



**City of Kingston
Report to Council
Report Number 24-214**

To: Mayor and Members of Council
From: Janet Jaynes, City Clerk
Resource Staff: Derek Ochej, Deputy City Clerk & Andrew Reeson, Senior Legal Counsel
Date of Meeting: October 15, 2024
Subject: Appeals Committee Procedural By-Law Amendments

Council Strategic Plan Alignment:

Theme: Policies & by-laws

Goal: See above

Executive Summary:

The purpose of this report is to recommend the repeal and replacement of *By-Law Number 2015-129* (the “*Appeals Committee Procedural By-Law*”). The repeal and replacement of the *Appeals Committee Procedural By-Law* is required to facilitate the adoption of the *Rules of Procedure*, which will assist the Committee to:

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

Recommendation:

That Council approve the by-law attached as Exhibit A to Report Number 24-214, “*Appeals Committee By-Law*”; and

October 1, 2024

Page 2 of 8

That Council approve the by-law attached as Exhibit C to Report Number 24-214, “A By-Law to Amend City of Kingston By-Law Number 2021-166 A By-Law to Regulate Animals and By-Law Number 2022-6, A By-Law to Regulate and License Transportation Network Companies in the City of Kingston”.

October 1, 2024

Page 3 of 8

Authorizing Signatures:

ORIGINAL SIGNED BY CITY CLERK

Janet Jaynes, City Clerk

p.p. 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

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

October 1, 2024

Page 4 of 8

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 are recommending that *By-Law Number 2015-129* (the "*Appeals Committee Procedural By-Law*") be repealed and replaced via the by-law attached to this report as Exhibit A. Significant amendments are proposed to the By-Law, via the new Appeals Committee "*Rules of Procedure*", attached for information to this report as Exhibit B. 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.

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*
- *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.

October 1, 2024

Page 5 of 8

The Appeals Committee currently conducts hearings in accordance with the *Appeals Committee Procedural By-Law*, the *Council 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.

Consultation with Appeals Committee

In summer 2024, staff consulted with the membership of the Appeals Committee regarding the proposed changes. Included in the report to the Committee, staff had recommended that the membership of the Committee be altered so that the two Council members position were changed to additional public members, bringing the final membership to five public members.

Committee members expressed concern with the removal of Council members from the Committee. Committee members stated that Council members bring valuable experience, continuity and leadership to the Committee. This comment is reinforced by the fact that a Council member has been the Chair of the Committee for the last several years. As a result of this consultation, staff are no longer recommending changes to the Committee composition.

No additional concerns were expressed by the Appeals Committee regarding the proposed changes or the *Rules of Procedure* document.

October 1, 2024

Page 6 of 8

Draft Rules of Procedure

Exhibit B 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;
- 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.

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*:

- Providing the ability for the Committee Chair to appoint a panel of committee members to conduct hearings. This would allow the Committee the flexibility to conduct a larger number of hearings in a timely manner, should the number of hearings increase during a specific time period. Panels also provide the committee with the ability to ensure that only an odd number of members participate in a hearing, reducing the likelihood of a split decision. In the event of a split decision, the Chair will cast the deciding vote.
- 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.

October 1, 2024

Page 7 of 8

- By amending the Appeals Committee Procedural By-Law through repeal and replacement, two housekeeping amendments are required to update the definition of “appeals committee” in By-Law Number 2021-166, the Animal By-Law, and By-Law Number 2022-6, the Transportation Network Company By-Law.

Next Steps

Following approval of the by-law, staff will undertake training with Appeals Committee members regarding the *Rules of Procedure*. Annual recruitment for City of Kingston committees takes place in October & November 2024 and training will occur following the confirmation of the 2025 Appeals Committee membership by Council.

Staff will also be making updates to information shared with appellants following the receipt of their appeal to reflect the changes in procedure. Information will be added to the City website to provide additional transparency and clarity regarding the Committee’s role and procedures for both appellants and interested parties.

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 2021-41, the Council Procedural By-Law

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

Financial Considerations

None.

