

# THE CORPORATION OF THE MUNICIPALITY OF TEMAGAMI

## BY-LAW NO. 25-1824

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### Being a By-law to Restrict the Unauthorized Use of Municipal Land.

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#### WHEREAS

1. the Corporation of the Municipality of Temagami owns and manages lands for the benefit, use, and access of the general public; and
2. The Municipality of Temagami has identified concerns with the unauthorized use of the Municipal Lands including but not limited to the prolonged storage, abandonment, or disposal of personal property, resulting in obstruction, environmental degradation, unfair use, and increased costs to the Municipality; and
3. Section 8 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Municipal Act; and
4. Section 9(1) of the *Municipal Act, 2001* provides that sections 8 and 11 shall be interpreted broadly so as to confer broad authority on municipalities to (a) enable them to govern their affairs as they consider appropriate, and (b) enhance their ability to respond to municipal issues; and
5. Section 391(c) of the *Municipal Act, 2001* provides that a municipality may pass by-laws imposing fees or charges on any class of persons for the use of its property including property under its control; and
6. Section 427(1) of the *Municipal Act, 2001* provides that a municipality may proceed to do things at a person's expense which that person is otherwise required to do under a by-law or otherwise but has failed to do; and

7. Section 427(3) of the *Municipal Act, 2001* provides that the costs incurred by a municipality in doing a thing or matter under section 427(1) may be recovered by adding the costs to the tax roll and collecting them in the same manner as taxes;
8. The Municipality of Temagami acknowledges that it operates within the traditional territory of the Temagami First Nation, known as N'dakimenan, and confirms that this by-law applies only to lands owned, operated, or managed by the Municipality;

## **NOW THEREFORE**

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

### **1. Definitions**

- 1.1. Municipality means The Corporation of the Municipality of Temagami;
- 1.2. Municipal Land means any land owned, leased, or otherwise controlled by the Municipality, including but not limited to roadsides, landings, docks, parks, access points, easements, and public parking areas.
- 1.3. Expenses means any and all sums of money actually spent or required to be spent by the Municipality, and shall include but not be limited to all charges, costs, administrative fees, HST, outlays, legal fees and losses;
- 1.4. Highway means a common and public highway and includes any street, sidewalk, bridge, trestle, viaduct or other structure forming part of the highway and, except as otherwise provided, includes a portion of a highway;
- 1.5. Person means an individual, partnership, association, firm or corporation, business entity or club, incorporated group or organization, federal or provincial government, crown agents and school boards, to whom the context can apply in accordance with the Interpretation Act of Ontario, as amended, but specifically excludes the Municipality;
- 1.6. Personal Property means any privately-owned object or item of property other than real property;

1.7. Public Lands means lands owned by, leased, licensed to or under the management of the Municipality, and shall include but not be limited to any public highway, road, street, avenue, lane, place, viaduct or trestle, water, thoroughfare way or bridge, park, woodland, greenbelt, storm water management facility, open space, and all parts thereof, including any surface, grassed area, boulevard, ditch, curb and sidewalk;

1.8. Unauthorized Municipal Land Use means any use of land not authorized by the Municipality of Temagami.

## **2. General Prohibitions**

2.1. No person shall store, leave, dispose of, or abandon any Personal Property or material on Municipal Land unless they have received written authorization from the Municipality.

2.2. No person shall obstruct the public use, access, or visibility through unauthorized placement of Personal Property or material on municipal land.

## **3. One-Time Transition Period for a temporary Municipal Land Use**

3.1. To allow fair notice and voluntary compliance, a one-time grace period shall begin on May 15, 2025 and shall end on May 31, 2025;

3.2. During this grace period, individuals may remove unauthorized items from Municipal Land without penalty and no registration or extensions will be granted during this period;

3.3. As of June 1, 2025, all unauthorized Personal Property remaining on Municipal Land shall be subject to immediate removal by the Municipality at the owner's expense.

