

TOWN OF FORT FRANCES

Planning & Development Executive Committee

AGENDA - July 6, 2020 at 8:30 AM

MEETING - VIRTUAL MEETING

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Conference ID: 700 283 091#

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1. <u>Call to Order</u> Session #23	
2. <u>Disclosure of pecuniary interest and the general nature thereof</u>	
3. <u>Approval of Previous Committee Minutes</u> 3.1 Approval of Previous Meeting Minutes.	2 - 3
4. <u>Non-agenda items identified to be considered later in this meeting, both in-camera and in open meeting.</u>	
5. <u>In-Camera</u>	
6. <u>Items Referred from Council</u>	
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11. <u>Adjourn / Next Meeting Date</u> Monday August 4th, 2020.	

TOWN OF FORT FRANCES

MINUTES

SESSION NO.

June 15, 2020

The meeting of Planning & Development Executive Committee of the Town of Fort Frances was held in the VIRTUAL MEETING on June 15, 2020 from 8:30 a.m. to 9:30 a.m.

PRESENT: J. McTaggart - Chairperson, W. Brunetta - Councillor, D. Judson - Councillor, Mayor J. Caul (ex-officio)

ALSO PRESENT: D. Brown, CAO, C. Vangel, CBO/Planner, A. Byrnes, By-Law Enforcement, P. Briere, Committee Secretary, I. McKay, Guest.

1. Call to Order - 0830am

Session #22.

2. Disclosure of pecuniary interest and the general nature thereof

None.

3. Approval of Previous Committee Minutes

3.1 Approval of Previous Meeting Minutes.

- Approved as presented.

4. Non-agenda items identified to be considered later in this meeting, both in-camera and in open meeting.

None

5. In-Camera

None.

6. Items Referred from Council

6.1 Re-Zoning RefleXion Studio.

- After a review of the request letter and discussions with Mr. McKay and staff. The Planning & Development Executive Committee is recommending to Council that a 6 month payment plan be established with the Town to assist RefleXion Studio with payment of a re-zoning application.

7. New Business

7.1 Site Plan Control Discussion.

- After a discussion was had on this item. The Planning & Development Executive Committee is recommending to make this item a higher priority on the strategic plan, which will direct Administration to further review the matter and bring back information to the Committee for review. The Committee is also recommending to have an item titled Master Storm Water Plan added to the Operations & Facilities Executive Committee for discussion at their meeting this week.

7.2 Sign By-Law Enforcement.

- After a discussion was had on this item. The Planning & Development Executive Committee is asking to have Enforcement increased on these types of issues to have them resolved.

8. Outstanding Items

None.

9. Information

None.

10. Non-agenda Items
None.

11. Adjourn / Next Meeting Date
Monday July 6th, 2020 - 0830am.

Executive Committee Chair

Secretary, Planning & Development Executive
Committee

Date: June 29, 2020

Report To: Planning and Development Executive Committee

From: Cody Vangel, Chief Building Official & Municipal Planner

Re: Fort Frances/Aazhogan Renewal Planning Committee – Draft Terms of Reference

On May 27, 2020 members of the Town of Fort Frances administration along with our land use planning and economic development consultants met with Riversedge Developments Inc. (2670568 Ontario Ltd.) and Rainy River First Nations, together in joint venture as Aazhogan Renewal, to discuss land use planning policies and mechanisms associated with the potential redevelopment of the Fort Frances mill properties. In this meeting it was discussed that in order to facilitate the implementation of various policies and mechanisms, that the Town apply for funding opportunities to prepare a study of the lands similar to that of the Shevlin Woodyard and Gateway to Market Square. In support of the study it was also discussed that a joint planning committee be formed known as the “Fort Frances / Aazhogan Renewal Planning Committee”. The draft terms of reference behind this committee are attached.

Rainy River Future Development Corporation (RRFDC) is preparing to submit two funding applications to complete a Land Use and Economic Development Feasibility Study for the associated mill properties. These applications will not be submitted without the support from Mayor & Council on the proposed Committee and terms of reference.

The intent of this committee and study will be to engage a consultant to craft location specific land use planning policies, identify economic development opportunities and to provide recommendations that will be used to amend the Town of Fort Frances Official Plan and Zoning By-Law to assist in the redevelopment of the subject lands. The outcome of these amendments will assist to mitigate delays and reduce turnaround times on planning applications associated with the subject lands and to promote redevelopment of the lands for a wide range of uses.

The draft terms of reference for the committee have been reviewed by associated administration members, RRFDC representative, and the Town’s retained planning consultant with comments provided for review. At this time, it is recommended by administration that Mayor and Council support administration to:

1. Form the Fort Frances / Aazhogan Renewal Planning Committee as per the mutually agreed upon terms of reference
2. Apply for Federal and Provincial funding for the land use and economic development study and that if funding is approved Mayor and Clerk be authorized to execute the funding agreements for a land use/economic development feasibility

Respectfully submitted



Cody Vangel, EIT
Chief Building Official & Municipal Planner

Terms of Reference

Fort Frances / Aazhogan Renewal Planning Committee

1.0 Background on Aazhogan Renewal

2670568 Ontario Ltd. acquired the former Fort Frances mill properties in July 2019. Since that time, 2670568 and Rainy River First Nations have formed a joint venture with the intent to collaboratively redevelop the mill properties. The joint venture operates as Aazhogan Renewal.

In June 2020, Aazhogan Renewal and the Town of Fort Frances (together, The "Parties") agreed to work together to address anticipated planning and development requirements associated with the mill properties, most notably with amendments that may be required with the Town of Fort Frances Official Plan ([click here](#)) and the ambitions of Aazhogan Renewal. The Town of Fort Frances and Aazhogan Renewal agreed to work together through a newly formed *Fort Frances/ Aazhogan Renewal Planning Committee* ("the Committee").

2.0 Purpose

The Committee has been established to provide a forum to align The Parties' priorities and to develop recommendations for amending Town planning documents relevant to ongoing renewal efforts within the Town limits.

The Committee is an advisory committee and will have no official authorities.

3.0 Principal responsibilities

The principal responsibilities of the Committee will be to:

1. Meet with the Town of Fort Frances' designated planner to understand requirements within the municipality (i.e. *The Planning Act*, Official Plan, Provincial Policy Statement, etc.).
2. Recommend appropriate mechanisms for efficiently re-zoning the mill properties from current designations more appropriate designations for future anticipated land use.
3. Develop a Request for Proposal (RFP) to hire a qualified consultant who will work with the Committee to identify opportunities for advancing the Official Plan in support of anticipated renewal projects related to the mill properties for presentation and adoption to the Town of Fort Frances for inclusion in the Official Plan. For further clarification, the Committee is not responsible for development of the master plan for the properties or any detailed planning pertaining to the properties.

4. If necessary, develop and execute engagement and communication plans to gain support from key stakeholder groups, including governments, regulators, companies, and investors.

4.0 Membership

Membership of the Committee will include;

- 2 (two) representatives for Aazhogan Renewal and
- 2 (two) representatives from the Town of Fort Frances administration.

Members will sit on the Committee as representatives of their organization, in addition to bringing individual expertise.

The Committee will be chaired on a rotational basis by each of the four members.

5.0 Funding for the Committee

Each party will pay any out of pocket and travel expenses for their representatives.

The Town of Fort Frances will pay for all expenses related to the qualified consultant, including fees, expenses, etc. pending approval of funding submissions to granting agencies.

Include: Both parties will split 50/50 the project expenses not covered by grant funding (consultant, fees, expenses, ect...)

6.0 Meeting Frequency and Location

The Committee will meet two times per month, on the second and fourth Tuesday.

The time requirement for each session will vary, but generally the session will begin at 1:30 pm and end by 3:30pm. Once a consultant is engaged, the committee may mutually agree to vary day and time requirements to facilitate an efficient process.

Meetings will be held in a location to be determined.

7.0 Duration

Duration of the Committee will continue to exist until the work is adopted by the Town of Fort Frances within their Official Plan. **& zoning by-law**

Date: June 29, 2020

Report To: Planning and Development Executive Committee

From: Cody Vangel, Chief Building Official & Municipal Planner

Re: Site Plan Control Discussion

The Planning and Development Executive Committee will recall that at their June 15, 2020 session it was asked for administration to investigate land use planning alternatives that may be used in replacement of a Site Plan Control Agreement. The intent of this investigation is to investigate various options that may be available that may reduce the cost of developing within the Town of Fort Frances.

This matter was brought to the Town's land use planning consultant, Jeff Port, for discussion with the following notes being made:

- There are no other specific land use planning tools that Jeff is aware of that provide the municipality with the control over a project that a Site Plan Control Agreement provides.
- Jeff believes that in smaller northern municipalities Site Plan Control should be utilized only when necessary and that each Site Plan Control application or development should be considered on its own merit and decided upon on a case by case basis.
- Jeff is not personally aware of, in his experience, any alternatives that may be utilized to enforce stormwater management.

Some of our neighbouring municipalities have even passed site plan control by-laws which automatically designate a variety of projects to require site plan control, additionally the facilitation of these agreements in some cases have been transferred to members of administration rather than subject to council decision. A sample of these by-laws are attached to this report. However, in the Town of Fort Frances we bring through each development proposal individually, outside of single/semidetached residential, for decision on whether to utilize site plan control or not. This allows council to decide if it should be used rather than automatically stating it shall be used.

