

## Terms of Reference

**Name: Municipal ~~Law Enforcement~~ By-Law Appeals Committee**

Date Established by Council: December 11, 2018

### **Mission:**

The Municipal Law ~~Enforcement~~ By-Law Appeals Committee is established by Council to conduct hearings and render decisions for appeals or exemption requests based on the following City of Kawartha Lakes by-laws:

- By-Law 2016-112 (as amended) "Property Standards" being a by-law to regulate and govern standards for maintaining and occupying property within Kawartha Lakes;
- By-Law 2017-039 (as amended) "Order to Restrain" being a by-law to regulates animals in the City of Kawartha Lakes; and
- By-Law 2013-043 (as amended) "Fortification" being a by-law to regulate the fortification of land and to prohibit excessive fortification of land and to prohibit the application of excessive protective elements to land within the City of Kawartha Lakes.
- By-Law 2023-111 (as may be amended) "Short Term Rental" being a By-law to License, Regulate and Govern Short-Term Rental Accommodation Businesses in the City of Kawartha Lakes.

The Municipal ~~Law Enforcement~~ By-Law Appeals Committee decision making authority is established by Council and shall be governed by the City's Procedural By-Law, as amended from time to time by Council.

### **Roles and Responsibilities:**

It is the responsibility of all appointed members to comply with:

- the City Code of Conduct for Council Members
- the City Procedural By-law
- Other applicable City by-laws and policies
- Municipal Act
- Municipal Freedom of Information and Protection of Privacy Act
- Municipal Conflict of Interest Act
- Building Code Act, 1992, S.O. 1992, C.23.

Members shall abide by the rules outlined within the Municipal Conflict of Interest Act and shall disclose the pecuniary interest to the Secretary and absent themselves from meetings for the duration of the discussion and voting (if any) with respect to that matter.

The Committee will abide by any terms and conditions which may be set out by the City's Council, CAO, City Clerk, City Solicitor, Auditor and/or Insurer for any activities relating to Committee business in keeping with the Committee's Terms of Reference and established Policies.

### **Activities:**

The following represents the general activities of the Committee:

- a) The Municipal ~~Law Enforcement~~ By-Law Appeals Committee members shall conduct hearings (appeals) in regards to the following by-laws
  - By-Law 2016-112 (as amended) being a by-law to regulate and govern standards for maintaining and occupying property within Kawartha Lakes;
  - By-Law 2017-039 (as amended) being a by-law to regulates animals in the City of Kawartha Lakes; and
  - By-Law 2013-043 (as amended) being a by-law to regulate the fortification of land and to prohibit excessive fortification of land and to prohibit the application of excessive protective elements to land within the City of Kawartha Lakes.
  - By-Law 2023-111 (as amended) "Short Term Rental" being a By-law to license, regulate and govern short-term rental accommodation businesses in the City of Kawartha Lakes.
- b) Meetings are open to the public and conducted in accordance to the City Procedural By-Law, however a meeting may be closed to the public if desirable by the Committee and in accordance to the referenced by-law and the Committee Terms of Reference.
- c) The Committee when hearing appeals and when rendering an appeal decision, shall consider the City's administrative policies, the evidence/information presented, applicable City by-laws, and practices and procedures applied by the investigating lead Officer or other City staff member.
- d) The Committee when hearing appeals and when rendering an appeal decision, shall consider the appeal request, information, testimony and evidence presented by the public, owners and witnesses.

- e) The Committee when hearing appeals shall provide an appeal decision/resolution based on the following resolution types:

**Property Standards Order Appeal**

- a. Confirm the Property Standards Order
- b. Modify the Property Standards Order
- c. Extend compliance time period established by the Property Standards Order
- d. Rescind the Property Standards Order

**Order to Restrain Appeal**

- a. Confirm the Order to Restrain
- b. Modifying the Order to Restrain
- c. Quash the Order to Restrain

**Fortification Exemption Appeal**

- a. Allow the Exemption application, granting the exemption
- b. Modify the Exemption application, by imposing terms and conditions
- c. Deny the Exemption application

**Short Term Rental Appeal**

- a. Refuse to issue a License
  - b. Refuse to renew a License; or
  - c. Revoke, Suspend, or Impose any condition to a License
- f) The decision of the Municipal ~~Law Enforcement~~ By-Law Appeals Committee shall be considered to be final and binding upon the applicant and there is no further Municipal appeal.
- g) The decision of the Municipal ~~Law Enforcement~~ By-Law Appeals Committee shall be in writing and together with the reason for the decision copy shall be provided to the applicant, the Manager of Municipal Law Enforcement and Licensing, and to any other person in attendance at the hearing.