## **4. Enforcement and Cost Recovery**

4.1. The Municipal Law Enforcement Officer shall have delegated authority to:

4.1.1. Remove, store, or dispose of Unauthorized Property without further notice.

4.1.2. Whereas the owner of such property can be identified, all associated removal, storage, or disposal costs may be recovered by adding them to the owner's tax roll under Section 446 of the *Municipal Act, 2001*.

4.1.3. Unclaimed or unidentifiable property shall be stored by the Municipality for up to 30 days before disposal. If unclaimed after 30 days, the Municipality may dispose of or repurpose the property at its discretion.

## **5. Emergency Action**

5.1. If in the opinion of the Municipal Law Enforcement Officer, any unauthorized property poses a safety, environmental, or health hazard, the Municipality may take immediate action to remove the property without notice.

5.2. All costs incurred in responding to such emergencies shall be the responsibility of the property owner, and may be recovered as per Section 4.1.2 of this By-law.

5.3. Where the Municipal Law Enforcement Officer elects to take any action under Section 5.1 of this By-law the expenses incurred by the Municipality in so doing shall be recovered in full in the manner provided in section 8 of this By-law.

## **6. Inspection Authority and Obstruction**

6.1. A Municipal Law Enforcement Officer may enter upon any Municipal Land at any time for the purpose of enforcing the provisions of this By-law.

6.2. No person shall obstruct, hinder or interfere with inspections of any municipal land by an employee, officer or agent of the Municipality.

## **7. Removal of Unauthorized Land Use**

7.1. Where the Municipality becomes aware of an unauthorized land use, the Municipality may give notice in writing to the owner of the premises to which an unauthorized land use is appurtenant, to forthwith remove the unauthorized land use and to restore the public lands to their former condition at the expense of the owner.

7.2. Where the notice in Section 7.1 of this By-law is not complied with within **thirty (30)** days of the date of the notice, the Municipality may, on behalf of the owner, remove the unauthorized land use and restore the public lands to their former condition at the expense of the owner, such expense to be recovered in full in the manner provided in section 8 of this By-law.

7.3. Materials or structures forming part of an unauthorized land use that are removed by the Municipality may be stored for up to 30 days at the owner's expense. If not claimed within this period, the Municipality may dispose of them as it deems appropriate. All related costs are recoverable under Section 8 of this By-law.

## **8. Recovery of Expenses**

All expenses incurred by the Municipality in connection with the enforcement of this by-law shall be paid within **thirty (30)** days of their billing date, and in the event of failure to pay the entire amount due within the said **thirty (30)** days, at the discretion of the Municipality, the outstanding balance of the invoice may thereafter be added to the tax roll as of the year in which the expenses were billed. The Municipality may also recover all expenses owing under this by-law by a court action as a debt due to the Municipality.

## **9. Offences and Penalties**

9.1. Any person who contravenes any provisions of this By-law or any notice issued pursuant thereto, commits an offence and shall be liable to a fine not exceeding \$5,000.00, as provided for in the *Provincial Offences Act of Ontario*, as amended.

9.2. Where an offense is a continuing offence, each day that the offence is continued shall constitute a separate and distinct offence.

## **10. Enforcement Authority**

A Municipal Law Enforcement Officer acting under this by-law may enter and inspect all buildings, structures, materials or parts thereof that are subject to this by-law at any

reasonable time for the purposes of determining whether there is compliance with this by-law.

## **11. Severability**

Where a court of competent jurisdiction declares any section or part of a section of this by-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this by-law that the remainder of this by-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

## **REPEAL OF PREVIOUS BY-LAWS**

This By-law shall rescind/repeal By-law 19-1485, 21-1565, 241727 and any other By-law pertaining to 'Municipal Land Use Permits' are hereby repealed.

## **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 8th day of May, 2025.

Mayor: \_\_\_\_\_

Clerk: \_\_\_\_\_