The importance of stormwater management is critical in the realm of development. Through my research I have found that some municipalities have passed stormwater management by-laws supported by master stormwater management plans. This may be an alternative that council may seek, however, this may actually create further intensive restrictions on developing within the municipality where most developments shall prepare stormwater management plans rather than subject to case by case decision in a site plan control agreement.

By alleviating use of site plan control on various developments we may run the risk of reducing the cost of development for one group, but further increasing the cost to the larger tax paying body as any repairs or associated works with improper management of stormwater would be at the tax payers dollar. Town stormwater infrastructure is designed for specific loadings, and when a development is proposed on property which will significantly alter the rate of infiltration of stormwater it is important for that development to manage their stormwater to a specific level such that the runoff does not overload the municipal systems.

I have attached a copy of the Town's site plan control agreement template for the committee's review. Some of the primary associated costs with the site plan agreement are as follows:

- Engineered site grading plan, stormwater management plan, site and external servicing plan
- Surveyor's Real Property Report
- Pay any outstanding taxes (including arrears, interest and penalties) and local improvement charges
- Pay to the Municipality the Municipality's building permit fee and any other fees and otherwise payable pursuant to the Municipality's User Fees By-law.
- Historically, a 5% of project value refundable letter of credit which may be drawn upon by the municipality
- The developer may be liable for any of the following costs associated with the agreement
 - o Application for site plan;
 - o Preparation of this agreement;
 - o Registration of this Agreement on title and preparation of any and all land titles documentation in relation thereto, all such documentation to be provided to the Municipality for approval prior to registration thereof;
 - o All legal / lawyer fees and disbursements;
 - o Engineer / engineering fees and disbursements;
 - o Planning / planner fees and disbursements;
 - o Municipal staff time;
 - o All Land title fees and charges;
 - o Any other costs or charges in any way related to the application, the development, or this agreement; and
 - o HST and any other taxes applicable on or to any of the above.
- The following are typically requested to release/reduce the letter of credit:
 - o letter of application for reduction/release;
 - o the consultant's certificate confirming that services completed;
 - o as-constructed drawings;
 - o satisfactory evidence of no construction liens filed;
 - o workplace safety certificate;
 - o statutory declaration as to accounts;
 - o surveyor's certificate and real property report(s); and
 - o composite utility plan.

Each agreement is reviewed for the specific project at hand with terms of the agreement being altered to suit the specific development.

It is the recommendation of administration that developments continue to be reviewed on a case by case basis by mayor and council for the use of site plan control and further that stormwater management continue to be considered when making decision.

Respectfully submitted



Cody Vangel, EIT
Chief Building Official & Municipal Planner

SITE PLAN AGREEMENT

THIS AGREEMENT made this ____ day of _____ 2019.

B E T W E E N:

(the "Owner")

- and -

The Corporation of the Town of Fort Frances
(the "Municipality")

WHEREAS:

- A. The Owner has represented to the Municipality that the Owner is the registered and beneficial owner of the lands and premises (the "Lands") legally described in **Schedule 1** hereto;
- B. The Owner wishes to construct and develop, in and on the Lands or a portion thereof, _____ (herein sometimes referred to as the "Development" or "Proposed Development");
- C. By an application dated _____, the Owner applied to the Municipality for site plan approval in respect of the Proposed Development;
- D. The Municipality provided approval of the Application in respect of the Proposed Development subject to certain conditions;
- E. The Owner has submitted to the Municipality the Plans and Drawings (as "Plans and Drawings" are defined in paragraph 3 of this Agreement) in respect of such Proposed Development by the Owner of the Lands; and
- F. s. 41(10) of the Planning Act (as "Planning Act" is defined in paragraph 3 of this Agreement) (the "Planning Act") permits the registration of this Agreement against the Lands.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the mutual covenants hereinafter expressed and other good and valuable consideration, the receipt of which is hereby acknowledged, the Owner and the Municipality (collectively the "Parties", individually a "Party") hereto agree one with the other as follows:

The Lands

- 1. The Lands affected by this Agreement are as follows: the lands and premises municipally described as _____, more particularly described in **Schedule 1** attached hereto.

Schedules

- 2. The following Schedules are attached hereto and form part of this Agreement:
 - (a) **Schedule 1** being a description of the Lands affected by this Agreement;
 - (b) **Schedule 2** being a Solicitor's Certificate of ownership of the Lands, which certificate shall be provided to the Municipality within 10 days of the request by the Municipality therefor;
 - (c) **Schedule 3** being a schedule of financial obligations of the Owner payable upon execution of this Agreement or as otherwise provided;
 - (d) **Schedule 4** being a list of the Plans and Drawings (as "Plans and Drawings" are defined in paragraph 3 of this Agreement) as filed by the Owner with the Municipality as may be, with the approval of the Municipality, revised at any time and from time to time;
 - (e) **Schedule 5** being a schedule of letters of credit (which shall be in form and substance satisfactory to the Municipality) to be obtained and filed with the Municipality by the Owner on or before execution of this Agreement; and
 - (f) **Schedule 6** being a schedule for the release/reduction of letters of credit by the Municipality to the Owner.

Definitions

3. In this Agreement:

- (a) "Agreement" means this Agreement and any Schedules referred to in it or attached to it, as may be amended from time to time. The recitals to, and the Schedules attached to this Agreement shall be considered integral parts of it.
- (b) "Construction Lien Act" means the Construction Lien Act, R.S.O. 1990, c. C.30, as amended, including successor legislation.
- (c) "Municipal Act" means the Municipal Act, 2001, S.O. 2001, c.25, as amended, including successor legislation.
- (d) "Person" means an individual, association, partnership, syndicate, firm, organization, foundation, trust, estate, governmental authority, corporation, trustee, agent, or any other entity, and the heirs, administrators, executors, assigns and other legal representatives of any such person to whom the context may apply according to law.
- (e) "Planning Act" means the Planning Act, R.S.O. 1990, c. P.13, as amended, including successor legislation.
- (f) "Plans and Drawings" means the plans and drawings (and any accompanying materials) referred to in **Schedule 4** of this Agreement. The Parties acknowledge that, from time to time, the Plans and Drawings may, with the prior written acceptance of the Municipality, be revised, and if the Municipality provides its acceptance for any revision wherever there is, in this Agreement, any reference to Plans and Drawings, such reference shall be and be deemed to be to the Plans and Drawings so revised with the prior acceptance of the Municipality, and any and all obligations, responsibilities, and otherwise of the Owner to construct or otherwise under or pursuant to this Agreement shall be deemed to reference, apply, and have regard to (and the Owner shall follow and adhere to), the Plans and Drawings so revised.

The Owner shall, further:

- (i) obtain, from any and all authorities having jurisdiction, any and all approvals required for any proposed revision to Plans and Drawings or to any changes to design, construction, and otherwise as may be shown or contemplated therein and thereby; and
- (ii) when submitting and making application to the Municipality in respect of revisions to any and all Plans and Drawings, include with such application any and all approvals applicable or required to be obtained from any and all authorities having jurisdiction.
- (g) "Security" means any and all letters of credit, cash, and other security provided or to be provided the Municipality under or pursuant to the provisions of this Agreement in order to guarantee compliance with all conditions and things to be done or performed or caused to be done and performed by the Owner under or pursuant to this Agreement.
- (h) "Works" means any and all buildings, structures, works, services, facilities and matters and otherwise (and whether internal or external to the Lands) referred to or required by or under this Agreement.

Terms and Conditions - General

4. The Owner:

- (a) covenants and agrees to develop the Lands and do, construct, and build all Works, whether internal or external to the Lands in strict compliance with the Plans and Drawings;
- (b) covenants, warrants, and represents, that the Plans and Drawings submitted to the Municipality have been prepared in a good and workmanlike manner, are accurate in all respects and comply with the requirements of all authorities having jurisdiction;
- (c) acknowledges that the Owner's application is on the basis of a proposal for the Proposed Development, namely the construction, development, and completion, in accordance with the terms and conditions contained in this Agreement of a - _____. The Owner represents and warrants to the Municipality that no deviations or changes shall be made to the Plans and Drawings and no construction shall take place contrary to such Plans and Drawings, without the prior written approval of the Municipality, except such changes as may be required by the Municipality in order that said Plans and Drawings shall comply with all relevant provisions of the building or zoning or other by-laws or laws of the Municipality, and all regulations or laws of any other authority having jurisdiction;

- (d) covenants and agrees that no work shall be undertaken or performed on, or external to, the Lands except in accordance with the terms of this Agreement;
- (e) acknowledges and agrees that compliance with all applicable laws and regulations applicable, including, without limitation, the Ontario Building Code and the regulations thereunder, and all other applicable laws and requirements of all authorities having jurisdiction, is mandatory;
- (f) covenants and agrees not to convey a part or to further divide the Lands, except in pursuance of the Planning Act or any other similar legislation;
- (g) covenants and agrees that, unless otherwise determined by the Municipality in its sole and unfettered discretion, neither the Owner nor any entity under the authority of the Owner shall be entitled to the issuance of one or more permits to construct or otherwise proceed with any Works or otherwise contemplated under this Agreement until this Agreement has been fully executed and registered on title to the Lands;
- (h) covenants and agrees that it will hold back in its payments to any contractor who may construct services, facilities, or Works or any part thereof, such amounts as may be required under the provisions of the Construction Lien Act. The Owner shall indemnify and save completely harmless the Municipality from and against all claims, demands, actions, causes of action and costs resulting from any construction being performed, by the Owner, its agents and assigns, and any entity acting under the authority of the Owner, and, on demand by the Municipality, the Owner shall take such steps as may be necessary to immediately discharge all liens registered upon or against the Lands, the Works, or otherwise;
- (i) covenants and agrees to retain a professional engineer (the "Engineer") who holds a Certificate of Authorization for municipal engineering applications from the Association of Professional Engineers of Ontario to prepare such design of grading, site and external servicing plans, municipal service connection designs, storm water management, and other reports as may be required by the Municipality to be submitted to the Municipality.