Contacts:

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

Other City of Kingston Staff Consulted:

Lisa Capener-Hunt, Director of Building Services and Chief Building Official

Kyle Compeau, Director, Licensing & Enforcement

Exhibits Attached:

Exhibit A – Appeals Committee Procedural By-Law

October 1, 2024

Page **8** of **8**

Exhibit B – City of Kingston Appeals Committee - Rules of Procedure

Exhibit C – A By-Law to Amend City of Kingston By-Law Number 2021-166 A By-Law to Regulate Animals and By-Law Number 2022-6, A By-Law to Regulate and License Transportation Network Companies in the City of Kingston

City of Kingston By-Law Number 2024–XX

Appeals Committee By-Law

1st Reading date

2nd Reading date

3rd Reading date

Passed date

City of Kingston By-Law Number 2024–XX

Appeals Committee By-Law

1.	Interpretation	5
2.	Composition	6
3.	<i>Property Standards By-Law Appeals</i>	7
4.	Appeals Committee Designation	8
5.	Hearings	9
6.	Rules of the <i>Committee</i>	10
7.	Decisions of the Committee	10
8.	Meetings	10
9.	Miscellaneous	11

City of Kingston By-Law Number 2024–XX

Appeals Committee By-Law

Whereas:

The *City* is a single-tier municipality incorporated pursuant to an order made under section 25.2 of the *Municipal Act*, R.S.O. 1990, c. M.45.

The powers of a municipality must be exercised by its council (*Municipal Act, 2001*, 2001, s. 5 (1)).

A municipal power must be exercised by by-law unless the municipality is specifically authorized to do otherwise. (*Municipal Act, 2001 s. 5 (3)*).

A municipality may delegate legislative and quasi-judicial powers under the *Municipal Act, 2001* to a body having at least two members of whom at least 50 per cent are:

- (a) members of its council;
- (b) individuals appointed by its council;
- (c) a combination of individuals described in clauses (a) and (b); or
- (d) an individual who is an officer, employee or agent of the municipality (*Municipal Act, 2001*, ss. 9, 10, 11 & 23.2 (1)).

On June 25, 1973, *council* passed *By-Law Number 7514* to establish a committee to hear appeals from orders made under that by-law.

On May 17, 2005, *council* passed the *Property Standards By-Law* under s. 15.1 (3) of the *Building Code Act* to do the following things:

- (a) continue the committee established by *By-Law Number 7514* as the “Appeals Committee”;
- (b) prescribe standards for the maintenance and occupancy of property within the City of Kingston and prohibiting the occupancy or use of such property that does not conform with the standards; and

Appeals Committee By-Law

- (b) require property that does not conform with the standards to be repaired and maintained to conform with the standards or the site to be cleared of all buildings, structures, debris or refuse and left in graded and levelled condition.

The *Property Standards By-Law* establishes the *committee* composed of such persons, not fewer than three, as *council* considers advisable to hold office for such term and on such conditions as the *Property Standards By-Law* establishes.

The members of the *committee* must provide for a secretary for the *committee* who must keep on file the records of all official business of the *committee* (*Building Code Act*, s. 15.6 (6)).

The *committee* may adopt its own rules of procedure, and any member may administer oaths (*Building Code Act*, s. 15.6 (8)).

The *Statutory Powers Procedure Act* applies to the *committee's* proceedings when it exercises its statutory power of decision conferred by the *Building Code Act*, any other Act of the Legislature, this by-law or any other by-law of *council* (*Statutory Powers Procedure Act*, s. 3 (1)).

The *appeals committee* may make rules governing the practice and procedure before it (*Statutory Power Procedures Act*, s. 25.1 (1)).

A single tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public (*Municipal Act, 2001*, s. 10 (1)).

Sections 8, 9 and 10 of the *Municipal Act, 2001* authorize a municipality to provide for an appeal of a decision made by a person or body in the exercise or intended exercise of a power or the performance or intended performance of a duty delegated to them by the municipality under the *Municipal Act, 2001* (*Municipal Act, 2001*, s. 284.1 (1)), and such power includes the power:

- (a) to designate the body that will conduct the appeal;
- (b) to provide for the powers the body conducting the appeal may exercise;
- (c) to establish procedures with respect to the appeal (*Municipal Act, 2001*, s. 284.1 (2)).

Council considers it necessary and desirable for the public to designate the *appeals committee* as the body that will conduct appeals of certain decisions made by a person or body in the exercise or intended exercise of a power or the performance of a duty

Appeals Committee By-Law

delegated to them by the *City* under the *Municipal Act, 2001*.

