



**City of Kingston
Information Report to Appeals Committee
Report Number APP-24-001**

To: Chair and Members of the Appeals Committee
From: Janet Jaynes, City Clerk
Resource Staff: Derek Ochej, Deputy City Clerk and Andrew Reeson, Senior
Legal Counsel
Date of Meeting: June 17, 2024
Subject: Appeals Committee Procedures Review

Council Strategic Plan Alignment:

Theme: Corporate business

Goal: See above

Executive Summary:

The purpose of this report is to solicit feedback from the Appeals Committee regarding changes to its procedures. The recommended changes include draft *Rules of Procedure* and amendments to *By-Law Number 2015-129* (the "*Appeals Committee Procedural By-Law*"). Staff request the Committee's feedback on the recommended changes.

Recommendation:

This report is for information only.

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Authorizing Signatures:

ORIGINAL SIGNED BY CITY CLERK

Janet Jaynes, City Clerk

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

**Lanie Hurdle, Chief
Administrative Officer**

Consultation with the following Members of the Corporate Management Team:

| | |
|--|--------------|
| Paige Agnew, Commissioner, Growth & Development Services | Not required |
| Jennifer Campbell, Commissioner, Community Services | Not required |
| Neil Carbone, Commissioner, Corporate Services | Not required |
| David Fell, President & CEO, Utilities Kingston | Not required |
| Peter Huigenbos, Commissioner, Major Projects & Strategic Initiatives | Not required |
| Brad Joyce, Commissioner, Infrastructure, Transportation & Emergency Services | Not required |
| Desirée Kennedy, Chief Financial Officer & City Treasurer | Not required |

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Options/Discussion:

On November 7, 2023, Council directed staff to undertake a review of the Appeals Committee's procedures and to recommend any changes to Council by the end of Q4 2024.

Staff have researched procedures and mandates of similar committees in comparator municipalities and summarized those procedures and mandates in the Municipal Comparators section below.

Staff have also drafted new Appeals Committee "*Rules of Procedure*" (attached to this report as Exhibit A). The purposes of the *Rules of Procedure* are to assist the Committee to:

- a) secure the just, most expeditious and cost-effective determination of every appeal on its merits;
- b) facilitate a fair, open and accessible process and to permit effective participation by all parties; and
- c) further the purposes of the applicable by-laws, statutes and regulations.

Lastly, staff will be drafting a by-law to amend the *Appeals Committee Procedural By-Law* to ensure that the *Rules of Procedure* and the *Appeals Committee Procedural By-Law* are consistent and work together coherently to achieve the purposes of the Committee and the by-laws, legislation and regulations that the Committee applies. The current *Appeals Committee Procedural By-Law* is attached to this report as Exhibit B for reference.

Staff seek feedback from the Appeals Committee on the recommended *Rules of Procedure* and the outlined amendments to the *Appeals Committee Procedural By-Law*. Staff will consider any feedback received before making recommendations to Council in September 2024.

Background

The Appeals Committee was established under the *Building Code Act, 1992, S.O. 1992 c.23*, to hear appeals of orders made under *City of Kingston By-Law Number 2005-100 (the Property Standards By-Law)*. Council has also delegated authority to the Appeals Committee to make certain decisions under the following by-laws:

- *By-Law Number 2003-4, the Trades By-Law;*
- *By-Law Number 2003-405, the Fences By-Law;*
- *By-Law Number 2021-166, the Animal By-Law;*
- *By-Law Number 2006-213, the Business Licensing By-Law;*
- *By-Law Number 2021-10, the Short-term Rental Licensing By-Law;*
- *By-Law Number 2022-6, the Transportation Network Company By-Law; and*

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- *By-Law Number 2009-140, the Sign By-Law.*

The Appeals Committee is currently composed of two members of Council, appointed annually, and three members of the public, also appointed annually.

The Appeals Committee currently conducts hearings in accordance with the *Appeals Committee Procedural By-Law* and the *Statutory Powers Procedure Act*, R.S.O 1990, c. S.22.

Municipal Comparators

Staff conducted a review of municipal committees with a mandate similar to the Appeals Committee. This review included committees in Ajax, Brantford, Chatham-Kent, Guelph, Niagara Falls, Oakville, Sudbury, Thunder Bay, Toronto and Whitby.

With respect to committee composition, seven committees were composed of only public members and three committees were composed of a combination of public members and Council members.