The Engineer shall, prior to the reduction or release of any Security, be required to inspect and certify to the Municipality that all Works have been constructed in accordance with the Plans and Drawings. The certificate, or certificates, shall be in a format acceptable to the Municipality in its sole and unfettered discretion;

- (j) covenants and agrees not to permit occupancy of any building or part thereof for which building permits have been issued until:
 - (i) all Works required under this Agreement are completed in accordance with the requirements of the Ontario Building Code, the applicable zoning by-law and any other municipal by-laws and all other applicable law and requirements of all authorities having jurisdiction;
 - (ii) all water and sanitary sewer infrastructure has been properly tested, approved by all authorities having jurisdiction, and are operating in accordance with the conditions established by the Municipality; and
 - (iii) an occupancy permit has been issued.

To ensure compliance with this paragraph 4(j) of this Agreement, the Owner covenants and agrees that the Municipality may draw upon any Security the Owner has provided to the Municipality if, in the opinion of the Chief Building Official of the Municipality, a building or part thereof is occupied contrary to the said provision.

In the event that a building or part thereof is occupied otherwise than in accordance with the provisions of this paragraph 4(j) of this Agreement, the Owner covenants and agrees that the Municipality shall be entitled to obtain an order from a court of competent jurisdiction prohibiting the occupancy of any building or part thereof until such time as the terms of this Agreement have been fully complied with, and the Owner shall be stopped from opposing such application on the part of the Municipality;

- (k) that the Municipality shall be entitled, in its sole and unfettered discretion and at the sole cost and expense of the Owner, to retain the services of an independent qualified engineer to review all documentation submitted to the Municipality by the Owner and to conduct necessary inspections and otherwise of and in respect of the Works; and
- (l) that once all Works required to be provided, constructed, or installed by it that are internal to the Lands under the terms of this Agreement have been completed to the satisfaction of the Municipality, and in accordance with all Municipal specifications, the laws and requirements of all authorities having jurisdiction, and in a good and workmanlike manner, the Owner shall maintain such Works in accordance with the requirements of all authorities having jurisdiction until the

Agreement is amended to provide otherwise or is otherwise released from title to the Lands. In the event that any of the internal Works are not being maintained in accordance with all applicable laws and requirements of all authorities having jurisdiction, or if the Owner is otherwise in default of this Agreement, the Municipality may, on written notice to the Owner, require the Owner to comply with the terms of this Agreement.

5. The Municipality may, by its agents, officers, employees, assigns, contractors, subcontractors, and other representatives and other Persons howsoever engaged by it, from time to time enter in and on the Lands or any part thereof as well as any building(s) erected thereon to ensure that any Works required to be provided, constructed, or installed by the Owner comply with this Agreement.
6. The Owner covenants and agrees as follows:
 - (a) Not to foul the highways leading to the Lands and to provide on all construction accesses leading to the Lands, an interim granular surface to prevent mud or dust from fouling any roads.
 - (b) Not to permit any approach ramps and driveways across the untraveled portion of any road allowance owned by the Municipality unless such approach ramps and driveways are constructed and installed to the Municipality's specifications.
 - (c) To install curbing to the Municipality's specifications along the approach ramps between the property line and the street, and at all locations shown on the Plans and Drawings.
 - (d) To provide fire access route signs, to locate such number of fire hydrants and size of watermains as approved by the Municipality and to satisfy any and all requirements of the Municipality's Fire Chief or the Fire Chief's designate at the Owner's sole cost and expense.
 - (e) To ensure, provide, and maintain, a proper plan with regard to ambulance and other emergency response and related measures and services.
 - (f) To ensure, provide, and maintain a proper access route for fire, ambulance, and other emergency response and related measures and services.
 - (g) To pave with asphalt or concrete all parking, loading, and walkway areas on the Lands to the Municipality's requirements and specifications. No parking or loading zone shall be permitted on any of the Lands unless all areas for which parking and loading are permitted are paved. All handicapped parking spaces shall be so identified with appropriate signage to the satisfaction of the Municipality. All parking and loading areas shall be constructed and maintained to the Municipality's satisfaction.
 - (h) To design, install, and maintain, in accordance with the Plans and Drawings, light standards, fixtures and illumination devices to adequately illuminate the Lands but to also prevent the spread of light onto other properties or onto public highways.
 - (i) To complete and maintain landscaping and planting on the Lands in accordance with the Plans and Drawings.
 - (j) Not to permit any refuse, junk, debris or other material to be deposited on any lands, school lands, or park lands in the area, and that any such refuse, junk, debris, or other material will be removed from the Lands at the expense of the Owner. If the Owner fails to remove the aforesaid material within a period of 48 hours from the time of delivery of written notice to the Owner, the Municipality may enter the Lands and remove the said material and the Owner shall pay for all costs and expenses incurred by the Municipality and the Owner further agrees that the Municipality shall be entitled to charge same against, and take any such costs and expenses from, any Security.
 - (k) To design, prior to construction, a waste management system for the collection, storage, and disposal of waste and recyclable materials, to implement such system and to maintain same following occupancy of the Proposed Development to the satisfaction of the Municipality.
 - (l) To provide internal recycling and garbage areas sufficient to contain the required number of containers and materials.
 - (m) To convey to the Municipality any easements or land (if any) required by the Municipality for the construction, maintenance and improvement of watercourses, ditches, and land drainage works, sewage facilities, and other public utilities.
 - (n) To obtain written confirmation from the appropriate Persons that all utility requirements for the Lands (including but not limited to telephone, telecommunications, hydro-electric power, gas, and postal services), have been satisfactorily arranged and installed, that servicing for same will be provided without any expense, cost, or obligation on the part of the Municipality, and that

all requisite documents and otherwise have been or will be provided to such Persons.

- (o) To design, obtain approval in respect of, construct, install, and maintain, in accordance with all design and approval requirements of all authorities having jurisdiction and the Plans and Drawings, proper water, sewer, and drainage, systems and facilities, and to indemnify and save harmless the Municipality from actions, claims and suits whatsoever, which may arise out of the implementation or lack of maintenance thereof.
- (p) To implement and monitor on-site sediment and erosion control measures during construction of the Proposed Development, to the satisfaction of the Municipality and to allow the Municipality and its employees and agents, in perpetuity, access to the Lands to inspect roof drains, inlet control devices, and water and sewer management facilities.
- (q) To provide regular removal of snow from the site and that the parking spaces and landscaping areas will not be used for the stockpiling of snow.
- (r) To provide an environmental clearance certificate certified by a professional engineer or equivalent to the Municipality that all lands to be conveyed to the Municipality under this Agreement are environmentally suitable for their proposed use in accordance with any laws or guidelines from the Ministry of Environment or successor branch or agency (herein, "MOE").
- (s) to file with and provide to the Municipality, forthwith upon:
 - (i) completion of any buildings in or on the Lands, 2 complete hard copy sets of as built drawings for the buildings;
 - (ii) completion of any services, works, or facilities (including, without limitation, any utility infrastructure), 2 complete hard copy sets, and one complete electronic set, complete with UTM coordinates, of as built drawings for all such services, works, and facilities installed or constructed pursuant to and in accordance with this Agreement, and whether internal or external to the Lands; and
 - (iii) completion of the Proposed Development, 2 copies of survey and survey/real property reports prepared by and Ontario Land Surveyor complete with UTM coordinates;
- (t) To provide, during all hours of construction, competent on-site supervision of all Works required to be done on all public and private lands and building or other construction to be undertaken in or on the Lands.
- (u) To erect proper gates, signs, and protections surrounding or in respect of the Works and any construction on the Lands and to maintain same until final completion of construction.
- (v) That no antennae or associated equipment will be permitted on the roof and that all roof-top equipment shall be adequately screened from view to the satisfaction of the Municipality.
- (w) To ensure to get locates, and to verify the location of all existing and proposed utility infrastructure (including, without limitation, infrastructure relating to sewer, water, natural gas, hydro, cable, and other utilities), and whether such utility infrastructure is internal or external to the Lands, before commencing any digging or construction. The Owner shall be solely responsible for and pay all costs and expenses associated with any damage to any utility infrastructure and the relocation of any and all utilities as may be required. In the event of damage to any utility infrastructure by the Owner or its agents, assigns, employees, contractors, subcontractors, or other representatives or Persons howsoever engaged, or relocation of any utility infrastructure is, in the Municipality's sole discretion, required, the Municipality shall, in addition, without limitation and without prejudice to any and all other remedies that may be available to the Municipality in law or equity, be entitled, on written notice to the Owner (except in cases of emergency, in which case no notice shall be required), to require the Owner to comply with the terms of this Agreement and draw on, and utilize, the Security as the Municipality deems fit to pay for any and all costs, expenses, and damage, and costs of relocation, from the proceeds so drawn.
- (x) To make all necessary arrangements and to be solely responsible for the costs and expenses of removing and relocating any existing municipal or public services requiring relocation in the course of, or in connection with, the construction, installation or provision of the Works or otherwise required under this Agreement.
- (y) To comply with all provisions of the Municipality's noise by-law.
- (z) To provide the opportunity for ongoing and final site/Works inspection, monitoring, and testing (including, without limitation, prior to and during construction and material delivery, testing, or compaction) as required by the Municipality.