Therefore, council enacts:

1. Interpretation

1.1 This by-law may be cited as the *Appeals Committee By-Law*.

1.2 In this by-law:

“appellant” means a person who brings an appeal of a decision made by a person or body in the exercise or intended exercise of a power or the performance or intended performance of a duty delegated to them by the *City* under the *Municipal Act, 2001*;

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

“by-law” means a by-law passed by *council*;

“City” means The Corporation of the City of Kingston;

“clerk” means the *person* appointed by the *City* as clerk and includes the *clerk’s* designate;

“Committee” means the committee established *City of Kingston By-Law Number 7514* and continued under the *Property Standards By-Law* or its successor as designated by *council*;

“council” means the council of the *City*;

“Council Procedural By-Law” means *City of Kingston By-Law Number 2021-41*, the *“Council Procedural By-Law”*;

“decision” includes:

- (a) an order made by an officer under section 15.2 (1) of the *Property Standards By-Law*; and
- (b) an order or decision designated by section 3.1 as being an order or decision that a person may appeal to the *appeals committee*,

“meeting” has the meaning given to it in the *Council Procedural By-Law*;

Appeals Committee By-Law

“Municipal Act, 2001” means the *Municipal Act, 2001*, S.O. 2001, c.25;

“Property Standards By-Law” means *City of Kingston By-Law Number 2005-100, A By-Law For Prescribing Standards For The Maintenance And Occupancy Of Property Within The City of Kingston*;

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

1.3 For the purposes of interpreting this by-law:

- (a) a reference to any legislation, regulation, or by-law or to a provision thereof includes a reference to any legislation, regulation or by-law enacted, made or passed in substitution thereof or amendment thereof;
- (b) any reference to legislation includes all of the regulations made thereunder;
- (c) “they”, and all of its other grammatical forms, is a singular gender-neutral pronoun and includes all other pronouns in all of their grammatical forms;
- (d) “include”, “includes” and “including” indicate that the subsequent list is not exhaustive; and
- (e) an “appeal” includes a review.

2. Composition

2.1 The *Committee* must consist of not fewer than five members.

2.2 *Council* must appoint the members of the *Committee* and designate the term of their appointment.

2.3 The *Committee* must hold the hearings and perform the other duties that are assigned to it by or under any Act, regulation or *by-law*.

2.4 Except as limited by this by-law, the *Committee* has all the powers that are necessary or expedient for carrying out its duties.

2.5 The *Committee* may make orders or give directions as may be necessary or incidental to the exercise of the powers conferred on the *Committee* under an

Appeals Committee By-Law

Act, this by-law or any other *by-law*.

- 2.6 Three members of the *Committee* constitutes a quorum and may exercise all the powers of the *Committee*.
- 2.7 The *Committee* must elect a chair from among themselves one of the members as chair and may designate one or more other members as vice-chairs of the *Committee*.
- 2.8 When the chair is absent, the *Committee* may elect another member as acting chair.
- 2.9 The members of the *Committee* must provide for a secretary of the *Committee*.
- 2.10 The secretary must keep on file records of all official business of the *Committee*, including records of all applications made under section 9.3 of the *Property Standards By-Law* and minutes of all decisions respecting those applications.
- 2.11 The chair will have general supervision and direction over the conduct of the affairs of the *Committee* and must, with the assistance of the *clerk*, arrange the sittings of the *Committee* and assign members to panels to conduct hearings, either at regular intervals or as circumstances require.
- 2.12 The chair must appoint a chair for each panel from the members sitting on the panel.
- 2.13 If a panel of the *Committee* consists of an even number of members and there is no majority decision, the decision of the chair will be the decision of the panel.
- 2.14 A person who was a member of the predecessor committee immediately before the transition date continues as a member of the *Committee* until the day the person's term of office as a member of the predecessor committee would have expired, subject to the person's earlier death, resignation or removal.
- 2.15 The chair and any vice-chairs of the *Committee* holding office immediately before this by-law comes into force will be the chair and vice-chairs until the *Committee* elects their successors under section 2.9.

3. *Property Standards By-Law Appeals*

- 3.1 On an appeal under section 9.3 of the *Property Standards By-Law*, the *Committee* has all of the powers and functions of the officer who made the order

Appeals Committee By-Law

and the *Committee* may do any of the following things if, in the *Committee's* opinion, doing so would maintain the general intent and purpose of the *Property Standards By-Law* and of the *City's* official plan:

- (a) confirm, modify or rescind the order to demolish or repair; and
- (b) extend the time for complying with the order.

