

THE CORPORATION OF THE MUNICIPALITY OF TEMAGAMI

BY-LAW NO. 25-1802

Being a By-law to Regulate the Audio Recording of Council and Committee Meetings for the Municipality of Temagami.

WHEREAS

1. Section 254(1) of the *Municipal Act, 2001*, as amended (the "Act") provides that a municipality shall retain and preserve its records in a secure and accessible manner;
2. Section 255(3) of the Act provides that a municipality may establish retention periods during which its records must be retained and preserved;
3. Section 8.1 of the Act grants municipalities broad authority to govern their affairs and address municipal issues;
4. Section 9 of the Act provides that a municipality has the capacity, rights, powers, and privileges of a natural person for exercising its authority under this or any other Act;
5. The *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA") regulates access, protection, and management of records containing personal information, and compliance with its provisions is required;
6. The Council of the Corporation of the Municipality of Temagami deems it advisable to adopt a By-law to provide for the audio and video recording of Council meetings to enhance transparency and accountability;

NOW THEREFORE

The Council of the Corporation of the Municipality of Temagami enacts as follows:

1. APPLICATION OF BY-LAW

- 1.1. This By-law applies to the audio and video recording, storage, and disposal of Council meetings and Committee of Adjustment proceedings as outlined in the Municipality's Procedural By-law, in compliance with the MFIPPA.
- 1.2. This By-law shall apply only to Council meetings and the Committee of Adjustment and shall not extend to any other committees or subcommittees established by Council.

2. DEFINITIONS

- 2.1. "Audio Recording" refers to the digital capture of sound from a Council or Committee of Adjustment meeting, stored electronically in a manner that complies the act and the MFIPPA.
- 2.2. "Committee of Adjustment" refers to a committee established under the authority of the *Planning Act, R.S.O. 1990, c. P.13*.
- 2.3. "Council Meeting" refers to Regular, Working Session, Special, or any other Council meeting under the Procedural By-law.
- 2.4. "Electronic Meeting Portal" refers to a secure online platform authorized by the Municipality of Temagami for conducting virtual or hybrid meetings, ensuring compliance with the Act and facilitating public access and participation.
- 2.5. "Meeting," for the purposes of this by-law, refers to any meeting of the Committee of Adjustment or Council.
- 2.6. "Official Record" refers to the written minutes of a Council meeting, prepared by the Municipal Clerk in accordance with the Municipality of Temagami's Procedural By-law, serving as the authoritative documentation of the proceedings and decisions made during the Council Meeting.
- 2.7. "Transitory Record" or "Transitory Records" refers to a record of temporary value, created or received for convenience of reference, and not required to meet

statutory obligations, set policy, certify transactions, or provide evidence of legal, financial, operational, or other official decisions. These records are intended for short-term use and should be disposed of appropriately once their immediate purpose has been fulfilled.

- 2.8. "Video Recording" refers to the digital capture of audio and visual content during a Meeting conducted through the designated Electronic Meeting Portal municipal.

3. Official Record

- 3.1. In accordance with the Act, the Clerk or their designate shall record minutes of Council meetings without note or comment. These minutes must be approved by Council and shall serve as the official and authoritative record of meetings and Council proceedings.
- 3.2. While audio or live recordings of Meetings enhance public access and transparency, they do not replace or diminish the legal status of approved minutes as the official record of decisions.
- 3.3. Audio and video recordings are considered Transitory Records and must be retained in accordance with the Municipality's Records Retention Policy. They shall not be altered, edited, or deleted before the expiration of the applicable retention period.
- 3.4. Notwithstanding the availability of live or recorded audio, the approved minutes remain the sole authoritative and legally recognized record of municipal meetings. Video recordings shall not be used as an official record unless explicitly authorized by Council through an amending By-law.

4. PURPOSE OF RECORDINGS

- 4.1. Audio recordings of open sessions of meetings shall primarily be used to make recordings of Council meetings available to the public through the municipal website.