7. The Owner covenants and agrees to provide, arrange for, construct, install, and pay for all Works required to be provided, constructed, or installed by it that are internal to the Lands under the terms of this Agreement to the satisfaction of all authorities having jurisdiction, and in accordance with all municipal requirements and specifications, and in a good and workmanlike manner.

In the event of any of such internal Works not being or having been so constructed, installed, repaired, or if the Owner is otherwise in default of this Agreement, the Municipality shall, without limitation and without prejudice to any and all other remedies that may be available to it, be entitled, on written notice to the Owner (except in cases of emergency, in which case no notice shall be required), to:

- (a) require the Owner to comply with the terms of this Agreement; and
- (b) do or cause to be done whatever the Municipality deems necessary for or to ensure compliance with this Agreement (including, without limitation, the right to install, construct, and maintain any and all such Works)

all at the Owner's sole cost and expense, and to recover any and all costs and expenses (including, without limitation, all legal and related costs) expended or incurred by the Municipality in doing so, and draw on, and utilize, the Security as the Municipality deems fit to ensure, require, and complete, compliance, and pay all costs and expenses incurred thereby from the proceeds so drawn.

8. Notwithstanding any review (if any) or otherwise by the Municipality of the Plans and Drawings, and anything contained in this Agreement or otherwise, it is and shall throughout be and at all times remain the responsibility and liability of the Owner to ensure that all Plans and Drawings and any other documents provided by the Owner to the Municipality are accurate in all respects and comply with all provisions of the building or zoning or other by-laws of the Municipality and laws, regulations, and requirements of all authorities having jurisdiction, and the Municipality shall not, whether by or as a result of any review done by the Municipality of the Plans and Drawings, or any other action or non-action taken by the Municipality have any responsibility or liability to the Owner in respect thereof nor be deemed to have approved or confirmed that the Plans and Drawings are accurate in any respect or at all or comply with the provisions of the building or zoning or other by-laws of the Municipality or regulations, laws, or requirements of any other authority having jurisdiction.

The Owner is aware that, given the Municipality's staffing, budgeting, and other limitations, and considerations and the obligations of the Owner to ensure the provision of information and Plans and Drawings, which is complete and in compliance with the requirements of all authorities having jurisdiction, the Municipality may undertake a limited or cursory review of the Plans and Drawings, relying, as the Municipality does, on the Owner to ensure completeness and compliance.

Terms and Conditions - Other

9. The Owner acknowledges and confirms that, to the best of their knowledge and belief, there are no conditions known to them or any of them of or relating to the Lands (whether or not objected to by any authority with jurisdiction with respect to the same) which would adversely interfere with or derogate from, the uses to which Lands are presently put or the uses to which the Owner proposes to put the Lands, including, without limitation, the existence of any environmental hazard or other substance, material or contaminant of the soil or groundwater or any constituent element thereof causing or which would cause environmental contamination or concern.
10. (a) The Owner covenants and agrees to provide, arrange for, construct, install, and pay for the following Works external to the Lands, namely:
- (i) to repair and restore to the satisfaction of the Municipality any grounds, fences, and any other works, services, facilities, and otherwise, dug up or damaged during or as a result of the construction or execution of the Proposed Development; and
 - (ii) any and all Works shown on or spoken to in the Plans and Drawings as being external to the Lands, including, without limitation:
 - (A) the water, storm sewer, and sanitary sewer infrastructure to the property line of the Lands;
 - (B) concrete driveway approaches as shown on the Plans and Drawings; and
 - (C) hydro-electric power, gas, telephone, and other public utility requirements for the Proposed Development.
- (b) The Owner acknowledges that notwithstanding that the above-noted Works may be external to the Lands, it derives a direct benefit from the provision, construction, and installation of such Works and that the Proposed Development proposed hereunder could not be accommodated without the existence of such Works.

- (c) The Owner covenants and agrees to construct or install all Works required to be provided, constructed or installed by it that are external to the Lands under the terms of this Agreement to the satisfaction of the Municipality and any other authority having jurisdiction, and in accordance with all municipal specifications, and in a good and workmanlike manner. The Owner guarantees the workmanship and materials for the construction and installation of the external Works and to maintain same free of defects for a period (in this Agreement sometimes referred to as the "Guarantee and Maintenance Period") of one (1) year from the date of certification by the Municipality of completion thereof. The Owner covenants and agrees that it shall promptly and properly repair all defects in any and all such external Works to the complete satisfaction of the Municipality.

In the event of any of such external Works not being or having been provided, constructed, installed, repaired, or maintained to the satisfaction of the Municipality, or if the Owner is otherwise in default of this Agreement, the Municipality shall, without limitation and without prejudice to any and all other remedies that may be available to it, be entitled, on written notice to the Owner (except in cases of emergency, in which case no notice shall be required), to:

- (i) require the Owner to comply with the terms of this Agreement; and
- (ii) do or cause to be done whatever the Municipality deems necessary for or to ensure compliance with this Agreement (including, without limitation, the right to install, construct, and maintain any and all such Works)

all at the Owner's sole cost and expense, and to recover any and all costs and expenses (including, without limitation, all legal and related costs) expended or incurred by the Municipality in doing so, and draw on, and utilize, the Security as the Municipality deems fit to ensure, require, and complete, compliance, and pay all costs and expenses incurred thereby from the proceeds so drawn.

The Owner acknowledges that any action or non-action taken by the Municipality or by anyone on its behalf, including, without limitation, relating to the removal of snow and ice, or sanding, or cleaning of any roads, or permitting the connection of additional services to any of the external Works herein required to be constructed or installed, during the Guarantee and Maintenance Period or otherwise, is without prejudice to the Municipality's right to enforce any and all provisions of this Agreement.

11. The Owner covenants and agrees that there will be no blasting conducted in or on the Lands by the Owner.

Financial Conditions, Security, and Insurance

12. The Owner covenants and agrees to:
- (a) pay to the Municipality, forthwith upon request by the Municipality, for any and all costs and expenses whatsoever of and incurred by the Municipality with regard to the application, the preparation of this Agreement, any other matter or thing relating to the Agreement, and the registration of this Agreement against title to the Lands, and including, without limitation, all legal/lawyers fees and disbursements, engineers/engineering fees and disbursements, planning/planners fees and disbursements, Municipal staff time, notice, application, advertising, postage, court, land titles, mileage, material, HST as applicable, and any other costs and charges in any way related to the application or this Agreement;
 - (b) pay any outstanding taxes (including arrears, interest and penalties) and local improvement charges; and
 - (c) pay to the Municipality the Municipality's building permit fee and any other fees and otherwise payable pursuant to the Municipality's User Fees By-law.
13. (a) In order to guarantee compliance with all conditions contained herein, the Owner covenants and agrees to file and maintain with and for the benefit of the Municipality, on the execution of this Agreement, (a) letter(s) of credit (collectively, the "Letter of Credit") in the amount set out in **Schedule 5** attached hereto. The Letter of Credit shall be in a form satisfactory to and approved by the Municipality, and the Owner covenants and agrees that the Letter of Credit shall be kept in full force and effect and that it will pay all premiums as the said Letter of Credit become due or until such time as set out in **Schedule 6** attached hereto.

