

**TOWNSHIP OF LAKE OF BAYS**  
**DEVELOPMENT PERMIT BY-LAW 04-180**  
CONSOLIDATION – MARCH 12, 2007

## **2. ADMINISTRATION**

### **Interpretation**

- 2.1 The provisions of this By-law are minimum requirements except where a maximum requirement is specifically identified.

### **Conformity and Compliance with By-law**

- 2.2 No land, building or structure may be used, erected, or altered and no vegetation shall be removed except in accordance with the provisions of this By-law.
- 2.3 Despite the provisions of Section 2.2 and Section 2.15, where a use, building or structure has been authorized by a by-law passed or a minor variance granted after January 1, 2004, the use, building or structure and all other specific requirements imposed by the by-law or minor variance continue to be permitted and imposed by this by-law. Where there is a conflict between the provisions of this by-law and the specific provisions so passed or granted, the specific provisions passed or granted prevail.
- 2.4 All buildings or structures constructed prior to November 26, 1996 which do not meet all of the applicable standards of this By-law are deemed to be non-complying, and the provisions of Sections 4.37 to 4.41 apply to them.

### **Zoning By-law**

- 2.5 Where a lot falls within the scopes of both this By-law and the Township of Lake of Bays Zoning By-law, each part of the lot is governed by the applicable By-law.

### **Change in Use**

- 2.6 If the use of a property is altered or changed to a different use, which is permitted within the particular Development Permit Area, all relevant provisions of the By-law for that use apply to the new use.

### **Obligation**

- 2.7 Nothing in this By-law shall relieve any person from the obligation to comply with the requirements of the Ontario Building Code Act, and any other by-laws of the Township of Lake of Bays and the District of Muskoka, and provincial and federal legislation.

### **Inspection**

- 2.8 The person or persons having jurisdiction to enforce this By-law are hereby authorized, after giving notice to the owner or assessed owner, occupant or apparent occupant of the property in question, to enter the property for the purpose of inspection, and for carrying out their duties under this By-law.

### **Unlawful Uses**

- 2.9 Any use established in violation of a predecessor of this By-law is deemed to have been established unlawfully.

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**Enforcement**

2.10 Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to the penalties as provided for under the *Planning Act*.

**Effective Date**

2.11 This By-law shall come into force in accordance with Section 6 of the Development Permit Regulation (Ontario Regulation 246/01, as amended).

**Interpretation of By-law**

2.12 For the purposes of this By-law, the word "shall" within this By-law indicates a mandatory requirement. Unless the context requires otherwise, the word "used" shall also mean "designed to be used", the word "occupied" shall also mean "designed to be occupied".

2.13 This By-law makes reference to the Township of Lake of Bays Official Plan, and should be read and interpreted in conjunction with the Official Plan.

2.14 Conversion of metric numbers into imperial is provided for general reference only. Where a discrepancy occurs between the metric number and the approximate imperial conversion, the metric number shall take precedence.

**Repeal of Former By-laws**

2.15 On the day that this By-law comes into force, By-laws 72-10 and 86-50 of the Township of Lake of Bays, and all amendments and variances thereto are repealed in so far as they apply to lands affected by this By-law.

**Schedules to By-law**

2.16 The following Schedules, which are attached hereto, form part of this By-law:

- a) Schedule A – Development Permit Areas (Maps)
- b) Schedule B – Exceptions (Maps and Sketches)
- c) Schedule C – Criteria for Variations from Standards
- d) Schedule D – Criteria for Discretionary Uses

2.17 Roads shown on Schedules A and B are included for information only and are not intended to confirm legal status or exact location.

**Notes and Appendices**

2.18 Appendices and notes provided within boxes in italicized text do not form part of this by-law, but are provided for information purposes.