With respect to procedures, five committees had their own rules of procedure, and five committees followed the procedural by-law established for Council committees.

All 10 committees surveyed hear appeals of orders made under a property standards by-law. Several municipalities also hear appeals of orders or decisions made under animal control by-laws, business licensing by-laws, site alteration by-laws, storm water by-laws, taxi licensing by-laws and of decisions to cancel, reduce or refund property taxes under s. 357 of the *Municipal Act*.

It is important to note that four municipalities identified that the last time their procedures were reviewed was in 2019 or earlier. The City of Kingston last conducted a comprehensive review of Appeals Committee procedures in 2015.

Draft Rules of Procedure

Exhibit A to this report provides the draft Appeals Committee – *Rules of Procedure* document. The main areas of focus within this *Rules of Procedure* document include:

- Providing clarity on the rights and responsibilities of parties to an appeal, which includes the appellant, the City, and any other person the Committee adds as a party to the appeal because they have a significant interest in it;
- Clear timelines and methods for communications from a party to the Committee;
- A process for the Committee to decline to process an appeal or to dismiss an appeal without hearing in the case of a frivolous appeal;

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- Rules regarding the disclosure and production of documents and evidence for review by the Committee, including minimum timelines for the provision of information and the disclosure of that information between parties to an appeal; and
- Rules regarding the issuance of decisions of the Committee.

Staff are seeking feedback from the Committee regarding the draft *Rules of Procedure*.

Proposed Changes to Appeals Committee Procedural By-Law

As part of the Appeals Committee review, staff are proposing the following amendments to the *Appeals Committee Procedural By-Law*:

- Amending the process for commencing an appeal by allowing for notice of appeal to be filed in-person at City Hall or sent by email in addition to by registered mail;
- Clarifying that appeal fees do not need to be paid at the commencement of the appeal but in the manner prescribed in the Notice of Appeal documents;
- Removing information that is duplicated in the *Rules of Procedure* document; and
- Removing information from Part VII – Hearing of the Appeal, Part VIII – Presentation of the Order by Staff and Part IX – Presentation of the Appeal by the Appellant or Agent that will be included in the Rules of Procedure document and creating a single section focused on the process of a hearing.

Staff are also proposing that the two members of Council that are currently appointed to the Committee be replaced by two additional members of the public, making the composition of the Committee five members of the public. This change would require an amendment to By-Law Number 2023-204, the Committee By-Law. As detailed in the Municipal Comparator section of the report, this is consistent with the practice of most other municipalities with respect to appeals committees.

The replacing of Council members with members of the public on the Committee is intended to remove any appearance of political influence in the Committee's decision-making. There is a rule of procedural fairness that a public office holder must not intervene, or appear to intervene, with a quasi-judicial tribunal's decision-making. The public understands, and even expects, that Council members will advocate for their constituents when their constituents have a local problem. Even though Council members can and do separate their constituent-advocacy role from their quasi-judicial decision-making role, having Council members sit as members of the Committee creates an unacceptable risk of the appearance of political influence on the Committee's decision-making.

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Next Steps

Feedback from the Committee will be considered as staff prepare a report to Council recommending adoption of the Rules of Procedure and amendments to the Appeals Committee Procedural By-Law. This report is targeted for September 2024.

If the recommendations are approved by Council in September 2024 they will be set to come into effect in January 2025, allowing for the annual recruitment for Appeals Committee members. Appeals Committee appointments are typically confirmed in late November and early December. Following confirmation of appointments, staff will conduct an orientation and training session with Appeals Committee members in December 2024/January 2025.

Existing Policy/By-Law

Statutory Powers Procedure Act, RSO 1990, c. S.22

By-Law Number 2023-204, the Committee By-Law

By-Law Number 2015-159, the Appeals Committee Procedural By-Law

Financial Considerations

None

Contacts:

Derek Ochej, Deputy City Clerk, 613-546-4291 extension 1252

Andrew Reeson, Senior Legal Counsel, 613-546-4291 extension 1340

Other City of Kingston Staff Consulted:

Christine O'Connor, Clerk's Department, Committee Clerk

Exhibits Attached:

Exhibit A – Draft Appeals Committee Rules of Procedure

Exhibit B – By-Law Number 2015-159, the Appeals Committee Procedural By-Law

CITY OF KINGSTON APPEALS COMMITTEE - RULES OF PROCEDURE

| | |
|-----------------------|--|
| Effective Date | the date the policy was or will be approved. |
| Status | DRAFT. |
| Final Approver | the approval authority. |

1 General

- 1.1 These *rules* are made under section XX of *City of Kingston By-Law XX-XX*, under section 15.6 of the *Building Code Act*, and under section 25.1 of the *Statutory Powers Procedure Act*.
- 1.2 These rules may be cited as the *Appeals Committee Rules of Procedure*.
- 1.3 These *rules* apply to all new *appeals* filed with the *clerk* on or after [date]. For *appeals* filed with the *clerk* prior to that date, the rules existing at the time of filing will apply to those *appeals*.