- (b) The Owner hereby acknowledges and agrees that should there be a deficiency in or failure to carry out any Works, matter, or thing required under or by this Agreement, and the Owner fails to comply, within 30 days written notice (except in an emergency situation or other exigent circumstances requiring immediate response, in which case verbal notice less than 30 days shall be deemed sufficient) with a direction to carry out such work, matter, or thing, the Municipality shall be entitled to (in addition and without limitation and without prejudice to any and all other remedies that may be available to the Municipality in law or equity), without limitation, draw on the Letter of Credit or any of it to the extent necessary and complete all outstanding work, matters, and things, enter onto the Lands as necessary for any and all such purposes, and pay all costs and expenses incurred thereby from the proceeds so drawn.
 - (c) The Owner hereby acknowledges and agrees that the Municipality reserves the right to draw on and use the proceeds from the Letter of Credit to complete any Works, matter, or thing required to be done, observed, or performed by the Owner pursuant to this Agreement. The Owner further acknowledges and agrees that, notwithstanding anything contained in this Agreement, in the event that the Municipality determines that any reduction in the Letter of Credit will create a shortfall with respect to securing the completion of any Works, matter, or thing remaining to be carried out, observed, or performed by the Owner pursuant to this Agreement, the Municipality:
 - (i) shall not be obligated to reduce the Letter of Credit until such time as such Work, matter, or thing is satisfactorily completed or the Municipality has sufficient Letter of Credit to ensure that such work, matter, and thing will be completed; and
 - (ii) may request additional letters of credit for such additional amounts as the Municipality determines is necessary to fully secure the completion of any Works, matter, or thing to be or remaining to be carried out, observed, or performed by the Owner pursuant to this Agreement, and the Owner shall and does hereby agree to provide same within 30 days of demand by the Municipality therefor.
 - (d) Wherever in this Agreement a letter of credit is required to be filed with the Municipality, the Owner may deposit with the Treasurer of the Municipality cash or certified cheque in an amount equal to the Letter of Credit and such deposit shall be held by the Municipality as security to be utilized in a like manner as the letters of credit referred to above and otherwise as required or permitted by this Agreement, provided that no interest shall be payable on any such deposit.
 - (e) Notwithstanding anything contained in this Agreement, it is understood and agreed by the Parties that, except as may be otherwise permitted by the Chief Building Official of the Municipality in writing, the Owner shall not commence, undertake, engage in, or continue the Works nor any part of them without first having provided to the Municipality security satisfactory to the Municipality.
 - (f) The Owner acknowledges that upon the transfer of ownership of the Lands, the Municipality will not return any Letter of Credit until the new owner files with the Municipality a substitute Letter of Credit or such other Security as may be permitted in the required amounts.
14. The Owner shall provide or cause to be provided to the Municipality, on or prior to the execution of this Agreement:
- (a) a general comprehensive liability insurance policy in the amount of \$5,000,000.00 per occurrence in a form satisfactory to the Municipality, indemnifying the Municipality from any loss arising from claims or damages, injury or otherwise in connection with any and all Works, things, and matters done by or on behalf of the Owner. The policy shall include but not be limited to bodily injury, property damage, and contractual liability and contain a cross-liability clause and name the Municipality as additional insured. The policy shall be maintained in full force and effect from and after the execution of this Agreement until all Works external to the Lands have been assumed by the Municipality and in any event until the expiry of the Guarantee and Maintenance Period. The policy shall be endorsed to provide 30 days written notice of cancellation to the Municipality. The Owner shall, upon request therefor by the Municipality at any time and from time to time, promptly provide the Municipality with a certificate of insurance in accordance with the above and if requested a certified true copy(s) of the policy(s) certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to this Agreement. In the event that any renewal premium is not paid, the Municipality, in order to prevent the lapse of such liability insurance policy, may pay the renewal premium or premiums and the Owner agrees to pay the cost of such renewal or renewals within 30 days of the account therefor being rendered by the Municipality. The issuance of such policy of insurance shall not be construed as relieving the Owner from any liability or responsibility for any claims in excess of the aforementioned policy limits. Further, the Owner shall ensure that any contractor and subcontractor engaged to complete the Works or any matters to be done by and/or on behalf of the Owner or otherwise shall maintain the same as or equal insurance as required to be provided and maintained by the Owner.

hereunder; and

- (b) Professional Liability insurance in the amount of \$5,000,000.00 per claim in a form satisfactory to the Municipality. Such insurance shall provide coverage for all errors and omissions made by the Owner's Engineer and other professionals in the rendering of, or failure to render, professional services in connection with this Agreement, and remain in full force and effect for 12 months after completion of all things and matters to be done by or to be done by or on behalf of the Owner hereunder. Until the completion of all things and matters done by or to be done by or on behalf of the Owner, upon the placement, renewal, amendment, or extension of all or any part of the insurance, the Owner shall promptly provide the Municipality with a certificate of insurance and if requested a certified true copy(s) of the policy(s) certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to this Agreement.

Administration

15. (a) If any notice is required to be given by the Municipality to the Owner with respect to this Agreement, such notice shall be mailed, delivered or sent by facsimile transmission to:

[REDACTED]

or such other address of which the Owner has notified the Municipality in writing.

- (b) If any notice is required to be given by the Owner to the Municipality with respect to this Agreement, such notice shall be mailed, delivered or sent by facsimile transmission to:

The Corporation of the Town of Fort Frances
320 Portage Avenue
Fort Frances, Ontario
P9A 3P9

Attention: Clerk

Facsimile: 807.274.8479

or such other address of which the Municipality has notified the Owner in writing.

- (c) Any notice so given shall be deemed conclusively to have been given and received when so delivered personally or via facsimile, or on the third day following the sending thereof by mail. Any party hereto may change any particulars of its address for notice by notice to other party in the manner aforesaid.
16. The Owner hereby agrees that this Agreement, together with any schedules thereto, shall be registered upon title to the Lands at the sole cost and expense of the Owner. The covenants, agreements, conditions and undertakings herein contained on the part of the Owner shall run with the Lands and shall be binding upon it, its successors and assigns as owners and occupiers from time to time and this covenant shall be to the benefit of the Municipality and its lands and highways appurtenant and adjacent to the Lands. The Owner further covenants and agrees to pay to the Municipality the cost of registration of this Agreement, as well as any further costs incurred by the Municipality as a result of the registration of any other documents pertaining to the application and this Agreement.
17. The Owner covenants and agrees, at its own expense, to obtain and register such documentation (collectively, the "Subordination and Postponement Documentation") from its mortgagees, lessees, and encumbrancers and other Persons interested therein or with respect thereto as may be deemed necessary by the Municipality to postpone and subordinate their interest in the Lands to the interest of the Municipality in order to ensure that this Agreement shall take effect and have priority as if it had been executed and registered prior to the execution and registration of the document or documents giving to the mortgagee, lessees, and encumbrancers and other Persons interested therein their interest in the Lands. The Subordination and Postponement Documentation shall be registered on title to the lands immediately after the registration of this Agreement.
18. The Owner acknowledges that the Municipality, in addition to any other remedies it may have at law or equity, shall also be entitled to enforce this Agreement in accordance with s. 446 and any other applicable provisions of the Municipal Act.
19. Nothing in this Agreement shall relieve the Owner from compliance with all applicable municipal by-laws, laws, regulations, notices, or other policies or laws and regulations established by any other authority having jurisdiction.
20. If the Proposed Development governed by this Agreement is not commenced within 1

year from the date of the execution of this Agreement, the Municipality may, at its sole option and on 60 days notice to the Owner, declare this Agreement null and void and of no further force and effect. Under no circumstances shall the Municipality be obligated to refund any fees, levies, or other charges paid by the Owner pursuant to this Agreement.

21.
 - (a) The part numbers and headings, subheadings and section, subsection, clause and paragraph numbers are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
 - (b) This Agreement shall be construed with all changes in number and gender as may be required by the context.
 - (c) Every provision of this Agreement by which the Owner is obligated in any way shall be, unless otherwise specifically stated, deemed to include the words "at the sole cost and expense of the Owner" including the payment of any applicable taxes (including, without limitation, HST).
 - (d) References herein to any statute or any provision thereof include such statute or provision thereof as amended, revised, re-enacted or consolidated from time to time and any successor legislation thereto.
 - (e) All obligations herein contained to be performed and observed on the part of the Owner shall, although not expressed to be covenants, be deemed to be covenants.
 - (f) Whenever a statement or provision in this Agreement is followed by words denoting inclusion or example and then a list of or reference to specific items, such list or reference shall not be read so as to limit the generality of that statement or provision, even if words such as "without limiting the generality of the foregoing" do not precede such list or reference.
 - (g) The Owner and the Municipality agree that all covenants and conditions contained in this Agreement shall be severable, and that should any covenant or condition in this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, the remaining covenants and conditions and the remainder of the Agreement shall remain valid and not terminate thereby.
 - (h) Any rule of construction that a document is to be construed more strictly against the Party who itself, or through its agent, drafted such document, shall not apply to this Agreement as it is agreed that the Parties, directly or through their agents, have participated in the preparation of this Agreement.
 - (i) The Owner shall execute any further and other documents and do such further and other things as may be required or desirable to give effect to this Agreement.
22. Neither this Agreement nor any interest therein nor any rights under it shall be assigned or otherwise transferred by the Owner in whole or in part without the prior consent in writing of the Municipality.
23. If the Owner is constituted by or of more than one Person, their obligations hereunder shall be joint and several.
24. The Owner shall indemnify and save harmless the Municipality for and against all actions, causes of action, claims, suits, and demands whatsoever which may or do arise directly or indirectly by reason of, this Agreement, the construction and otherwise of the Proposed Development, or the Owner undertaking the Proposed Development.
25. The Owner agrees to do such further and other things and sign any further documents necessary or desirable to give effect to this Agreement.
26. The failure of the Municipality at any time to require performance by the Owner of any obligation under this Agreement shall in no way affect the Municipality's right thereafter to enforce such obligation, nor shall the waiver by the Municipality of the performance of any obligation hereunder be taken or be held to be a waiver of the performance of the same or any other obligation hereunder at any later time. The Municipality shall specifically retain its rights to enforce this Agreement in such manner as it deems fit.
27. Time shall always be of the essence of this Agreement. Any time limits specified in this Agreement may be extended with the consent in writing of the Parties, but no such extension of time shall operate or be deemed to operate as an extension of any other time limit, and time shall be deemed to remain of the essence of this Agreement notwithstanding any extension of any time limit.
28. The Parties covenant and agree with each other not to call into question or challenge, directly or indirectly, in any proceeding or action in court, or before any administrative tribunal, the Party's right to enter into and enforce this Agreement. The law of contract applies to this Agreement and the Parties are entitled to any and all remedies arising from it, notwithstanding any provision in s.41 of the Act interpreted to the contrary. The Parties agree that adequate consideration has flowed from each party to the other and that they are not severable. This provision may be pleaded by either party in any action or proceeding as an estoppel of any denial of such right.