3.2 Subject to a person's right of appeal under section 15.3 (4) of the *Building Code Act*, an order that is confirmed or modified by the *Committee* under section 3.1 is final and binding upon the owner and occupant.

4. Appeals Committee Designation

4.1 The *Committee* is designated as the body that will hear appeals of *decisions* made under the following:

- (a) a *decision* under section 7.4 of *By-Law Number 2021-166, A By-Law to Regulate Animals*, to refuse to grant a kennel permit, breeder permit, hen coop permit or pigeon loft permit;
- (b) a *decision* under section 7.6 of *By-Law Number 2021-166, A By-Law to Regulate Animals* to suspend a kennel permit, breeder permit, hen coop permit or pigeon loft permit;
- (c) a *decision* under section 17.2 of *By-Law Number 2021-166, A By-Law to Regulate Animals* to require an owner to muzzle a dog;
- (d) a *decision* under section 3.11 of *By-Law Number 2006-213, A By-Law to License, Regulate and Govern Certain Trades* to refuse to grant a licence;
- (e) a *decision* under section 3.12 of *By-Law Number 2006-213, A By-Law to License, Regulate and Govern Certain Trades* to suspend a licence;
- (f) a *decision* under section 2.4 of *By-Law Number 2021-10, A By-Law to License and Regulate Short-term Rentals in the City of Kingston* to refuse to grant a licence or to suspend a licence;
- (g) a *decision* under section 4.1 of *By-Law Number 2022-6, A By-Law to Regulate and License Transportation Network Companies in the City of Kingston* to refuse to grant or renew a licence;

Appeals Committee By-Law

- (h) a *decision* under section 4.3 of *By-Law Number 2022-6, A By-Law to Regulate and License Transportation Network Companies in the City of Kingston* to impose conditions as a requirement of obtaining, continuing to hold or renewing a licence; and
- (i) a *decision* under section 14.1 of *By-Law Number 2022-6, A By-Law to Regulate and License Transportation Network Companies* to suspend or revoke a licence.

4.2 The *Committee* is designated as the body to hear applications for a minor variance made under section 3.4 of *By-Law Number 2003-405, A By-Law to Regulate Fences* and under section 6.2 of *By-Law Number 2009-140, A By-Law to Regulate Signs in the City of Kingston*.

5. Hearings

5.1 Notwithstanding section 2.1 of the *Council Procedural By-Law*, the *Council Procedural By-Law* does not apply to the *Committee's* proceedings when it exercises its power to hear an *appeal* or to hear an application under section 3.4 of *By-Law Number 2003-405, A By-Law to Regulate Fences* or under section 6.2 of *By-Law Number 2009-140, A By-Law to Regulate Signs in the City of Kingston*.

5.2 The *Statutory Powers Procedure Act* applies to the *Committee's* proceedings when it exercises its power to hear an *appeal*.

5.3 The *City*, the *appellant* and the other persons that the *Committee* specifies are parties to the hearing.

5.4 The *clerk* must give reasonable notice of the hearing to the parties in the manner they consider appropriate.

5.5 The *Committee* has jurisdiction to determine all questions of fact or law that arise in matters before it.

5.6 An order of the *Committee* takes effect immediately unless the order provides otherwise.

5.7 Despite any limitation of time fixed by or under any *by-law* for the giving of any notice, if the *Committee* is satisfied that there are reasonable grounds for granting relief, it may:

Appeals Committee By-Law

- (a) extend the time for giving notice either before or after the expiration of the limitation of time; and
- (b) give the directions that it considers proper as a result of extending the time.

5.8 At any stage of a hearing, the *Committee* may examine any of the following persons:

- (a) a party to the proceeding; and
- (b) a witness in the proceeding.

5.9 At any stage of a proceeding, the *Committee* may, in determining any matter, consider any relevant information obtained by the *Committee* in addition to evidence given at the hearing, if the *Committee* first informs the parties to the proceeding of the additional information and gives them an opportunity to explain or refute it.