**Composition**

The Committee shall be comprised of 3 Council representative(s) all of whom will have full authority to debate and vote. The Committee members will be appointed by Council in accordance with established policy.

### **Appointment of Officers**

The Committee shall, at its first meeting in each year, elect from its membership a Chair, and Vice-Chair. It is acknowledged that there are no per diems for any Committee positions and it is acknowledged that none of the above positions shall be paid for their services. All Committee members are considered volunteer positions.

### **Term of Appointment**

Unless exempted by legislation, members will be appointed for terms of office equivalent to the full term of Council.

### **Resources**

The Municipal Law Enforcement and Licensing Division will provide support in the form of advice, day-to-day liaison with the City, updates on appeal requests, preparation of the appeal brief and assistance to the degree that resources are available. The liaison department will also assist in the preparation of scheduling appeals, Committee briefs/reports and attend meetings of the Committee.

A member of staff shall be designated as Recording Secretary by the liaison department. The Recording Secretary shall prepare and publish agendas, attend all formal business Committee Meetings for the purpose of taking Minutes and prepare and publish minutes in an accessible format acceptable to the City Clerk's Office.

The Recording Secretary shall ensure that a current Terms of Reference for the Committee has been provided to the City Clerk's Office and is posted on the City website.

### **Timing of Meetings**

Meetings will be held on a set day and time as may be required based on the appeal request and committee availability.

### **Location of Meetings**

The location of the meetings will be set by the Committee and must be held in an accessible City facility.

## **Meetings**

The Committee shall hold meetings based on the individual appeal and as required in each calendar year. The Chair, through the liaison department, shall cause notice of the meetings, including the agenda for the meetings, to be provided to members of the Committee and posted to the City website a minimum of three (3) business days prior to the date of each meeting. Quorum for meetings shall consist of a majority of the members of the Committee. No meeting shall proceed without quorum.

At the first meeting of each year, an Orientation Session shall be held for new members.

## **Procedures**

Procedures for the formal business meetings of the Committee shall be governed by the City's Procedural By-law and Legislation or, where both of these are silent, by Robert's Rules of Order.

### **Electronic Participation**

The following procedural rules are established for electronic participation meetings:

1. City Council, Local Board or Committee members may participate in an open or closed session by electronic participation and be counted for the purpose of establishing quorum.
2. In the case of an interruption in the communication link to the member(s) participating electronically, the meeting will recess to a maximum of 15 minutes until it is determined whether or not the link can be re-established. If communications are not re-established, the meeting will resume without the electronic participant(s).
3. A Member participating by Electronic Means shall inform the Chair about their intentions to leave the meeting either on a temporary or permanent basis.
4. A Member participating by Electronic Means will be deemed to have left the meeting when they are no longer electronically connected to the meeting.

5. If a member loses electronic connection temporarily to the meeting, that member shall be treated as if they left the physical room of a traditional meeting and the time noted by the City Clerk or Recording Secretary.
6. All votes shall be by show of hands or by verbal consent (yes or no).
7. That subject to direction from the Head of Council or Chair to the City Clerk or Recording Secretary, the meeting will proceed without deputations. Written correspondence received from the public may be circulated to Council members prior to the start of the meeting electronically;
8. For public notice purposes, the location of the meeting published on the agenda shall be the physical location of the City Clerk or Recording Secretary during the meeting; If the location of the City Clerk can not be open to the public, the City Clerk shall provide notice to the electronic location of where the meeting can be viewed;
9. Members shall be provided instruction by the City Clerk, Recording Secretary, Chief Administrative Officer, or their delegate how to access the meeting by means of electronic participation.
10. A recording of the open session of the meeting shall be preserved for a period of time determined by the Records Retention by-law for the public record.
11. All electronic meetings will be available on Livestreaming or other video technology.