2 Interpretation

- 2.1 In these *rules*, unless the context requires otherwise:

"appeal" includes any application, appeal or request for review before the *Committee* pursuant to a *by-law*, statute or regulation that gives the *Committee* the authority to hear the *appeal*;

"appellant" means a person who has made an *appeal* to the *Committee*;

"Building Code Act" means the *Building Code Act, 1992, S.O. 1992, c. 23*;

"business day" means any *day* that is not a *holiday*;

"by-law" means a *by-law* passed by *council*;

"City" means The Corporation of the City of Kingston;

"clerk" means the individual appointed by the *City* as *clerk* or the *clerk's* designate;

"Committee" means the Appeals Committee established under *City of Kingston By-Law Number XX-XX*;

"contact information" includes:

- (a) the *party's* name;
- (b) the *party's representative's* name, if any, telephone number and email address;
- (c) the *party's* mailing address and address for delivery of *documents*, if different than the party's mailing address;
- (d) the *party's* telephone number;
- (e) the *party's* email address;
- (f) the *Committee's* file number, if any; and
- (g) any other information required by the *Committee* for the *appeal*;

"council" means council of the *City*;

"council member" means an individual elected to office on *council*;

"day" means a calendar day;

"document" includes information however recorded or stored, whether in printed form, on film, by electronic means or otherwise;

"electronic hearing" means a *hearing* at which the *parties* attend before the *Committee* and participate by conference telephone or some other form of electronic technology allowing individuals to hear one another;

"hearing" means a hearing, including a hearing of a *motion*, in which the *parties* or their *representatives* attend before the *Committee* and have an opportunity to participate, and includes an *electronic hearing*, an *oral hearing*, and a *written hearing*;

"holiday" means any Saturday, Sunday, statutory holiday or other *day* on which the *City's* offices are closed for business;

"Law Society Act" means the *Law Society Act*, R.S.O. 1990, c. L.8;

"member" means an individual appointed by *council* to the *Committee*;

"motion" means a request for an order or decision from the *Committee* to:

- (a) decide on its jurisdiction;
- (b) give directions concerning its procedures; or
- (c) make an order for any other purpose necessary to carrying out its functions;

"oral hearing" means a *hearing* at which the *parties* or their *representatives* attend before the *Committee* and participate in person;

"particulars" means details of any facts alleged by a party that are necessary for the other party to understand those alleged facts;

"party" means a person who has the right to participate in a *proceeding* and has given notice to the *Clerk* of their intention to participate in the *proceeding*;

"proceeding" means the entire proceeding of an *appeal* to which these *rules* apply;

"representative" means an individual who acts for a *party* and is authorized under the *Law Society Act* to represent the *party* in such a *proceeding*;

"Statutory Powers Procedure Act" means the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22;

"written hearing" means a *hearing* at which the parties or their *representatives* attend before the *Committee* and participate by the exchange of *documents*;

- 2.2 In these *rules*, "include", "includes" and "including" indicate that the subsequent list is not exhaustive.
- 2.3 A reference to any legislation, regulation, by-law, rule, policy or provision thereof includes a reference to any legislation, regulation, by-law, rule or provision thereof enacted in substitution thereof or amendment thereof.
- 2.4 A reference to legislation includes all of the regulations made thereunder.
- 2.5 A reference to the position or title of any *City* employee includes a reference to any position or title created in substitution thereof.
- 2.6 The *Committee* must interpret these *rules* together with the *Statutory Powers Procedure Act* and all other relevant *by-laws*, statutes or regulations dealing with the type of *appeal* before the *Committee*.
- 2.7 In the event of a conflict between these *rules* and any *by-law*, statute or regulation, the provisions of the *by-law*, statute or regulation prevail.
- 2.8 The *Committee* will liberally interpret and apply these *rules*, and may waive, vary or apply these *rules* on its own initiative or at the request of a *party*, all to:
 - (a) secure the just, most expeditious and cost-effective determination of every *proceeding* on its merits;

- (b) facilitate a fair, open and accessible process and to permit effective participation by all *parties*, whether they are self-represented or have a *representative*; and
- (c) further the purposes of applicable *by-laws*, statutes and regulations.