**Development Permit Requirements**

2.19 Except as set forth in Section 2.20, all development within the area identified on the schedules to which this by-law applies shall require a development permit. For the purposes of this by-law, development means:

- a) 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

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substantially increasing its size or usability,

- b) the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers or of sites for the location of three or more mobile homes as defined in the Planning Act or of sites for the construction, erection or location of three or more land lease community homes as defined in the *Planning Act*;
- c) site alteration, including but not limited to the alteration of the grade of land, blasting and the placing or dumping of fill, in accordance with Section 4.84 or;
- d) the removal of vegetation in accordance with Section 4.84.

**Exemption from Development Permit Requirements**

*It is intended that residential development which complies with the standards in the by-law, which is not located on or adjacent to a sensitive feature, which does not involve extensive clearing, and which does not involve development within the shoreline yard, would generally not require a development permit.*

2.20 The following classes of development shall not require a Development Permit:

- a) a new single detached dwelling or accessory structure, an expansion or enlargement of a single detached dwelling or an accessory structure provided that:
  - i) in the case of a lot that contains a dwelling as of the date of the passing of this by-law, no development is proposed within the shoreline yard, including the shoreline activity area;
  - ii) in the case of a lot that does not already contain a dwelling as of the date of the passing of this by-law, no development is proposed within the shoreline yard, including the shoreline activity area, and the shoreline activity area and shoreline buffer provisions are complied with;
  - iii) the lot on which development is proposed is not on an island;
  - iv) development is not within 30 m (98.4 ft.) of a coldwater stream, as shown on Schedule A, attached hereto, by the symbol "CWS";
  - v) the development is not on or immediately adjacent to slopes in excess of 30% or unstable soils.;

*These slopes are generally shown on Schedule D1 of the Official Plan, or may be identified by the Township through a site inspection.*

- vi) the proposed development is not within 120 metres (393.7 ft.) of a provincially significant wetland or 30 metres (98.4 ft.) of any other wetland, as shown on Schedule A of this By-law as "Waterfront Environmental Protection (WEP)".

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- vii) the proposed development is not within a heritage area, as shown on Schedule A of this by-law;
  - viii) the proposed development is not located on flood prone lands, as defined by Section 4 herein;
  - ix) the proposed use is a permitted use within the applicable Development Permit Area, as identified in Sections 4 and 5 of this By-law; and
  - x) the development complies with the standards of the applicable Development Permit Area, as identified in Sections 4 and 5 of this By-law, and does not require a variation.
- b) Any development for which a site plan agreement has been entered into pursuant to the Township's Site Plan Control By-law.
  - c) Site alteration provided that it is located outside of the areas identified as requiring a Development Permit in Section 4.84.
  - d) Removal of vegetation, provided that it is located outside of the areas identified as requiring a Development Permit in Section 4.84.
  - e) Removal of a maximum of 10% of the woody vegetation within the shoreline yard, measured by the number of stems that have reached a height of 4 feet or more, where an "Intent to Remove Shoreline Vegetation" has been submitted to the Township, and may only occur once per lot after this by-law comes into effect.
  - f) Repairs and maintenance of any existing buildings or structures.

**Issuance of Development Permits**

*Under the development permit system, approvals may be delegated to staff. The delegation to staff as outlined in this by-law is intended to ensure that minor, straight-forward applications, with little potential to affect neighbours, but which require minor variations from standards, could be approved by staff in order to streamline the planning process. Staff would still be accountable to Council, and Council would be aware of staff decisions. Council could withdraw this delegation at any time. In addition, an applicant may refer an application for a staff approved development permit to Council for their review.*

*Two types of approvals are identified in the following chart – provisional approvals and development permits. Provisional approvals are approvals in principle, subject to receiving additional information. In this way, an applicant can be assured that a development permit is available, before spending additional money on a study or additional plan, for example. Conditions which may be imposed as part of a provisional approval are set out in Section 6 (Conditions) of this by-law. A development permit could then be issued once a satisfactory study or plan is submitted. It is anticipated that most applications will not require these two levels of approval, requiring only a development permit.*

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2.21 Council hereby delegates to staff, the authority to issue provisional approvals and development permits, in accordance with the following chart:

