The Corporation of The Township of Adjala-Tosorontio

By-Law No. 2023-XX

A By-law to Establish the Rules Governing the Calling, Place, Proceedings; Providing Public Notice of Hearings of the Committee of Adjustment of the Township of Adjala-Tosorontio

WHEREAS the Committee of Adjustment has been established pursuant to the *Planning Act*, R.S.O. 1990, c. P.13, as amended, (the "*Planning Act*");

AND WHEREAS subsection 238(2) of the *Municipal Act*, 2001, S.O. 2001 c. 25, as amended, (the "*Municipal Act*"), requires every municipality and local board to adopt a procedure by-law for governing the calling, place and proceedings of hearings;

AND WHEREAS Council of The Corporation of the Township of Adjala-Tosorontio, deems it necessary and expedient that there be rules governing the order and proceedings of the hearings of the Committee of Adjustment;

NOW THEREFORE the Council of Township of Adjala-Tosorontio hereby ENACTS AS FOLLOWS:

SHORT TITLE

This By-law shall be known as the Committee of Adjustment Procedure By-law.

1. THAT the proceedings of the Committee of Adjustment and the calling of meetings shall be governed by the provisions and regulations contained in Schedule "A" attached hereto and forms an integral part of this By-law.

ENACTMENT

THAT the provisions of this By-law shall come into force and take effect with the passing hereof.

THAT notwithstanding anything contrary to the rules of procedure, this By-law be introduced and read a first and second time and be considered read a third time and finally passed this 13th day of December, 2023.

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Scott W. Anderson, Mayor

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Robin Reid, Clerk

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TOWNSHIP OF ADJALA-TOSORONTIO

COMMITTEE OF ADJUSTMENT PROCEDURE BY-LAW

1. Definitions

For the purpose of this By-law, the following definitions shall apply:

Act means the Ontario Planning Act, R.S.O. 1990, c. P.13, as amended or superseded.

Agenda means a list of all items to be considered by the Committee at the hearing for which the agenda was published.

Agent means any person authorized in writing by the Owner(s) of any land, building or structure for which the Application is made.

Applicant means any person authorized in writing by the Owner(s) of any land, building or structure for which an Application is made.

Application means an application made to the Committee under Section 45, 53 or 57 of the Act.

Chair means the Presiding Officer of any hearing of the Committee appointed under Section 44(7) of the Planning Act.

Committee means the Committee of Adjustment of the Township of Adjala-Tosorontio, established by resolution or By-law of Council, in accordance with Section 44 of the Planning Act.

Council means the Council of the Corporation of the Township of Adjala-Tosorontio.

Electronic Participation means a Member of Committee, who can participate electronically in a hearing, as permitted by the Municipal Act, as amended.

Emergency means a situation or impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risk, an accident or an act whether intentional or otherwise.

Hearing means any regular, special or other meeting of Committee when a quorum is present as defined in the Planning Act, and includes meetings where some or all Members are attending via electronic participation.

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Member means any member of the Committee and includes the Chair.

Pecuniary Interest has the same meaning as the term has in the Municipal Conflict of Interest Act, R.S.O. 1990, C.M. 50 (MICA), as amended or replaced from time to time;

Public Notice means the public notice of an application as prescribed by the Act.

Public Meeting means a meeting for the sole purpose of giving the public an opportunity to make representations in respect to an item being brought forward under the Act, provided that all advertising and notices have been completed and the holding of said Public Meeting is in conformity with the said Act.

Quorum means a majority of all the Members, in accordance with the Planning Act, who are required to be present at a hearing in order for business to be conducted.

Secretary-Treasurer means the Secretary-Treasurer appointed by the Committee, appointed under subsection 44(8) of the Act.

Staff means any person employed by the Township.

Township means the Corporation of the Township of Adjala-Tosorontio.

2. Application

2.1 The Rules of Procedure contained in this By-law shall be observed in all proceedings of the Committee and shall be the procedures for the order and dispatch of hearings conducted by the Committee.