5.10 The *Committee* may require or permit a person to give evidence before it by affidavit.

6. Rules of the *Committee*

6.1 The *Committee* may make rules establishing procedures for hearings held by the *Committee* and the rights of parties to the hearings.

6.2 A rule made under section 5.1 does not prevail over any provision of this by-law or any Act or other *by-law* that sets out requirements for procedures for hearings held by the *Committee* or rights of parties to the hearings.

7. Decisions of the *Committee*

7.1 Except as provided for in any other Act or *by-law*, orders and decisions of the *Committee* are final.

8. Meetings

8.1 The *Committee* may hold *meetings* at regular intervals or otherwise as the chair or the *clerk* considers appropriate.

8.2 *City of Kingston By-Law Number 2021-41, the Council Procedural By-Law*

Appeals Committee By-Law

applies to the *Committee's* proceedings when it exercises its power to hold a *meeting*.

9. Miscellaneous

- 9.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this by-law to be invalid, or to be of no force and effect, it is the intention of *council* in enacting this by-law that each and every provision of this by-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.
- 9.2 An appeal that was commenced under a *by-law* or Act before the date that this by-law is passed but is not disposed of before that date will be continued and disposed of by the *Committee* under *City of Kingston By-Law Number 2015-159* as it read immediately before its repeal.
- 9.3 *City of Kingston By-Law Number 2015-159, Appeals Committee Procedure By-Law* is repealed.
- 9.4 This by-law will come into force and take effect on January 1, 2025.

1 st Reading	date
2 nd Reading	date
3 rd Reading	date
Passed	date

Janet Jaynes
City Clerk

Bryan Paterson
Mayor

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:

Exhibit B to Report Number 24-214

- (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;

Exhibit B to Report Number 24-214

"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;

Exhibit B to Report Number 24-214

- (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

City of Kingston By-Law Number 2024-XX

By-Law to Amend City of Kingston By-Law Number 2021-166 A By-Law to Regulate Animals and By-Law Number 2022-6, A By-Law to Regulate and License Transportation Network Companies in the City of Kingston

Whereas:

The *City* is a single-tier municipality incorporated pursuant to an order made under section 25.2 of the *Municipal Act*, R.S.O. 1990, c. M.45.

The powers of a municipality must be exercised by its council (*Municipal Act, 2001*, 2001, s. 5 (1)).

A municipal power must be exercised by by-law unless the municipality is specifically authorized to do otherwise. (*Municipal Act, 2001 s. 5 (3)*).

On October 5, 2021, council for the *City* ("**council**") enacted *City of Kingston By-Law Number 2021-166, "A By-Law to Regulate Animals"*.

On January 11, 2022, council for the *City* enacted *City of Kingston By-Law Number 2022-6, A By-Law to Regulate and License Transportation Network Companies in the City of Kingston*".

Council considers it necessary and desirable for the public to amend *City of Kingston By-Law Number 2021-166, "A By-Law to Regulate Animals"* and *City of Kingston By-Law Number 2022-6, A By-Law to Regulate and License Transportation Network Companies in the City of Kingston*" to coincide with the enacted of the Appeals Committee By-Law.

Therefore, *council* enacts:

1. Amendment

- 1.1 Subsection 1.1 of *By-Law Number 2021-166, A By-Law to Regulate Animals* is amended by deleting the definition of "Appeals Committee" in its entirety and substituting:

By-Law to Amend By-Law ...-..

“appeals committee” means the appeals committee established by City of Kingston *By-Law Number 2024-XX*, *“Appeals Committee By-Law”* as amended or replaced from time to time, and includes any successor committee designated by Council to carry out the Appeals Committee’s responsibilities;

- 1.2 Subsection 1.1 of *By-Law Number 2022-6, A By-Law to Regulate and License Transportation Network Companies in the City of Kingston* is amended by deleting the definition of “Appeals Committee” in its entirety and substituting:

“appeals committee” means the appeals committee established by City of Kingston *By-Law Number 2024-XX*, *“Appeals Committee By-Law”* as amended or replaced from time to time, and includes any successor committee designated by Council to carry out the Appeals Committee’s responsibilities;

2. Coming into Force

- 2.1 This by-law will come into force and take effect on the day it is passed.

1 st Reading	date
2 nd Reading	date
3 rd Reading	date
Passed	date

Janet Jaynes
City Clerk

Bryan Paterson
Mayor