

City of Kingston

Appeals Committee Procedural Guide

The Appeals Committee of the City of Kingston is mandated by Committee By-law 2010-205. It operates in accordance with legislation to hear appeals decisions regarding property standards, fences, licenses and permits. Members of the Appeals Committee are appointed by Council. It is comprised of two members of Council and three members of the public. The Appeals Committee is quasi-judicial, and does not make recommendations to Council, but renders decisions. Decisions made by the Appeals Committee are final and only certain appeals are appealable to the Superior Court of Justice.

This Procedural Guide is not intended to serve as legal advice to appellants but to serve as a guide to the procedure used by the Appeals Committee. Appellants are encouraged to seek independent legal advice in the pursuant to their legal interests before the Appeals Committee.

Appealable Matters to the Appeals Committee

The Appeals Committee operates in accordance with the Building Code Act, and various City of Kingston by-laws to hear appeals on the following matters:

- Section 3.21 of By-law 2003-4, to license, regulate and govern certain trades and occupations, decisions on licensing matters may be appealed to the Appeals Committee.
- Sections 3.5 and 5.1 of By-law 2003-405, to regulate fences, variances to the Fence By-law may be granted by the Appeals Committee.
- Section 3.13 of By-law 2004-144, to regulate animals, decisions regarding a kennel permit, hen coop permit, or a breeder permit may be appealed to the Appeals Committee.
- Section 9.3 of By-law 2005-100, 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.
- Section 3.13 of By-law 2006-213, to regulate business licenses, decisions regarding business licenses may be appealed to the Appeals Committee.

Officers of the City issue Orders, license and permit denials and other decisions under these by-laws.

Giving Notice of an Appeal

Decisions of an officer of the City may be appealed. Decisions are communicated in the form of an Order. Orders issued by the officer shall be in writing and shall include the following:

- Reason for the Decision.
- Date of deadline for serving a Notice of Appeal.
- Notice of Appeal Form.
- Administrative Notice of Appeal Fee.

Parties affected can appeal these decisions by serving a Notice of Appeal and applicable supporting documentation. 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. All appeals shall include the applicable appeal fee as outlined by the Fees and Charges By-law, 2005-10 as amended.

Receipt of an Appeal

Upon receipt of an appeal the Committee Clerk will complete the following:

- Review appeal to ensure that it is in compliance with the requirements set out in the Notice of Appeal.
- Receive the Notice of Appeal fee.
- Schedule the hearing for the Appeal.
- Issue Notice of Hearing at least 14 days in advance of date of hearing in writing to the appellant the date and time of their hearing which will include a copy of the Appeals Committee Procedural Guide.

If for any reason the appellant or their agent cannot attend the Appeals Committee hearing on the date set by the Committee Clerk, the appellant must give written notice in the form of a letter requesting an alternate date of hearing. Such notice must be provided to the Chair and members of the Appeals Committee by way of the Committee Clerk no later than three days before the date set for the hearing.

The letter will be formally listed 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.

If an appellant notified of a hearing does not attend on the date set by the Committee Clerk, the Appeals Committee may proceed in his/her absence. All decisions will be communicated in writing to the appellant.

Hearing of the Appeal

Hearing of appeals by the Appeals Committee are routinely scheduled at Kingston City Hall on the third Monday of each month at 12:00 p.m. If there is a Statutory Holiday on the third Monday of the month, the meeting date will be rescheduled to an alternate Monday.

All hearings are conducted orally unless otherwise determined. The Appeals Committee Chair is authorized to conduct the Hearing in accordance with proper administrative tribunal practice and the applicable city by-laws. Appellants may seek guidance on matters of procedure from the Chair by raising a point of order in an appropriate manner.

The hearing will be open to the public. The subject matter of the order being appealed shall be presented by authorized City Staff setting out the conditions of the decision being appealed. The authorized officer of the City shall also circulate any relevant records in support of the decision being appealed to the Appellant and the Committee Clerk. The Committee Clerk shall receive the records as submitted, circulate it to the members of the committee and record it as evidence and it shall become part of the record.

The appellant will then be provided with an opportunity to present their appeal through making submissions and providing evidence to the Committee in accordance with the Notice of Appeal. The Appellant shall also circulate any relevant records in support of the decision being appealed to the officer and the Committee Clerk. The Committee Clerk shall receive the records as submitted, circulate it to the members of the committee and record it as evidence and it shall become part of the record.

The Committee may ask questions during the hearing of either the authorized City officer or the appellant through the Chair for clarification as to the submissions being made. The appellant and the appropriate City Official will also be provided an opportunity to ask questions of clarification.

Decisions of the Committee

Upon the conclusion of submissions from the authorized City officer and the Appellant, the Chair shall lead the Committee members into deliberations. The Chair shall advise the hearing on the result of the deliberations, the committee may adjourn into closed deliberations to receive legal advice if required.

All decisions of the Committee must be ratified by an open session vote. Decisions of the Appeal Committee may be rendered orally, and/or communicated in writing by the Committee Clerk. The Committee may determine that it requires additional information or evidence to render a decision, and if so, it may move to defer a hearing to a future meeting date to allow the provision of that additional information or evidence.

Certain rulings of the Appeals Committee may be appealed. Appellants seeking to appeal a decision of the Appeals Committee are encouraged to immediately seek independent legal advice pursuant to their legal interests.

Extensions of Time for Compliance with Property Standards Orders

Following property standards decisions of the Appeals Committee resulting in an order that requires steps to be taken by a party to the appeal, the matter will return to the Committee as a Property Update Hearing for monitoring of compliance. Notice of the Property Update hearings shall be served upon the appropriate parties subject to the order by the Committee Clerk.

During the Property Update hearing, the authorized City 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 further extensions to provide for compliance.

The Committee can make further decisions regarding the order at the Property Update Hearing, provided that those decisions are in keeping with their powers. Decisions of the Appeal Committee may be rendered orally, and/or communicated in writing by the Committee Clerk.