2.2 Procedural matters not governed by the provisions of this By-law shall be governed by the provisions of the Township's Procedure By-law governing Council and Committees of Council.

2.3 In the event of a conflict between this By-law and the Planning Act, the Planning Act prevails.

3. Calling of Hearings

3.1 The Secretary-Treasurer shall prepare a schedule of hearings on an annual basis.

3.2 Where a hearing needs to be rescheduled, the Secretary-Treasurer shall

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ensure that the new hearing date satisfies all legislative notification requirements.

3.3 Where it is determined by the Secretary-Treasurer, in consultation with the Chair, that there are insufficient agenda items for a hearing, the Secretary-Treasurer shall cancel the hearing.

3.4 An agenda shall be delivered by the Secretary-Treasurer to Members through electronic mail and published to the Township's website, five (5) days prior to the hearing.

4. Location

4.1 All hearings of the Committee shall be held within the Council Chamber located at the Municipal Centre, 7855 Sideroad 30, Alliston Ontario and identified on the notice as circulated by the Secretary-Treasurer.

4.2 In the event the Council Chamber may not be suitable for a hearing, Committee may relocate the hearing to another convenient location within the Township as determined by the Secretary-Treasurer and Chair. If change in venue is required, public notice shall be given as soon as practicable.

5. Livestreaming and Recording

5.1 The approved written minutes shall be the official record of the hearing.

5.2 Committee hearings will be livestreamed, recorded, and published to the Township website as a service to the public.

5.3 Notwithstanding subsection 5.2, the Township shall not be responsible should technical difficulties prevent the livestreaming or recording of any hearing, or a portion thereof.

5.4 Recordings published to the Township website are part of the public realm and as such are subject to altercation by individuals that access such recordings with no municipal control over such alterations. The Township assumes no liability associated with any alterations that are made to published recordings.

6. Electronic Participation

6.1 Electronic participation will be permitted at all hearings unless specified by the Secretary-Treasurer in consultation with the Chair.

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6.2 Every effort shall be made by Members to attend hearings physically in person, notwithstanding in the following circumstances, Members may participate electronically in a meeting to the extent and in the manner set out in this By-law:

6.2.1 It is not safe or possible to attend an in person hearing due to a natural weather event;

6.2.2 Health and safety restrictions as determined by the CAO in consultation with the Mayor or Emergency Management Committee;

6.2.3 Restrictions or guidelines set out by the Simcoe Muskoka District Health Unit, the Ontario Provincial Police or the Province of Ontario;

6.2.4 At the discretion of the Secretary-Treasurer.

6.3 Members participating in a hearing electronically shall have the same rights and responsibilities as if the Member were in physical attendance, including the right to vote; and will count towards quorum.

6.4 Members participating electronically shall keep their camera on during all hearing, or will be deemed to have left the meeting, unless otherwise turned off by the Secretary-Treasurer, or designate, due to technical issues.

6.5 Members, Staff and/or Consultants, Applicants and delegates who wish to participate electronically, in accordance with this section, will make arrangements with the Secretary-Treasurer, no less than 24 hours in advance of the meeting, or as soon as possible in the event of inclement weather.

6.6 In the event of a technical failure during the hearing, there will be a recess of not more than fifteen (15) minutes to allow Staff to reinstate the electronic participation through the video-conferencing platform. If the connection cannot be reinstated, and quorum is lost, the hearing shall stand adjourned and any items of business shall be carried forward to a future hearing.

7. Office and Vacancies of Committee Members

7.1 The Committee shall be composed of five (5) Members, being two (2) Members of Council and three (3) citizen members appointed by Councill. The term of the Committee shall run concurrent with the Term of Council or until such time as successor(s) are appointed.

7.1.1 In accordance with the Act, Members of the Committee who are also Members of Council shall be appointed annually.

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7.2 A vacancy on the Committee shall occur if a Member is absent for three (3) successive hearings without confirmation from Council.