29. The Owner understands and agrees that this Agreement and any materials or information provided to the Municipality may be subject to disclosure under the *Municipal Freedom of Information and Protection of Privacy Act* or as otherwise required by law.
30. This Agreement shall be interpreted under and be governed by the laws of the Province of Ontario.
31. This Agreement may be executed in any number of counterparts and all of these counterparts shall for all purposes constitute one agreement, binding on the Parties, notwithstanding that all Parties are not signatory to the same counterpart.
32. This Agreement and everything herein contained shall ensure to the benefit of and be binding upon the Parties hereto and their successors and assigns.

IN WITNESS WHEREOF the Parties hereto have hereunto affixed their corporate seals duly attested to by their proper signing officers in that behalf.



per _____
Name:
Title:

per _____
Name:
Title:

We have authority to bind the corporation

The Corporation of the Town of Fort Frances

per _____
Name: J. Caul,
Title: Mayor

per _____
Name: E. Slomke,
Title: Town Clerk

We have authority to bind the Municipality

Schedule 1

Legal Description of Lands

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Schedule 2

Solicitor's Certificate of Ownership

TO: The Corporation of the Town of Fort Frances (the "Municipality")

I, _____, a Solicitor of Ontario, do hereby certify that _____ is the sole registered and beneficial owners in fee simple of the lands and premises legally described as _____

I further certify that there are no mortgages or other encumbrances upon the said lands or any part thereof save and except the following: None.

All easements, licenses, and or rights-of-way to be conveyed to the Municipality, if any, will be so conveyed with the consent of all charges and other encumbrancers.

This certificate is given by me to the Municipality for the purpose of having the said Municipality act in reliance on it in entering into this Agreement.

DATED at _____, Ontario, this _____ day of _____, 2018.

Solicitor for the Owner

Schedule 3

Schedule of Financial Obligations of the Owner

1. Any and all costs and expenses whatsoever incurred by the Municipality with regard to:
 - (a) Application for site plan;
 - (b) Preparation of this agreement;
 - (c) Registration of this Agreement on title and preparation of any and all land titles documentation in relation thereto, all such documentation to be provided to the Municipality for approval prior to registration thereof;
 - (d) All legal / lawyer fees and disbursements;
 - (e) Engineer / engineering fees and disbursements;
 - (f) Planning / planner fees and disbursements;
 - (g) Municipal staff time;
 - (h) All Land title fees and charges;
 - (i) Any other costs or charges in any way related to the application, the development, or this agreement; and
 - (j) HST and any other taxes applicable on or to any of the above.

Schedule 4

List of Plans and Drawings
(Appendix 'A')

Listing of Plan Numbers Approved

**Changes or additional plans and drawings must be submitted to the Municipality for approval. Once approval is granted by the Municipality, the listing of Schedule 4 will be amended.

Schedule 5
Letters of Credit

Letter of Credit to be provided by the Owner to ensure provision, fulfillment, and completion of the Works and to ensure the Owner's obligations, responsibilities, and otherwise as set out in this Agreement	5% of the project value**
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** If project value changes, then Letter of Credit value will be amended accordingly.

Schedule 6

Reduction or Release of Security

Application for Reduction of Securities

1. Prior to the reduction or release of any portion of the Letter of Credit security held by the Municipality for the Works, facilities and matters set out in this Agreement, the Owner shall supply the Municipality with the following documentation:
 - (a) letter of application for reduction/release;
 - (b) the consultant's certificate confirming that services completed;
 - (c) as-constructed drawings;
 - (d) satisfactory evidence of no construction liens filed;
 - (e) workplace safety certificate;
 - (f) statutory declaration as to accounts;
 - (g) surveyor's certificate and real property report(s); and
 - (h) composite utility plan.
2. Upon receipt by the Municipality of all the documents identified in paragraph 1 of this Schedule 7, and confirmation by the Municipality that all obligations as set out in the Agreement on the part of the Owner to be observed and performed have been so observed and performed to the satisfaction of the Municipality, the Municipality agrees to permit the reduction of the Letter of Credit by ninety percent (90%).
3. Upon the satisfactory completion of the Maintenance period noted in paragraph 13 of the Agreement, and the receipt by the Municipality of all the documents identified in paragraph 1 of this Schedule, and confirmation by the Municipality that all obligations as set out in the Agreement on the part of the Owner to be observed and performed have been so observed and performed to the satisfaction of the Municipality, the Municipality agrees to permit the reduction of the Letter of Credit to zero and thereupon release or return the Letter of Credit to the Owner or to the issuing financial institution.
4. The Municipality shall not be required under any circumstances to refund the Letter of Credit or any part of it utilized by the Municipality as a result of any failure on the part of the Owner to perform and observe, to the satisfaction of the Municipality, any or all obligations as set out in the Agreement on the part of the Owner to be observed and performed.

THE CORPORATION OF THE MUNICIPALITY OF SIOUX LOOKOUT

BY-LAW NO. 21-04

BEING A BY-LAW TO DESIGNATE A SITE PLAN CONTROL AREA

WHEREAS authority is given to Council by Section 41 of the Planning Act, 2002 c. 13, as amended, to designate the whole or any part of the area covered by an Official Plan as a Site Control Area, and

WHEREAS after such designation no person shall undertake any development in the designated area until the provisions of Section 41 have been complied with;

NOW THEREFORE, the Council of The Corporation of the Municipality of Sioux Lookout ENACTS AS FOLLOWS:

1. All of the lands within the Municipality of Sioux Lookout is hereby designated as an area of Site Plan Control.
2. Within the Site Plan Control Area the following classes of development shall be subject to site plan approval by the Municipality of Sioux Lookout under Section 41 of the Planning Act:
 - a) industrial buildings and structures
 - b) commercial buildings and structures
 - c) institutional buildings and structures except structures that are accessory to a public park
 - d) residential buildings exceeding three dwellings
 - e) parking lot exceeding five parking spaces or 90 square meters
3. Notwithstanding the provisions of Subsection 2 hereof to the contrary, the following classes of development shall be exempt from requiring site plan approval:
 - a) an industrial, commercial or institutional building shall be permitted to expand by a maximum of 10 percent of the gross floor area that existed as of the date of the passing of this By-Law.
4. Council may, by resolution delegate the authority for minor site plan approvals to either a committee of the Council or to an appointed Officer of the Municipality.
5. That this By-Law shall come into force and take effect on the date of its final passing.

READ A FIRST AND SECOND TIME THIS THIRTIETH DAY OF JUNE 2004.

READ A THIRD TIME AND PASSED THIS THIRTIETH DAY OF JUNE 2004.


Cathy Kiepek, Mayor


Mary L. MacKenzie, Clerk

The Corporation of the City of Kenora

By-Law Number 189 - 2010

A By-Law to Designate the Whole of the City of Kenora as a Site Plan Control Area, Pursuant to Section 41 of the Planning Act, R.S.O. 2001, Chapter P-13, As Amended and to Adopt Certain Procedures for the Processing of Site Plan Control Applications and to Exempt Certain Classes of Development from Approval of Plans and Drawings and to Repeal By-Law Number 63-2010

Whereas Subsection 41(12) of The Planning Act, R.S.O., 2001, c.P.13 provides that a Council of a local municipality may, where in an official plan an area is shown or described as a proposed site plan control area, designate the whole or any part of such area as a site plan control area; and

Whereas the Official Plan for the City of Kenora describes the whole of the City of Kenora as an area subject to Site Plan Control.

Now Therefore Be It Resolved That:- the Council of the Corporation of the City of Kenora enacts as follows:

All lands within the limits of the City of Kenora effective July 14, 2005 are subject to the provisions of this By-law, and of S.41(4) of the Planning Act, R.S.O. 2001 c.P-13.

2. GENERAL PROVISIONS

Subject to Section 3 (a), Exemptions, the following residential, commercial, industrial and institutional developments shall be subject to Site Plan Control:

- (1) New non-residential developments or additions to existing non-residential developments.
- (2) Any residential development containing four (4) or more dwelling units.
- (3) The development, redevelopment, alteration or expansion of any above ground broadcasting and communications buildings or structures.
- (4) The development, redevelopment, alteration or expansion to any above ground utilities infrastructure, including wind or water turbines.
- (5) Commercial Parking Lots and Commercial Parking Structures as defined in Section 14 of this By-law.
- (6) Day Care Centre: Any facility which is constructed or converted for use as a Day Care Centre as defined in Section 14 of this By-law, unless included as part of a previously approved commercial development.
- (7) Any patio accessory to a commercial use and located outdoors on private property; this does not apply to industrial or institutional uses.
- (8) Environmental Areas: Any development on or adjacent to lands designated environmental protection area, environmental resource area, environmental wetland area, area of natural or scientific interest or similar designation in an Official Plan, including Black Sturgeon Lake, or identified through reports required as a component of an application for development, made under the *Planning Act*. This section applies equally to the adjacent lands. For the purpose of this section, adjacent lands means those lands contiguous to a specific natural heritage feature or area where it is likely that development or site alteration would have a negative impact on the feature or area.
- (9) Harbourtown Centre: Any development located within the Harbourtown Centre.

(10) Propane: Any propane transfer station.

(11) Any development on property located on Tunnel Island, north of Lakeview Drive and owned or controlled by the City of Kenora.

(12) Any new development of, or conversion to, a community based care facility, school, place of worship, private social facility, hospital, cultural facility or community centre.

(13) Any new development of or conversion to community homes, residential care facilities, detoxification centres, recovery homes, crisis care shelters, corrections residences or community support houses as defined in Section 14 of this By-law.