\*Enacted through By-law 2020-056, July 28, 2020

### **Closed Meetings**

- a) The Committee shall conduct the meetings in accordance to the City Procedural By-Law, and the applicable appeal By-law.
- b) The Committee may, upon affirmative vote of the majority of its members present at a meeting, determine to hold any meeting or part of a meeting as a closed session in order to discuss sensitive personal issues or legal matters. If the Committee elects to hold a closed session, all persons not entitled to vote (with the exception of the staff liaison and visiting members of Council, if any, and all persons excepted by the members) shall vacate the premises where the meeting is taking place. Closed meetings can only be held in accordance with Section 239 of the Municipal Act. Prior to the commencement of closed session, a resolution shall be passed stating the general nature of the matter to be discussed and what

section of the Municipal Act applies. The Committee shall maintain a record of the meeting which will be stored with the lead department, and a copy provided to the City Clerk's office.

### **Agendas and Minutes**

A copy of the Agenda shall be provided to the City Clerk's office at the same time it is provided to Committee Members. The City Clerk's office will distribute the agenda to Council members as per established procedures.

Minutes of all formal business meetings and notes from working meetings of the Committee shall be forwarded to the liaison department, and to the City Clerk's Office, not later than two weeks after the meeting. Action items requested of staff and/or Council will be brought to the attention of the Municipal Law Enforcement and Licensing at that time. The City Clerk's Office will electronically circulate the formal business meeting minutes to all members of Council for their information. The City Clerk's Office will maintain a set of printed minutes on file for public review.

The Recording Secretary shall ensure that all Committee Agendas and Minutes are posted to the City website at the same time as they are circulated to the City Clerk's Office.

### **Reports**

If there are recommendations from the Municipal ~~Law Enforcement~~ By-Law Appeals Committee that fall outside of the appeals, they are to be forwarded to Council, through the liaison department in a formal written report on the City report template. It will be the responsibility of the Committee Chair to provide a memo to the liaison department identifying the Committee recommendations for final preparation of the report.

### **Purchasing Policy**

This Committee has no purchasing or procurement responsibilities.

### **Insurance**

The City of Kawartha Lakes' General Liability Policy and Errors and Omissions Liability Policy will extend to the Committee and its members

provided that the Committee is under the direction of and accountable to the City of Kawartha Lakes and Council. The applicable insurance policies extend to Committee members while in the performance of his/her duties and to those activities authorized by the City of Kawartha Lakes and Council. Members must adhere to the policies and procedures of the City of Kawartha Lakes and Council, including the Terms of Reference.

The Committee must provide, via the liaison department an annual updated listing of all members, including member positions, to the City of Kawartha Lakes to ensure the applicable insurance coverage remains in force.

Committee members are not entitled to any benefits normally provided by the Corporation of the City of Kawartha Lakes, including those provided by the Workplace Safety and Insurance Board of Ontario ("WSIB") and are responsible for their own medical, disability or health insurance coverage.

### **Expulsion of Member**

Any member of the Committee may be removed from the Committee at the discretion of Council for reasons including, but not limited to, the member being in contravention of the Municipal Act, the Municipal Freedom of Information and Protection of Privacy Act, the Provincial Offences Act, The Municipal Conflict of Interest Act or the Code of Conduct for Committee Members; disrupting the work of the Committee; or other legal issues.

### **Terms of Reference**

The Recording Secretary shall ensure that a current Terms of Reference for the Committee has been provided to the City Clerk's Office and is posted on the City website.

Any responsibilities not clearly identified within these Terms of Reference shall be the responsibility of the City of Kawartha Lakes. Council may, at its discretion, change the Terms of Reference for this Committee at any time. Any changes proposed to these Terms of Reference by the Committee shall be recommended to Council via the liaison department through a report to Council.