3 General

- 3.1 The *Committee* may make public directives or other *documents* to provide further information to the public about the *Committee's* practices or procedures.
- 3.2 The *City* is the respondent and a *party* to every *appeal*.
- 3.3 The *Committee* may add a person as a *party* to a *proceeding* if the person has a significant interest in the *proceeding*.
- 3.4 The *Committee* must give all *parties* reasonable notice of the *hearing* by the *Committee*, including reference to the *by-law*, statute or regulation that authorizes the *Committee* to hold the *hearing*.
- 3.5 When an action is to be done within a specified number of *days*, the *Committee* will count the *days* by excluding the first *day* and including the last *day*.
- 3.6 When the time for doing an act ends on a *holiday*, the act may be done on the next *day* that is not a *holiday*.
- 3.7 A *party* may be self-represented or may have a *representative*.
- 3.8 The *Committee* may hold a *hearing* as:
 - (a) an *oral hearing*;
 - (b) an *electronic hearing*;
 - (c) a *written hearing*; or
 - (d) any combination of the above.
- 3.9 The *Committee* must record a *hearing* but may do so by audio recording or video recording or both.
- 3.10 The *Committee* may at any time:
 - (a) correct a typographical error, an error of calculation or any similar error in an order, decision or reasons; or

- (b) clarify an order, decision or reasons that contain a misstatement or ambiguity which is not substantive.

4 Communication

- 4.1 The *Committee* may communicate and conduct *proceedings* in English, in French, or in both languages.
- 4.2 If a *party* or a witness requires an interpreter in a language other than English in order to effectively participate in a *proceeding*, the *party* must give notice to the *Committee* not less than 14 *days* before the date of the *proceeding*, and the *Committee* will arrange for an interpreter at the expense of the *party* or approve the use of an interpreter of the *party's* choosing at the expense of the *party*.
- 4.3 If a *party* wishes to communicate with the *Committee* about an *appeal*, that *party* must:
 - (a) do so in writing through the *clerk*;
 - (b) must include the *party's contact information*; and
 - (c) must be copied to the other *parties*.
- 4.4 The *Committee* must make these *rules* available to the public in English and in French.

5 Decline to Process Appeal

- 5.1 The *Committee* may decline to process or hear an *appeal* unless all of the following conditions are met:
 - (a) all required forms or *documents* have been completed and submitted within the time required; and
 - (b) all required fees have been paid within the time required.
- 5.2 If the *Committee* intends to decline to process or hear an *appeal* under *rule* 5.1, the *Committee* must first notify the *party* who filed the *appeal* of all of the conditions which have not been met and must give the *party* such time as the *Committee* determines appropriate in the circumstances to meet those conditions before declining to process the *appeal*.

6 Dismissal without a Hearing

- 6.1 The *Committee* may dismiss an *appeal* without a *hearing* if:
 - (a) the *appeal* is frivolous, vexatious or was commenced in bad faith;

- (b) the *appeal* relates to matters that are outside of the *Committee's* jurisdiction;
- (c) the *appellant* has abandoned the *appeal*.

6.2 Before dismissing an *appeal* under *rule 6.1*, the *Committee* must:

- (a) give the *parties* notice of its intention to do so;
- (b) give the *parties* its reasons of its intention to do so;
- (c) advise the *parties* of their right to make written submissions to the *Committee* within the time limits set out in that notice; and
- (d) consider all written submissions made by the *parties*.

7 Disclosure & Production of Documents

7.1 The *Committee* may at any stage in a *proceeding* order any *party* to provide such *particulars*, disclosure or production as the *Committee* considers necessary for all *parties* to have a full understanding of the issues in the *proceeding*.

7.2 A *party* to a *hearing* must, at least three *days* before the *hearing*, or at any time ordered by the *Committee*, :

- (a) disclose to the other *parties* the existence of every *document* and anything else that the *party* intends to give as evidence at the *hearing*;
- (b) disclose to the other *parties* a list of witnesses who the *party* intends to call to give evidence at the *hearing* and a brief description of each witness' anticipated evidence; and
- (c) give to the other *parties* a copy of every *document* disclosed under clause (a).