(14) Any development of real property designated under the Ontario Heritage Act where the addition or alteration has the effect of adding one or more dwelling units, adding more than 100 square metres of building area or altering site grading; and any development of new buildings or additions more than 100 square metres on lands abutting a real property designated under the Ontario Heritage Act.

(15) Any development of a commercial outdoor recreational facility such as a campground, swimming pool or amusement park.

(16) Any industrial development including, but not limited to, the lands known as the City of Kenora Industrial Park per Schedule B to this By-law.

3. EXEMPTIONS

The following classifications of development shall be exempt from Site Plan Control:

(a) Developments which upon, preliminary review by the City of Kenora's Planning Administrator and/or the Chief Building Official, or in their absence, or in conjunction with, the Operations Manager, determine that the development complies with Municipal By-laws and is beyond the intent of this By-law or the scope of Section 41 of The Planning Act, R.S.O. 2001, Chapter P-13.

- (1) Notwithstanding Section 2.8 and 2.9, regarding development near designated environmental areas and Harbourtown Centre, to the contrary, one or two or three unit dwellings shall be exempt from site plan control, unless site plan control has been made a condition of consent for severance, easement, lease, lot addition or of approval of a subdivision or condominium description;
- (2) Notwithstanding Section 2.8 and 2.9, regarding development near designated environmental areas and in the Harbourtown Centre area, to the contrary, a bed and breakfast with not more than 4 guest bedroom or building or structure accessory thereto;
- (3) Notwithstanding Section 2.8 and 2.9, regarding development near designated environmental areas and in the Harbourtown Centre area, to the contrary, a building or structure accessory to a non-residential use if the gross floor area of the accessory building or structure is less than 10 square metres;
- (4) Works which result from the requirements of the Fire Marshall's Act or an Order issued by the Corporation's Fire Department.
- (5) Where there is an approved Site Plan, any deviation from any dimension respecting the location of buildings and structures shown in the approved plans provided the deviation does not exceed 0.3 metre and, further, provided the deviation does not result in a violation of the requirements of any By-law enacted by the Corporation or other applicable law.
- (6) Interior building alterations which do not involve a change in major occupancy as defined by the Ontario Building Code.

- (7) Signs, which are not erected as part of a commercial development, and temporary construction buildings placed in accordance with any applicable By-law.
- (8) A utility installation having a gross floor area of less than 10 square metres
- (9) Any change to the public parking area in a commercial parking lot necessary to provide handicapped parking or an authorized sign required by By-law, provided the change is accommodated within an area of the public parking area used for the parking of motor vehicles or vehicular access to an area used for the parking of motor vehicles,
- (10) Any change to the following developments:
 - (i) bed and breakfast with not more than 4 guest bedrooms,
 - (ii) group home that accommodates 10 or less people not including staff, within one building;
 - (iii) one-unit dwelling,
 - (iv) triplex dwelling,
 - (v) two-unit dwelling,
 - (vi) involving a swimming pool, deck, landscaping, site works including driveways, or an outdoor recreational structure that serves the development.

4. DELEGATION OF AUTHORITY

(1) The City of Kenora's Planning Administrator and the Chief Building Official, or in their absence, the Operations Manager, are hereby delegated as being appointed officers of the City to exercise Council's powers or authority under section 41 of the Planning Act, R.S.O. 2001, c.P.13, as amended, to approve plans and drawings, to impose conditions and to require agreements.

(2) Notwithstanding the provisions of Section 5(1) of this By-law, where a development is referred back, or requested to be referred back, to Council, Council's power and authority with respect to all powers or authority under section 41 of the Planning Act, shall be retained, unless Council elects to delegate same to the Property and Planning Committee.

(3) Except for the exemptions listed in Section 3 above, no persons shall undertake any development in the City of Kenora until City Council or the Ontario Municipal Board, in accordance with Section 41 of the Planning Act, has approved of the plans and any required Agreements have been entered into respecting matters set out in Section 41 of the Planning Act, R.S.O. 2001, Chapter P-13 as amended.

5. APPROVAL AUTHORITY

Notwithstanding the provisions of Section 4 (1) of this By-law, the Property and Planning Committee of Council shall retain all powers and authority under Section 41 of the Planning Act where:

- (1) The City of Kenora's Planning Administrator and/or the Chief Building Official at his/her sole discretion refers the matter to the Committee; or
- (2) The applicant requests in writing that the matter be referred to the Committee; or
- (3) Any member of City Council may make a request in writing, to the Operations Manager, that the request for Site Plan Control Approval be referred to the Property and Planning Committee. Upon receipt of such request, the Operations Manager, or, in the absence of the Manager, Planning Administrator and/or the Chief Building Official, shall refer the matter to the Planning and Property Committee; or
- (4) Notice of receipt of an Application for Site Plan Control Approval shall be circulated to the Mayor and members of City Council at the same time as it is circulated to the internal technical departments and external agencies for review and comment; or

(5) The Property and Planning Committee, at the time of consideration of an Application for Official Plan Amendment and/or Zone Change, may pass a resolution requesting that the development proposal be subject to Site Plan Control and/or that the Application be referred to the Committee for approval.

6. AGREEMENTS

(1) Council's authority under Section 41(7)(c) of the Planning Act to require an owner to enter into an agreement with The Corporation of the City of Kenora and the authority to approve the form of agreement is hereby delegated to the Chief Building Official or Planning Administrator or the Operations Manager and they are hereby authorized to recommend execution of any agreement or amendments thereto which may be required pursuant to the provisions of this By-law;

(2) The Mayor or Clerk is hereby authorized to execute on behalf of The Corporation of the City of Kenora under corporate seal any agreement which may be required pursuant to the provisions of this By-law upon the written recommendation of the Chief Building Official or Planning Administrator, the Operations Manager or the Property and Planning Committee or City Council, as the case may be;

(3) Where the matter has been referred to the Property and Planning Committee pursuant to Section 6 of this By-law, the Planning Committee shall exercise the same authority as provided for in Section 6(1) and 6(2) of this By-law with the necessary modification and such actions shall be evidenced by way of resolutions passed by the Committee;

(4) Registration of Agreement: Any agreement or amendment thereto entered into in accordance with this By-law, shall be registered against the title of the land to which it applies;

(5) Section 427 of the Municipal Act, R.S.O. 2001 Chapter M.45, applies to any requirements made under clauses 7(a) and (b) of Section 41 of the Planning Act and to any requirements made under an agreement entered into under Clause 7(c) of Section 41 of the Planning Act, so that, in default of anything being done pursuant to those sections and agreements by the person required to do it, it may be done at his expense and the expense may be recovered in like manner as municipal taxes.

7. EXECUTION OF AGREEMENTS

The Mayor and City Clerk of the City of Kenora are authorized to execute any agreement required pursuant to this by-law and affix the corporate seal.

8. LIENS

(1) When Council causes any work to be done pursuant to any approval provided for in this by-law, the City shall have a lien for any amount expended by or on behalf of the City and for an administrative fee of ten percent of any amount expended by or on behalf of the City, and the certificate of the City Clerk as to the total amount expended shall be admissible in evidence as prima facie proof of the total amount expended and such total amount together with the administrative fee shall be deemed to be municipal real property taxes and shall be added to the collector's roll of taxes to be collected and shall be subject to the same penalty and interest charges as real property taxes and shall be collected in the same manner and with the same remedies as real property taxes.

(2) Before the certificate of the City Clerk is issued under subsection 8.(1), an interim certificate shall be delivered to the owner of the property that is subject to the lien, as well as to all prior mortgagees or other encumbrances and the affected owner, mortgagees or other encumbrances shall have two weeks from the date of receipt of the interim certificate to appeal the amount shown thereon to Council.

9. PRIOR APPROVALS

Plans, drawings, agreements or other matters approved under Section 41 of the Planning Act by an old municipality shall hereafter be continued, enforced and deemed to have been approved or executed under this by-law.

LETTERS OF UNDERTAKING

9. (1) In the case of a residential development, a letter of undertaking generally in the form shown at Schedule 1 may be provided as an alternative to an agreement where, (a) easements or conveyances are not required to be made to the City after issuance of the building permit, (b) special measures for the protection of existing private trees are not required, (c) the owner is not required to enter into other related development agreements with the City after the issuance of the building permit, and

(d) special conditions have not been imposed that require an agreement for purposes of enforcement and notification of subsequent owners of the conditions.

(2) In the case of non-residential development, a letter of undertaking generally in the form shown at Schedule 1 may be provided as an alternative to an agreement where,

(a) easements or conveyances are not required to be made to the City after issuance of the building permit,

(c) the owner is not required to enter into other related development agreements with the City after the issuance of the building permit,

(d) special conditions have not been imposed that require an agreement for purposes of enforcement and notification of subsequent owners of the conditions, and

(e) the total amount of securities to be provided to the City does not exceed \$5,000.

10. ADMINISTRATION

(1) Issuance of Building Permits

(a) Notwithstanding any provisions of the Building By-law or any other By-law of the Corporation to the contrary, no building permit shall be issued until the plans and drawings and any such agreements required by the Municipality for such development have been approved by Council, its delegate, or where a referral has been made to the Ontario Municipal Board or so ordered by a Court of competent jurisdiction;

(b) Nothing in this By-law shall prevent development on any lands subject to this By-law where such development is proceeding in accordance with a valid building permit which was issued by the Corporation prior to the passing of this By-law.

