



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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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.