7.3 A Member who is unable to carry out his/her duties through illness or otherwise shall provide a note to the Secretary-Treasurer. The Secretary- Treasurer shall immediately notify the Township Clerk of the Member's absence and the anticipated date of return. Council shall then confirm the absence or deem the seat vacant. Upon Council's confirmation, a Member may be absent from his/her seat for three (3) successive hearings from the date of his/her notice of illness or otherwise.

7.4 The Members shall appoint one Member as Chair and one Member as Vice-Chair on an annual basis.

7.5 In an election year, if a vacancy should occur, the seat shall remain vacant until Council has completed its membership appointment for the new term.

8. Quorum

8.1 A vacancy in the membership or the inability of a Member to act due to a declared conflict does not impair the powers of the Committee or of the remaining Members.

8.2 If Quorum is not obtained thirty (30) minutes after the time appointed for a hearing of the Committee, the Secretary-Treasurer shall record the names of the Members present and the hearing shall stand adjourned until the next appointed time.

9. Hearing Procedures and Voting

9.1 In accordance with the provisions of the Municipal Act, 2001, all hearings of the Committee shall be open to the public.

9.2 The Chair shall call to order the hearing.

9.3 The Chair shall call for disclosure of any Pecuniary Interest of Members.

9.4 The Chair shall receive Minutes of the previous Committee hearings.

9.5 The Chair shall call for requests for deferral or withdrawal of any matters before the Committee.

9.6 The Chair, with permission of the Committee, shall determine the order of the items on the agenda to facilitate the hearing in the most expeditious manner.

9.7 The Chair shall ask the Applicant/Agent to introduce themselves and if they have any new information regarding their Application.

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9.8 The Chair shall ask the Township Representative if they have any new information regarding the Application.

9.9 The Chair shall ask Members if they have any questions for the Applicant/Agent.

9.10 The Chair shall:

9.10.1 Invite those present having an interest in the Application to come forward, identify themselves and make submissions in respect of their interest; and

9.10.2 Ask questions of clarification and permit the Members to ask questions relevant to the Application before them.

9.10.3 Members of the public may submit written correspondence to the Secretary-Treasurer to be included as part of the public record.

9.11 Following submissions from all interested parties, the Committee shall give the Applicant/Agent an opportunity to respond to any comments received from the Members, commenting agencies and interested parties. This response shall be limited to five (5) minutes.

9.12 Following submissions from members of the public and any response by the Applicant/Agent, the Committee may ask additional questions relevant to the Application before them and shall consider the issues raised by the Applicant/Agent, commenting agencies or interested parties.

9.13 The Committee shall:

9.13.1 Review the draft condition(s) to determine if they are reasonably related to the Application and make necessary changes; and

9.13.2 Confirm with the Applicant/Agent whether he/she is able to indicate acceptance of the draft conditions should the Application be favourably considered.

9.14 Following the Applicant's response in respect of the draft conditions, the Committee shall consider the issues raised by the Applicant/Agent and any respondents, and the Chair shall:

9.14.1 Ask Members for a motion with respect to the disposition of the Application, being one of the following: approval, refusal, deferral, or approval with conditions, and shall set out the reasons for such disposition;

9.14.2 Upon receipt of a motion from a Member, ask for a seconder to the motion;

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9.14.3 Permit discussions on the motion;

9.14.4 Call for a vote by the Committee on the motion by the Chair calling out the name of each Member to record their vote.

9.14.5 If the initial motion fails, request a new motion and continue until a majority of the Members approve a motion.

9.15 All Members present shall be required to vote and if any Member refuses to do so, they shall be deemed to be voting in the negative.

9.16 The Chair shall indicate his/her vote only after all other Members have voted. Notwithstanding the foregoing, when the Committee comprises an even number, and still has Quorum, the Chair may refrain from voting to preclude a tie vote.

9.17 Any motion on which there is a tie vote, the motion shall be deemed to be defeated.

9.18 Once a motion has been moved, seconded and carried, the Chair shall announce the decision of the Committee.

9.19 No discussion shall be permitted after the Chair has announced the decision of the Committee.

9.20 Any approval granted by the Committee may be for such time and subject to such terms and conditions and agreements as the Committee considers advisable and as set out in the decision.

