses shall be used in conjunction with the contractor's yard;
- (g) an office associated with the contractor's yard may be located in the dwelling located on the same lot;
- (h) on a water access lot, a contractor's yard shall be screened by a solid vegetative buffer no less than ten (10.0) metres in width from the normal shoreline in order to buffer the contractor's yard from the viewing public and adjacent lots;
- (i) such contractor's yard is clearly secondary to the main residential use, does not change the residential character of the dwelling;

6.21 HEIGHT EXCEPTIONS

Notwithstanding the height provisions, nothing in this By-law shall apply to prevent the erection of a church spire, flag pole, belfry, clock tower, chimney, radio or television tower or antenna.

6.22 HOME INDUSTRY

A home industry may be carried out in the R1, R2 and R3 Zones in accordance with the following and in accordance with the provisions of Section 7.4.3, Section 7.5.3 and Section 7.6.3.

- (a) there is no external advertising other than a sign erected in accordance with any by-laws of the Municipality regulating signs;
- ~~(b) the external storage of goods, materials or equipment is not permitted;~~
- (b) such home industry is not an obnoxious use, trade, business or manufacture;
- (c) such home industry is clearly secondary to the main residential use, and does not change the residential character of the dwelling and lot ~~and in no case shall the accessory building used for the home industry have a gross floor area greater than forty percent (40%) of the ground floor area of the dwelling;~~
- (d) The maximum size of a home industry shall be in accordance with the following:
 - i. If located in a dwelling, the home industry shall occupy a maximum area of forty percent (40%) of the ground floor area of the dwelling.
 - ii. If located in an accessory building, the home industry shall not occupy an area greater than 140 square metres for a property not on a waterbody or more than 84 square metres for a property abutting a waterbody.
 - iii. If the home industry is conducted within both the dwelling and an accessory building, the maximum areas identified in subsections (i) and (ii) shall also apply.
- ~~(e) not more than two (2) persons, other than the owner of the dwelling shall be employed in a home industry on a full-time basis;~~
- (e) except in the case of island lots, for every person, other than the owner of the dwelling employed therein on a full-time basis, one parking space shall be provided but shall not be located in the front yard or flanking yard;
- (f) except in the case of island lots, one on-site parking space shall be provided for patrons of the home industry and such parking space shall not be provided in the front yard;
- (g) except in the case of island lots, an accessory building used for a home industry shall not be located in the front yard or flankage yard of the residential lot; and
- (h) notwithstanding any of the provisions of this By-law, an accessory building used for a home industry shall have a minimum setback from the property line of five (5.0) metres.
- (i) Where permitted on shoreline lots, any accessory building used for the home industry shall be setback a minimum of 15 metres from the shore.
- (j) Enclosed buildings may be used for the storage of goods or materials that are part of the home industry within the minimum setback from the shore. The storage of noxious or hazardous materials are not permitted within such building.
- ~~(k) An enclosed accessory building may only be used for the purpose of a home industry if the lot is a minimum of 0.4 hectares in size.~~

(k) A home industry is not permitted within a sleep cabin or a secondary dwelling unit.

6.23 HOME OCCUPATION

A hHome occupation may be carried out in certain zones, where permitted, subject to the following:

~~(a) no person, other than a resident of the dwelling unit and one non-resident employee may be employed in the home occupation, except in the R1, R2 and R3 Zones where two non-resident employees may be employed in the home occupation;~~

(a) there is no display, other than an un-illuminated sign not greater than one (1.0) square metre in size, to indicate to persons outside that any part of the dwelling unit or lot is being used for a purpose other than a dwelling unit, except in the, R1 and R2 Zones where no such sign is permitted;

(b) such home occupation is clearly secondary to the main residential use and does not change the residential character of the dwelling unit nor creates or becomes a public nuisance, particularity in regard to noise, noxious odours or emission of smoke, traffic or parking;

(c) such home occupation does not interfere with television or radio reception;

(d) there is no outside storage of goods or materials and there is no use of any part of an accessory building;

(e) not more than twenty five per cent (25%) of the gross floor area of the dwelling unit or forty six (46.0) square metres, whichever is the lesser, is used for the purposes of a home occupation;

~~(g) such home occupation uses may include a service or repair shop, a personal service shop, tradesperson, the office of a doctor, dentist, lawyer, or a real estate agent, insurance agent, planner, architect, or engineer, professional offices but a clinic, a hospital, a nursing home, a tea room and an animal hospital shall not be deemed to be home occupations;~~

(f) when retail sales are carried out as part of a home occupation located on a lot accessible by a municipally maintained road, one on-site parking space shall be provided in addition to any required for the dwelling unit and employees;

(g) (By-law 13-1121) except in the R1 and R2 Zones, one parking space shall be provided for each employee not residing in the residence.

(h) An enclosed accessory building may only be used for the purpose of a home occupation if the lot is a minimum of 0.4 hectares in lot area and the home occupation does not occupy more than 50 square metres of the enclosed accessory building.

(i) A maximum of five (5) parking spaces shall be permitted on mainland properties.

(j) Where permitted on shoreline lots, any enclosed accessory building used for the home occupation shall be setback a minimum of 15 metres from the shore.

6.24 LICENSES, PERMITS AND OTHER BY-LAWS

Nothing in this By-law shall exempt any person from complying with requirements of any other By-law in force within the Municipality or from obtaining any permit, license,