- 4.2. Audio recordings of closed session meetings of Council shall primarily be used for review by an investigator from the Ombudsman's office or another official closed meeting investigator appointed by Council, in accordance with the Act, in the event of a formal investigation of a closed meeting complaint.
- 4.3. Audio recordings of both open meeting and closed Council meeting may also be used by the Clerk or designate as a reference when compiling the minutes of the meeting.
- 4.4. Video recordings of meetings shall be maintained exclusively as an internal administrative tool and shall only be used for the extraction and verification of the official audio record. They shall not be made publicly available unless explicitly authorized by Council.

5. Technical Difficulties

- 5.1. The inability to record a meeting due to technical issues shall not prevent the meeting from commencing or continuing.
- 5.2. The Municipality shall not be liable for any failure to publish or produce audio recordings when the recording was not available due to technical difficulties. However, any such failure shall be documented in the meeting minutes, including the cause and any corrective measures taken.
- 5.3. Due to the nature of technical equipment, continuous or fault-free audio recordings cannot be guaranteed. In the event of a failure, the Municipality shall explore alternative means to document the meeting, such as detailed written summaries prepared by the Clerk.
- 5.4. When feasible, alternative recording methods shall be employed in the event of a technical failure.
- 5.5. The Municipality shall publicly disclose any instances when a recording is unavailable due to technical issues.

6. Notice of Recording

6.1. Open Meeting:

6.1.1. Notice that the Meeting is being recorded shall be provided to ensure that delegators, presenters and members of the public are aware that open session meeting proceedings are audio/video recorded and only audio recording made available on the municipal website.

6.1.2. The Chair or Head of Council shall read the notice at the beginning of the meeting, immediately after the meeting is called to order. The wording of the notice shall be read; "*The Municipality of Temagami is committed to transparency, accountability, and accessibility in sharing information about council proceedings. All council meetings are audio and video recorded. However, only the audio recordings of the open session will be made available on the Municipal website for public viewing. By attending council meetings, whether in person or virtually, you consent to being recorded, including the collection of any personal information during the council proceedings. Recordings will be maintained in accordance with the Municipal Freedom of Information and Protection of Privacy Act, 1990, and the Municipality's Audio Recording of Council and Committee Meetings By-Law.*"

6.1.3. In addition to verbal Notice at the beginning of the Meeting, The Notice shall be displayed/expressed by including it on the agenda for the relevant meeting and posted on the municipal website.

6.2. Closed Council Meeting:

6.2.1. Notice shall be provided that audio and video recordings are being made for investigative and legal purposes.

6.2.2. The Notice shall be included in the meeting agenda and announced before entering the closed session.

7. Termination or Suspension

- 7.1. The recording of meetings shall begin at the commencement of the meeting and conclude at the adjournment.
- 7.2. The Chair or Head of Council may propose the suspension or termination of the recording of the meeting the continuation of the recording would compromise the integrity of the meeting or prejudice its proceedings. However, such action must be approved by a majority vote of Council, except in cases of technical malfunction or an immediate legal concern.
- 7.3. Permissible grounds for the suspension or termination of the recording shall include, but are not limited to, the following:
 - 7.3.1. A public disturbance or other suspension of the meeting;
 - 7.3.2. The exclusion of the public and press from the meeting;
 - 7.3.3. Technical malfunctions affecting the quality or reliability of the recording; or
 - 7.3.4. Any other reason as agreed by Council.
- 7.4. The reason for any suspension or termination of recording shall be documented in the official meeting minutes; and the Chair shall verbally announce the suspension or termination of the recording at the time of occurrence.

8. RESPONSIBILITY

- 8.1. The Municipal Clerk and/or their designate shall be responsible for:
 - 8.1.1. Ensuring audio and video recordings are made of all open meetings and closed sessions of Council.
 - 8.1.2. Publishing audio recordings of all open sessions on the municipal website, either by direct upload or via a third-party provider that complies with Canadian privacy and data security laws (e.g., MFIPPA), ensuring the original recording is not altered.