9.21 A written decision shall be prepared for each Application; set out any conditions imposed by the Committee; and be signed by all Members who concur with the decision.

9.22 The Secretary-Treasurer shall be permitted at any time and without prior notice to the parties to correct a technical or typographical error, error in calculation or similar minor error made in the minutes or in a decision.

10. Request for Deferral or Withdrawal

10.1 A request for deferral of a matter on the scheduled hearing date by the Applicant/Agent must be for reasonable cause and must be made at the hearing or by a written request.

10.2 If the Committee grants the request for deferral, the Committee in consultation with the Secretary-Treasurer shall set a new hearing date for the Application to be heard and indicate any other requirements of the deferral, such as re-notification, and/or amendment.

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10.3 Any deferral granted by the Committee shall be for a period of six (6) months or sooner, to a maximum of three (3) deferrals per Application.

10.4 The Applicant/Agent may request that an Application be withdrawn. Such requests may be made to the Secretary-Treasurer in advance of the hearing date or at the hearing. If the Committee grants the request for withdrawal, the Secretary-Treasurer shall record that the Application was withdrawn from the Committee's agenda and the Committee shall take no further action on the matter at the hearing.

11. Adjournment

11.1 All hearings shall stand adjourned when the Committee has completed all business as listed on the agenda, unless otherwise determined through a motion by a majority of the members present.

11.2 If there are remaining Applications on the agenda which have not been heard by the time required to adjourn the hearing, the Secretary-Treasurer shall assign a date to resume the public hearing, and further Public Notice shall be required to be provided to those in attendance who have requested.

12. Rules of Conduct and Debate

12.1 All Members should come prepared to every meeting by having read all the agenda material supplied, to facilitate discussion and the determination of action at the meeting.

12.2 It shall be the duty of the Chair to:

12.1.1 Call the hearing to order;

12.1.2 Ensure that a Quorum is established and maintained throughout the course of the hearing;

12.1.3 Put to vote all motions that arise in the course of the proceedings and announce the result of each vote;

12.1.4 Decline to put to vote motions that infringe upon the terms of this by-law;

12.1.5 Uphold on all occasions this by-law and the observance of order and decorum amongst the Members and attendees in accordance with this by-law;

12.1.6 Rule on Points of Privilege and Points of Order and decide all questions relating to the orderly procedure of the hearing;

12.1.7 Adjourn the hearing without question or suspend the hearing to a time to be named by the Chair, if considered necessary; and

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12.1.8 Adjourn the hearing upon business being concluded.

12.3 No Member shall:

12.3.1 Speak disrespectfully of the Reigning Sovereign or any of the Royal Family, of the Governor General, or the Lieutenant Governor of any Province;

12.3.2 Use offensive words, gestures or speak with un-parliamentary language in or against Council as a whole, Member, Staff, Agent, or Committee;

12.3.3 Speak on any subject other than the subject in debate;

12.3.4 Criticize any decision of Council except for the purpose of moving that the question be reconsidered;

12.3.5 Disobey the rules of procedure or a decision of the Chair or of the Committee as a whole on questions of order or practice, or upon the interpretation of the rules of Committee. In the case where a Member persists in any such disobedience after having been called to order by the Chair, the Chair may order that such Member leave their seat for the duration of the Committee meeting, but if the Member apologizes, they shall be permitted to retake their seat;

12.4 Every Member shall:

12.4.1 Vote on all motions put to vote, unless disqualified;

12.4.2 Respect the Rules of Procedure in this By-law and comply with the Chair's ruling;

12.4.3 Comply with the Township of Adjala-Tosorontio Council Code of Conduct;

12.5 Attendees at a hearing shall maintain order and shall not display signs or placards, applaud, heckle or engage in telephone or other conversation or any behaviour which may be considered disruptive, inconsiderate, disrespectful or intimidating to others.