(2) Violations and Penalties

(a) Subject to Section 2, no person shall deviate from the plans approved pursuant to this By-law;

(b) Any person who contravenes any of the provisions of Section 41 of the Planning Act, or its successors thereto, or the provisions of this By-law is guilty of an offence and on conviction is liable to the penalties provided for in Section 67 (1) and (2) of the Planning Act, or its successors thereto, as follows:

i) Where a person is convicted, and, if the person is a corporation, every director or officer of the corporation who knowingly concurs in the contravention, the maximum penalty that may be imposed is:

a) on a first conviction, to a fine of not more than \$25,000; and

b) on a subsequent conviction, to a fine or not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which the person was first convicted.

ii) Where a corporation is convicted, the maximum penalty that may be imposed is:

- a) on a first conviction, to a fine of not more than \$50,000; and
- b) on a subsequent conviction, to a fine or not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted.

(3) Validity

If any section, clause or provision of this By-law is, for any reason, declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or any part hereof other than the section, clause or provision so declared to be invalid. It is hereby declared to be the intention that the remaining sections, clauses and provisions of this By-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions hereof shall have been declared to be invalid.

(4) Interpretation

For the purposes of this By-law, words used in the present tense also include the future; words in the singular also include the plural and words in the plural include the singular number; words in the neuter gender include the masculine and the feminine; and the word "shall" is mandatory.

(5) Imperial Values

Only the values provided with metric units of measure which appear in the By-law are official.

(6) Financial Securities

Where an agreement is required pursuant to Section 6. of this By-law, and said agreement requires the submission of financial securities to ensure the satisfactory completion/maintenance of the works required by the Agreement and approved plans listed therein, the amount of the financial security shall be calculated on the basis of the total value of construction, as follows:

- 10% of the first \$500,000.00 of the total value of construction; plus
- 1% of the balance of the value of construction in excess of \$500,000.00.

The total value of construction shall include any proposed buildings, site grading, storm water management facilities, landscaping and paving works, sidewalks, fences, retaining walls, on-site lighting, accessory buildings, or similar required works as shown on the approved plans.

(7) Costs

Unless otherwise negotiated, and approved by Council, payment of all fees/costs associated with the agreement, or the works required within the agreement, shall be the responsibility of the Applicant/property owner.

11. SCHEDULE

Schedule 1 and Schedule A forms part of this by-law.

12. REPEAL

By-law No.63-2010 is hereby repealed.

13. SHORT TITLE

This by-law may be cited as the Site Plan Control By-law, 2010.

14. DEFINITIONS

In this By-law, unless the context requires otherwise, the following definitions and interpretations shall apply:

- (1) **Building By-law** - means any By-law of the Corporation passed pursuant to the Building Code Act, as amended;
- (2) **Building Permit** - means a permit required by the Building By-law;
- (3) **Commercial Parking Lot** - means an open area, including any related aisles, parking spaces, ingress and egress lanes, other than a public street or public lane or parking structure, used for the temporary parking of five or more motor vehicles and available for the public and/or private use, whether or not for compensation or as an accommodation for tenants, employees, clients or customers, other than parking areas which are accessory to a permitted use on the same lot. A commercial parking lot shall have its principal access to a public street or public laneway and shall constitute the main use of the lot;
- (4) **Commercial Parking Structure** – means a partially open and/or enclosed area, including any related aisles, parking spaces, ingress and egress lanes, other than a public street or public lane, used for the temporary parking of five or more motor vehicles and available for public and/or private use, whether or not for compensation or as an accommodation for tenants, employees, clients or customers, other than parking areas which are accessory to a permitted use on the same lot. A commercial parking structure shall have its principal access to a public street or public laneway and shall constitute the main use of the lot;
- (5) **Committee** - means the Property and Planning Committee of the City of Kenora;
- (6) **Corporation** - means The Corporation of the City of Kenora;
- (7) **Council** - means the Municipal Council of the Corporation of the City of Kenora;
- (8) **Community Home** - means a community-based group living arrangement, in a single housekeeping unit, for up to a maximum of seven (7) individuals, exclusive of staff and/or receiving family, who are receiving care consistent with their needs. A Community Home is licensed, funded or approved by the Province of Ontario. Community Homes may provide an eighth bed on an emergency basis which shall be occupied for a maximum of thirty (30) days;
- (9) **Community Support House**- means a community-based group living arrangement, in a single housekeeping unit, for persons from out of the City requiring primarily short term accommodation, which may include incidental counselling services. A Community Support House is intended to provide accommodation for the relatives and friends of persons who may be incarcerated in a local penal institution or who may be receiving treatment in a local medical facility. A Community Support House is licensed, funded or approved by the Province of Ontario;
- (10) **Corrections Residence**- means a group living arrangement, in a secure facility for persons who have been placed on probation, who have been released on parole, who are admitted to the facility for correctional or rehabilitation purposes or who are awaiting trial, and live together under responsible twenty-four (24) hour secure supervision consistent with the requirements of its residents and accepted standards for secure detention. A Corrections residence is licensed, funded or approved by the Province of Ontario or the Federal Government;
- (11) **Crisis Care Shelter** - means a group living arrangement, in a single housekeeping unit, for persons in a crisis situation requiring shelter, protection, assistance, counselling or support and in which it is intended that short term accommodation of a transient nature be provided. A Crisis Care Shelter is licensed, funded or approved by the Province of Ontario;

(12) **Day Care Centres** – A premises as defined by the Day Nurseries Act, RSO, 2001, that receives more than five children primarily for the purpose of providing temporary care or guidance (or both) for a continuous period not exceeding 24 hours, and the children are:

- a) under 10 years of age; or
- b) under 18 years of age if the day nursery will be for children with a developmental disability. under ten years of age in all other cases.

(13) **Development** – means 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 substantially increasing the size or usability thereof, or 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 construction, erection or location of three or more land lease community homes as defined in subsection 46 (1) of the *Planning Act* R.S.O. 2001, c. P.13, s. 41 (1); 1994, c. 4, s. 14; 2002, c. 17, Sched. B, s. 14 (1).

(14) **Detoxification Centre**- means an institution or single housekeeping unit in which persons who are addicted to chemical substances and/or alcohol are admitted for withdrawal, treatment and/or rehabilitation and live together under responsible twenty-four hour supervision consistent with the requirements of its residents. A Detoxification Centre is licensed, funded or approved by the Province of Ontario and shall be registered with the City of Kenora;

(15) **Drawing** - means a graphic rendering, bearing a drawing number, date or date of revision and drawn to scale, showing plan, elevation and cross-section views for each industrial and commercial building to be erected and for each residential building containing twenty-five or more dwelling units to be erected, which is sufficient to display:

- (a) the massing and conceptual design of the proposed building;
- (b) the relationship of the proposed building to adjacent buildings, streets and exterior areas to which members of the public have access; and
- (c) the provision of interior walkways, stairs and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings.

(16) **Erect** - means the carrying out of any activity within the meaning of **Development** herein;

(17) **Land** - includes lands, tenements, and hereditaments, and any estate or interest therein, and any right or easement affecting them, and lands covered with water and any right or easement affecting them;

(18) **Land Lease Community Home** - means any dwelling that is a permanent structure where the owner of the dwelling leases the land used or intended for use as the site for the dwelling, but does not include a mobile home;

(19) **Mixed Commercial/Residential Development** - means a building or structure which is used for a mixture of commercial and residential uses, where the entire ground floor of such building or structure shall be used for commercial purposes;

(20) **Municipal Act** - means the *Municipal Act*, R.S.O. 2001, Chapter M.45, and any amendments thereto;

(21) **Person** - includes any association, firm, partnership, syndicate, company, Corporation, its agents or trustee, and the heirs, administrators, executors, assigns and other legal representatives of such person to whom the context may apply according to law;

(22) **Plan** - means a formal drawing, bearing a drawing number, date or date of revision and author's registration stamp drawn to scale and showing;

- (a) the location of all buildings and structures to be erected;
- (b) the location of all facilities and works to be provided in conjunction with (1) above; and
- (c) all facilities and works required by Council pursuant to Section 41 of the Planning Act, R.S.O. 2001, Chapter P-13 as amended;

(23) **Planning Act** - means the Planning Act, R.S.O. 2001, Chapter P-13 as amended;

(24) **Recovery Homes** - means a group living arrangement, in a single housekeeping unit that is developed for the treatment and education of persons with alcohol or drug related problems and/or dependencies. Recovery Homes provide a continuum of care through short-term or long-term residential programs offering a wide variety of therapies dealing with the individual's physical, social, psychological, occupational, spiritual and nutritional needs. Recovery Homes shall provide responsible twenty-four (24) hour supervision, consistent with the needs of the residents. A Recovery Home is licensed, funded or approved by the Province of Ontario;

(25) **Residential Care Facilities** - means a community based group living arrangement, in a single housekeeping unit, for eight (8) or more individuals, exclusive of staff and/or receiving family, who are receiving care and/or supervision consistent with their needs. A Residential Care Facility is licensed, funded or approved by the Province of Ontario;

14. That this By-law shall take effect and come into force upon third and final reading thereof;

By-law read a First and Second Time this 14th day of October, 2010

By-law read a Third and Final Time this 14th day of October, 2010

The Corporation of the City of Kenora:-

.....MAYOR
Leonard P. Compton

..... D/Clerk
Heather L. Kasprick