7.3 If a *party* fails to comply with any *rule* or order with respect to disclosure or production, that *party* may not call the witness to give evidence or rely on the *document* or thing as evidence without the permission of the *Committee*.

8 Motions

8.1 A *party* may bring a *motion* in a *proceeding* by delivering a *notice of motion* to the *Committee* and all *parties* setting out:

- (a) the decision or order that the *party* is requesting the *Committee* to make;

- (b) the grounds to be argued, including reference to any *by-law*, statute, or rule relied on;
- (c) the evidence in support of the *motion*; and
- (d) and the proposed *hearing* format for the *motion*.

8.2 A *party* bringing a *motion* must deliver all of its materials to the *Committee* and the other *parties* at least five *days* in advance of the *motion hearing*.

8.3 A responding *party* must serve any materials it intends to rely on in response to the *motion* to the *Committee* and the other *parties* at least two days in advance of the *motion hearing*.

9 Evidence

9.1 The *Committee* may admit as evidence at a *hearing*, whether or not given or proven under oath or affirmation or admissible as evidence in a court, :

- (a) any oral testimony; and
- (b) any *document* or other thing;

relevant to the subject-matter of the *proceeding* and may act on such evidence, but the *Committee* may not admit as evidence at a *hearing* anything that would be inadmissible in a court by reason of any privilege.

9.2 A *member* may administer oaths and affirmations for the purpose of any *proceeding*.

9.3 The *Committee* may require evidence before it to be given under oath or affirmation.

9.4 The *Committee* may take notice of:

- (a) facts that may be judicially noticed; and
- (b) any generally recognized scientific or technical facts, information or opinions within its scientific or specialized knowledge.

10 Control of Process

10.1 Subject to these *rules*, the *Committee* may determine its own procedures and practices and may, for that purpose, make orders with respect to the procedures and practices that apply in any particular *proceeding*.

11 Decisions

- 11.1 The *Committee* must give its final decision and order, if any, in any *proceeding* in writing and must give reasons in writing if requested by a *party*.
- 11.2 The *Committee* must send each *party* who participated in the *proceeding*, or the *party's representative*, a copy of its final decision and order, if any, including the reasons if any have been given, by regular mail or electronic transmission.
- 11.3 The *Committee* or a *party* may file a certified copy of its decision or order in the Superior Court of Justice and on filing the *Committee's* order will be deemed to be an order of that court and is enforceable as such.

12 Record of Proceeding

- 12.1 The *Committee* must compile a record of any *proceeding* in which a *hearing* has been held which must include:
 - (a) any notice of appeal, application or other *document*, if any, by which the *proceeding* was commenced;
 - (b) the notice of the *hearing*;
 - (c) any interlocutory orders made by the *Committee*;
 - (d) all *documentary* evidence filed with the *Committee*;
 - (e) the transcript or recording, if any, of the oral evidence given at the *hearing*; and
 - (f) the decision of the *Committee* and the reasons, where reasons have been given.

13 Revision History

| Effective Date | Revision | Description of Change |
|--------------------|----------|--|
| Date of the change | | describe the sections that have been changed, added or deleted |
| | | |
| | | |



Corporation Of The City Of Kingston

Ontario

By-Law Number 2015-159

**A By-law to Establish Procedures for the Appeals Committee to
Conduct Appeals to Property Standard Orders in accordance with
the Building Code Act, and Appeals to License and Permit Decisions
in Accordance with City of Kingston Licensing By-laws**

Short Title (“Appeals Committee Procedure By-law”)

Passed: September 15, 2015

As Amended by By-Law Number:

| By-Law Number: | Date Passed: |
|-----------------------|---------------------|
| By-Law 2021-12 | January 12, 2021 |
| By-Law 2021-169 | October 5, 2021 |
| By-Law 2022-10 | January 11, 2022 |

(Office Consolidation)

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By-Law Number 2015-159

**A By-law to Establish Procedures for the Appeals Committee to
Conduct Appeals to Property Standard Orders in accordance with
the Building Code Act, and Appeals to License and Permit Decisions
in Accordance with City of Kingston Licensing By-laws**