12.6 Any person who disrupts a hearing shall be asked by the Chair to stop the disruptive behaviour and if the person persists they shall be asked to leave the hearing.

12.7 All cell phones and electronic devices, except those in use to record or otherwise facilitate the hearing, shall be turned off or otherwise set so as to not emit any audible sound during a hearing.

12.8 Any person who contravenes any provision of this section, may be

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expelled from the hearing by the Chair.

13. Point of Privilege

13.1 Where a Member considers that the integrity of a member or committee as a whole has been called into question, the member may, as a matter of privilege, rise at any time, with the consent of the chair, no debate being allowed, for the purpose of drawing the attention of the Committee to the matter.

13.2 A motion resulting from a point of privilege shall receive disposition by Committee forthwith, and following such disposition, the motion so interrupted shall be immediately considered at the point where it was suspended.

14. Point of Order

14.1 The Chair shall preserve order and decide on questions of order. Only a member of Committee or the Secretary-Treasurer can rise on a point of order when they consider that:

14.1.1 there has been a breach of the rules of order of Committee;

14.1.2 a meeting is not properly constituted;

14.1.3 improper, offensive or abusive language has been used;

14.1.4 the matter under discussion is not within the scope of the motion; or

14.1.5 there has been any other informality or irregularity in the proceedings of Committee.

14.2 When a Member rises on a point of order, the Member shall ask leave of the Chair to raise the point of order, and after leave is granted, the Member shall state the point of order succinctly to the Chair and remain silent until the Chair has decided the point of order. No further business shall be conducted until the Chair has decided by indicating either ‘the point of order is well taken’ or ‘is not well taken’ and stated the point of order.

14.3 Thereafter, a Member shall only address the Chair for the purpose of appealing the Chair’s decision to the Committee. If no Member appeals, the decision of the Chair shall be final.

14.4 If a Member appeals to Committee, the Member shall have the right to state a case. A seconder is requested, the Chair shall have the right to reply and place the question before Committee who shall decide the question without debate, and its decision shall be final.

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15. Decisions of the Committee

15.1 No decision of the Committee on an Application is valid unless it is concurred by the majority of the Members that heard the Application, and the decision of the Committee shall be in writing and shall set out the reasons for the decision and shall be signed by the Members who concur in the decision.

15.2 A copy of the Committee's written decision shall be prepared and issued in accordance with the provisions of the *Planning Act.*

16. Disclosure of Pecuniary Interest

16.1 It is the responsibility of each Member to identify and declare any pecuniary interest and as defined in the *Municipal Conflict of Interest Act,* R.S.O. 1990, c.M.50, as amended, in open session.

16.2 Where a Member has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the Committee at which the matter is the subject of consideration, the Member shall:

16.2.1 Prior to any consideration of the matter disclose the pecuniary interest and the general nature thereof;

16.2.2 Not take part in the discussion of or vote on any question with respect to the matter; and

16.2.3 Not attempt in any way whether before, during or after the meeting to influence the voting on the matter.

16.3 A Member who declares a pecuniary interest shall file written statement of the interest and its general nature with the Clerk in accordance with the MCIA.

16.4 A Member shall leave the hearing for the duration of the matter for which a Pecuniary Interest is declared.

17. General

17.1 Following the Application by the owner/Agent, for any land, building or structure located within the Township of Adjala-Tosorontio, but prior to the hearing where the Application shall be considered by the Committee, the Members may conduct individual site visits.

17.2 During site visits Members shall not discuss with the Applicant or other interested individuals, any of the merits of the Application or any issue or matter in connection with the Application to be decided by the Committee.

17.3 Each member of the Committee shall be paid an amount for attendance at

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Committee hearing as specified in accordance with renumeration set out by Council in addition to the following:

17.4 A milage rate per kilometre for inspection tour of lands subject to applications before the Committee as specified by Municipal By-law.

17.5 The Secretary-Treasurer, Acting Secretary-Treasurer and any other members of Municipal Staff, shall receive time-in-lieu for hearing outside of regular working hours for attendance at the hearing.

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