CATEGORY OF DEVELOPMENT PERMIT	TYPE OF DEVELOPMENT	RESPONSIBILITY FOR PROVISIONAL APPROVALS	NOTICE REQUIRED PRIOR TO PROVISIONAL APPROVAL	ISSUANCE OF DEVELOPMENT PERMIT
	No development permit required	Staff decision	N/A	Staff
1	<p>Development Permit required where the proposal conforms to permitted uses and standards, but is not specifically exempt from the requirement to obtain a Development Permit, as detailed in Section 2.20</p> <p>Development Permit required where the proposed use is permitted, but which requires a Staff Variation to one or more standards</p> <p>Development Permit required for a discretionary use in a Residential Development Permit Area</p> <p>Development permit required for vegetation removal or site alteration or shoreline activity area blanket permits.</p> <p>Extension of a provisional approval or extension of a Development Permit</p> <p>Amendment to a provisional approval or an amendment to a Development Permit</p>	Staff	No notice required	Staff
2	<p>Development Permit required where the proposed use is permitted, but which requires a Council Variation to one or more standards</p> <p>Development Permit required for a discretionary use in all Development Permit Areas, except Residential</p> <p>Development Permit required for a temporary use</p>	Council	Notice to all property owners within 120 m	Staff

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**Referrals to Council**

- 2.22 Any person may refer an application to Council prior to the issuance of a Development Permit.

**Provisional Approvals Prior to the Issuance of a Development Permit**

- 2.23 A provisional approval may be given, prior to the issuance of a development permit, subject to such conditions as are identified in Section 6.
- 2.24 Where a provisional approval of a development permit is given, the applicant has a maximum of two years from the date of the provisional approval within which to obtain the development permit, failing which the provisional approval will lapse.

**Amendments to Provisional Approvals or Development Permits**

- 2.25 At the request of the applicant, and where considered appropriate by the Township, amendments to a provisional approval or amendments to a development permit may be made at any time in accordance with the chart in Section 2.21.

**Temporary Uses**

- 2.26 A development permit may permit a use or structure for a specified temporary period of time as set out in the development permit, subject to such renewal provisions as may be set out in the development permit.

**Discretionary Uses**

- 2.27 A discretionary use as specifically identified in this by-law may be permitted subject to the applicable criteria, as summarized in Schedule D of this by-law and further detailed in the Official Plan for such use.

**Variations**

- 2.28 Variations to the standards in this by-law may be permitted, where identified, and when requested by the applicant, provided that a development permit is obtained, in accordance with the following procedures:
- a) **Staff Variations** require that, when staff are satisfied that the variation(s) requested do not conflict with the criteria for staff variations, as summarized in Schedule C of this by-law and further detailed in the Official Plan, a Development Permit be issued subject to any other applicable provisions of this By-law.
  - b) **Council Variations** may be granted for up to 100% from the stated standard and require that, when Council is satisfied that the variation(s) requested do not conflict with the criteria for Council Variations, as summarized in Schedule C of this by-law and further detailed in the Official Plan, a Development Permit be issued subject to any other applicable provisions of this By-law.

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- c) Despite subsections (a) and (b) above, if in the opinion of the Township, the Official Plan and Development Permit By-law criteria for Staff and Council Variations are not met, the application may be denied or an application to amend this by-law may be required.
- 2.29 Should an application include the requirement for both Staff and Council approved Development Permits, the entire application shall require a Council approved Development Permit.

**Notice of Decision**

- 2.30 A Development Permit, where issued is the notice of decision and shall be given to the applicant.
- 2.31 Where a Development Permit is not issued, a notice of refusal to issue a Development Permit shall be given to the applicant.
- 2.32 Notice referred to in Sections 2.30 and 2.31 above, shall be given in person, in which case it is deemed to be received on the date of personal delivery, or by prepaid ordinary mail, in which case it is deemed to be received five business days after the date of mailing.