- 8.1.3. Archiving and securely storing meeting recordings electronically.
- 8.1.4. Ensuring that recordings of Council closed sessions are kept separate from those of open meetings.
- 8.1.5. Maintaining the confidentiality and security of closed session recordings.
- 8.1.6. Managing the retention period for audio recordings and ensuring their destruction in accordance with the retention schedule established in this By-law.
- 8.1.7 In the event of a data security breach affecting meeting recordings, the Clerk shall immediately notify Council and initiate an investigation. Affected individuals shall be informed as required by applicable privacy laws, and remedial action shall be taken to secure municipal records.

8.2. The Chair or Head of Council shall be responsible for:

- 8.2.1. Clearly announcing and presenting each agenda item to the Council/Committee members.
- 8.2.2. Acknowledging each member by name before they speak during the meeting.

8.3. Members of Council shall be responsible for:

- 8.3.1. Ensuring their microphone is turned on whenever they have the floor to speak.
- 8.3.2. Speaking directly into their microphone to ensure their words are clearly recorded.
- 8.3.3. Refraining from speaking simultaneously with other members to ensure that only the member who has the floor is recorded.

9. STORAGE AND RETENTION

- 9.1. The Municipal Clerk shall be responsible for the storage and maintenance of all audio and video recordings of meetings.

9.2. The Municipal Clerk shall maintain all recordings of meetings for the following retention periods:

9.2.1. Audio recordings of open meetings shall be retained for a period of five (5) years, after which they may be archived or disposed of in accordance with the Municipality's Records Retention Policy.

9.2.2. Audio recordings of closed Council meetings shall be retained for a period of three (3) years, unless subject to ongoing litigation, investigations, or Council resolution to extend retention.

9.2.3. Video recordings of meetings shall be retained for three (3) years and may be extended at Council's discretion.

9.3. The Municipality shall implement appropriate safeguards to prevent unauthorized access to audio and video recordings. Access to these recordings shall be restricted based on staff authorization levels, ensuring that only designated municipal officials, such as the Clerk, Deputy Clerk, or other authorized personnel, may access, manage, and store these records.

10. ACCESS TO RECORDINGS

10.1. Audio recordings of open meetings:

10.1.1. The public may access these recordings through the municipal website.

10.1.2. The public may request a copy of the recordings. Any costs for reproduction, including the cost of the medium and staff time, shall be the responsibility of the requester and must be paid before the recording is released. These costs shall be governed by the Municipal User Fees By-law.

10.2. Audio recordings of closed Council meetings:

10.2.1. Shall only be accessed by Members of Council through a request filed with the Clerk. External legal counsel, Integrity Commissioners, and investigative bodies may be granted access with Council authorization.

10.2.2. Access to listen to the recordings at the Municipal Office shall be arranged through mutual agreement between the Member and the Clerk.

10.2.3. Copies of closed Council meeting recordings shall not be made except upon request for the purpose of an investigation or legal proceeding, as authorized by Council, and shall only be provided in accordance with applicable laws, in accordance with MFIPPA, or any other relevant legal framework.

11. COPYRIGHT

11.1. The copyright of the audio recordings of open meetings made available on the municipal website is owned by the Municipality.

11.2. No part of the audio recordings posted on the municipal website may be reproduced without the express written permission of the Municipality or except in accordance with the provisions of the *Copyright Act*, as may be amended or replaced from time to time.

REPEAL OF PREVIOUS BY-LAWS

Any By-law or provision inconsistent with this By-law is hereby repealed.

REVIEW AND AMENDMENT

This By-law shall be reviewed or amended as necessary in response to legislative changes or other relevant developments affecting its application.

CLERICAL AMENDMENTS

The Clerk of the Municipality of Temagami is authorized to make minor corrections to this By-law after its passage. These corrections are limited to grammatical or typographical errors and must not alter the intent, substance, roles, responsibilities, or procedural requirements outlined in this By-law.

EFFECTIVE DATE

This By-law comes into effect on the date of final passing.

FINAL PASSING

Taken as read a first, second, and third time, and finally passed this 13th day of March, 2025.

Mayor: _____

Clerk: _____