Passed: September 15, 2015

Whereas Clause 23.2(1)(a) of the *Municipal Act, 2001, S. O. 2001, c. 25*, as amended permits a municipality to delegate certain legislative and quasi-judicial powers under any act related to the municipality, to one or more members of its council or council committee; and

Whereas Section 15.6 of the *Building Code Act, 1992, S.O, 1992 c. 23* provides for a municipality the authority to establish a committee to conduct appeals to property standards orders; and

Whereas the *Statutory Powers Procedure Act, RSO 1990, c. S.22* provides a framework for proceedings of tribunals and quasi-judicial committees; and

Whereas the Council Procedural By-law, By-law 2010-1, in concert with the Committee By-law, By-law 2010-205, provides the procedural context for the Appeals Committee; and

Whereas all City of Kingston Licensing by-laws state that a licensing or permit decision of an Officer of the City may be appealed to the Appeals Committee for review of a decision;

Therefore be it resolved that the Council of the Corporation of the City of Kingston hereby enacts as follows:

Part I - Short Title

1. This By-law shall also be known as the “**Appeals Committee Procedure By-law**”.

Part II - Definitions

2. For the purposes of this By-law, words shall have the meaning as set out in the Act and additionally:
 - a) “City” means The Corporation of the City of Kingston.
 - b) “Committee” means the Appeals Committee.

- c) “Clerk” means the Committee Clerk who is a member of City staff who has been assigned by the City Clerk to perform the duties described herein.
- d) “Officer” is a City official who has the authority to issue Orders under the Property Standards By-law or issue a license or permit denial.
- e) “Order” means a written licensing or permit decision or property standards decision issued by an officer.

Part III - Appealable Matters to the Appeals Committee

- 3. Officers of the City issue Orders, license or permit denials and other decisions under the following by-laws, which can be subsequently appealed to the Appeals Committee:
 - a) Section 3.21 of By-law 2003-4, as amended, to license, regulate and govern certain trades and occupations, decisions on licensing matters may be appealed to the Appeals Committee.
 - b) Sections 3.5 and 5.1 of By-law 2003-405, as amended, to regulate fences, variances to the Fence By-law may be granted by the Appeals Committee.
 - c) Section 7.7 of By-Law Number 2021-166, to regulate animals, decisions regarding a kennel permit, hen coop permit, pigeon loft permit, or a breeder permit may be appealed to the Appeals Committee.
 - d) Section 9.3 of By-law 2005-100, as amended, regarding property standards, an owner or occupant who is served an order with respect to section 8.1 may make an appeal to the Appeals Committee.
 - e) Section 3.13 of By-law 2006-213, as amended, to regulate business licenses, decisions regarding business licenses may be appealed to the Appeals Committee.
 - f) Section 2.5 of By-Law 2021-10, as amended, to regulate short-term rentals, decisions regarding short-term rental licenses may be appealed to the Appeals Committee.
 - g) Section 17.2 a) of By-Law Number 2021-166, to regulate animals, orders regarding the muzzling of a dog may be appealed to the Appeals Committee.
 - h) Section 15.1 of By-Law 2022-6, to regulate transportation network companies, decisions on transportation network company licences may be appealed to the Appeals Committee.

(By-Law 2015-159; 2021-12; 2021-169; 2022-10)

Part IV - Contents of an Order

4. Decisions of an Officer of the City may be appealed. Decisions issued by the Officer shall be in the form of an Order in writing and shall include the following:
 - a) Reason for the Decision.
 - b) Date of deadline for serving a Notice of Appeal.
 - c) Notice of Appeal Form.
 - d) Administrative Notice of Appeal Fee.
5. Anyone subject to an Order issued under section 3 may appeal the Order by serving a Notice of Appeal and applicable supporting documentation.
6. Appeals must be served upon the Clerk of The Corporation of the City of Kingston by registered mail dated no later than midnight on the deadline specified on the Notice of Appeal form.
7. All appeals shall include the applicable appeal fee as outlined by the Fees and Charges By-law, 2005-10, as amended.

Part V - Receipt of an Appeal

8. Upon receipt of a Notice of Appeal, the Clerk will:
 - a) Review the appeal to ensure that it is in compliance with the requirements set out in the Notice of Appeal.
 - b) Receive the Notice of Appeal fee.
 - c) Schedule the hearing for the Appeal.
 - d) Issue Notice of Hearing at least 14 days in advance of date of hearing, the Notice of Hearing shall include the following:
 - i. the date and time of their hearing; and
 - ii. a copy of the Appeals Committee Procedural Guide.

Part VI - Request for Alternate Date of Hearing

9. If for any reason the appellant cannot attend the hearing personally or by an agent, the appellant must give written notice requesting an alternate date of hearing.
10. Notice of the request for an adjournment described in section 9 must be provided to the Clerk no later than three days before the date set for the hearing.
11. The Clerk shall place notice of the request for an adjournment on the agenda for the Committee. The first request for an alternate date for the hearing shall be granted by the Committee unless circumstances require proceeding on the date set out in the Notice of Hearing. Subsequent adjournments shall only be granted on reasonable and compelling grounds. Written notice of the new date for the hearing shall be served upon the appellant by the Clerk.
12. If an appellant notified of a hearing does not attend as set out in the notice provided under section 8(d), the Appeals Committee may proceed in the absence of the appellant. All decisions from the hearing will be communicated in writing to the appellant.

Part VII – Hearing of the Appeal

13. Appeals Committee convenes at Kingston City Hall on the third Monday of each month at 12:00 p.m. and shall be open to the public. If there is a Statutory Holiday on the third Monday of the month, the meeting date will be rescheduled to an alternate Monday.
14. Hearings are conducted orally subject to the submission of documentary evidence as set out herein unless otherwise determined.
15. The Appeals Committee Chair is authorized to conduct the hearing in accordance with the rules contained in the Council Procedure By-law, the Committee By-law and the Statutory Powers Procedures Act and other applicable law.
16. Appellants may seek guidance on matters of procedure from the Chair by asking a question in an appropriate manner.

Part VIII - Presentation of the Order by Staff

17. The Order being appealed shall be presented by an Officer without comment as to the position of the appellant.
18. The Officer shall make oral submissions and also circulate any relevant records in support of the decision being appealed to the appellant and the Clerk.
19. The Clerk shall receive the records as submitted, circulate it to the members of the Committee, record it as evidence and it shall become part of the record.
20. At the conclusion of the Officer's submissions, the appellant will then have the option to ask questions of the Officer. The Committee may also ask questions after the submissions of the Officer. Questions are to be posed through the Chair and are only for clarification as to the submission being made.

Part IX - Presentation of the Appeal by the Appellant or Agent

21. After the conclusion of the submissions of the Officer, the appellant shall then make oral submissions and submit evidence to the Committee in accordance with the grounds set out in the Notice of Appeal.
22. The appellant shall circulate any relevant records in support of the decision being appealed to the Officer and the Clerk.
23. The Clerk shall receive the records as submitted, circulate it to the members of the Committee, record it as evidence and it shall become part of the record.
24. At the conclusion of the appellant's submissions, the Officer will then have the option to ask questions of the appellant. The committee may also ask questions after the submissions of the appellant. The Committee may also ask questions of the Officer based on the submissions of the appellant. Questions are to be posed through the Chair and are only for clarification as to the submission being made.

Part X - Decisions of the Committee

25. Upon the conclusion of submissions from the Officer and the Appellant, the Chair shall lead the Committee members into public oral deliberations. The Committee may adjourn into closed deliberations to receive legal advice if required.
26. After conducting deliberations, the Committee may
 - a) orally confirm, modify or rescind the Order;
 - b) orally extend the time for complying with the Order; or
 - c) orally adjourn the hearing to receive further submissions where the Committee has determined that it requires additional information or evidence to render a decision.
27. Where the Committee issues a decision pursuant to the Building Code Act related to property standards that requires steps to be taken by a party to the appeal:
 - a) the matter must return to the Committee as a Property Update Hearing for monitoring of compliance;
 - b) a Notice of the Property Update Hearing shall be served upon the appropriate parties subject to the order by the Clerk.
 - c) during the Property Update Hearing, the authorized Officer will provide an update to the Committee on the status of the file. Parties subject to the Order may also make submissions related to compliance with the Order including a request for further extensions to provide for compliance.
 - d) the Committee can make further decisions regarding the Order at the Property Update Hearing, provided that those decisions are in keeping with their powers.
28. Decisions of the Committee shall be rendered orally and will be confirmed in written form issued by the Clerk.
29. Decisions of the Committee must be ratified by an open session vote.
30. Decisions made by the Appeals Committee are final, subject to any statutory rights of appeal.
31. This By-Law shall come into force and take effect on the date of its passing.
