



THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2016-066

A procedure by-law to establish rules governing the calling, place, proceeding and providing public notice of meetings of the Committee of Adjustment of The Corporation of the Town of Oakville and to repeal By-law 2008-032.

WHEREAS section 238(2) of the *Municipal Act, 2001*, S.O 2001 c.25, as amended (the "*Municipal Act*"), requires every municipality and local board to adopt a procedure by-law for the governing the calling, place and proceedings of meetings;

AND WHEREAS the Committee of Adjustment has been established pursuant to the *Planning Act*, R.S.O. 1990, c. P.13, as amended, (the "*Planning Act*");

AND WHEREAS Council deems it necessary and expedient that there be rules governing the order and proceedings of the meetings of the Committee of Adjustment;

COUNCIL ENACTS AS FOLLOWS:

1. DEFINITIONS

1.1. In this by-law,

"Chair" means the Chair of the Committee appointed under section 44(7) of the *Planning Act*;

"Committee" means the Committee of Adjustment established in accordance with section 44 of the *Planning Act*;

"Meeting" means a gathering of the Committee where quorum is achieved and at which public hearings over which the Committee has jurisdiction are conducted by the Members collectively and during which formal action is taken; or where training or education is provided exclusively to the Members of the Committee.

"Member" means any member of the Committee and includes the Chair;

"Pecuniary Interest" means a direct or indirect pecuniary (monetary) interest within the meaning of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50;

“Point of Order” means any alleged breach of the rules or irregularity in the proceedings of a meeting;

“Point of Privilege” means a statement calling attention to a matter where the integrity, character or reputation of an individual, individuals or the entire Committee, or the ability of an individual to participate, is perceived to be in question;

“Quorum” means a minimum of three (3) Members required to be present at any meeting in order for business to be conducted;

“Secretary Treasurer” means the Secretary-Treasurer of the Committee appointed under section 44(8) of the *Planning Act*, or the Deputy Secretary-Treasurer as the case may be.

2. APPLICATION

2.1. The procedures contained in this by-law shall be observed in all proceedings of the Committee and shall be the procedures for the order and dispatch of meetings conducted by the Committee.

2.2. Procedural matters not governed by the provisions of this by-law shall be governed by the provisions of the Town of Oakville Procedure By-law governing Council and Committees of Council.

2.3. In the event of a conflict between this by-law and the *Planning Act*, the *Planning Act* prevails.

3. CALLING OF MEETINGS

3.1. The Secretary-Treasurer shall prepare a schedule of meetings on an annual basis.

3.2. Where it is determined by the Secretary-Treasurer that there are insufficient agenda items for a meeting, the Secretary Treasurer shall cancel the meeting.

3.3. Subject to section 14 of this by-law, the Secretary-Treasurer shall issue notice of the minor variance applications to be considered at the meeting and the applicant shall post notice of their application on the subject property, both in accordance with the requirements of *Planning Act* and regulations thereunder, at least ten (10) days before the meeting.

3.4. Subject to section 14 of this by-law, for those consent items that are under the jurisdiction of the Committee, the Secretary-Treasurer shall issue notice of the consent applications to be considered at the meeting and the applicant shall post notice of their application on the subject property, both in accordance with the requirements of *Planning Act* and regulations thereunder, at least fourteen (14) days before the meeting.

3.5. Members shall be provided with the meeting agenda 10 days prior to the meeting, after which it shall be posted to the Town of Oakville website.

3.6. The location of all meetings of the Committee shall be identified on the notice as circulated by the Secretary-Treasurer.

4. COMMITTEE COMPOSITION

4.1. The Committee shall be composed of 5 Members appointed by Town Council.

4.2. The Members shall elect one of themselves as Chair, who shall hold the position until a successor is elected.

4.3. When the Chair is absent, the Committee shall appoint another Member to sit as acting Chair.

5. QUORUM

5.1. A vacancy in the membership or the inability of a Member to act due to a declared conflict does not impair the powers of the Committee or of the remaining Members.

5.2. In the event that a Member resigns from the Committee or is removed in accordance with section 7.7, quorum may be adjusted temporarily to reflect the decrease in voting Members and shall return to normal quorum requirements upon the filling of the vacancy by Council.

5.3. If no quorum is present thirty (30) minutes after the time appointed for a meeting of the Committee, the Secretary-Treasurer shall record the names of the Members present and the meeting will stand adjourned until the next appointed time.

6. MEETING PROCEDURES

6.1. All meetings of the Committee shall be recorded in video or audio format by the town. Any additional video, photo, and audio recordings undertaken by members of the public shall not be disruptive to the meeting.

6.2. Except in accordance with the provisions of the *Municipal Act, 2001*, all meetings of the Committee shall be open to the public.

6.3. In accordance with the provisions of the *Statutory Powers Procedure Act*, R.S.O. 1990, c.S.22, a hearing being conducted by the Committee during a meeting may be closed to the public when the Committee is of the opinion that:

6.3.1. matters involving public security may be disclosed; or

6.3.2. intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof

in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public.

- 6.4. As soon after the hour fixed for a meeting as a quorum is present, the meeting shall be called to order by the Chair.
- 6.5. The Chair shall ask the Secretary-Treasurer if there are any regrets.
- 6.6. The Chair shall call for declarations of any Pecuniary Interest of Members.
- 6.7. The Chair shall call for confirmation of Minutes of the previous Committee meeting(s).
- 6.8. The Chair shall call for requests for deferral or withdrawal of any matters before the Committee.
- 6.9. The Chair, based on attendance, will determine the order of the items on the agenda to facilitate the meeting in the most expeditious manner.
- 6.10. For each agenda item, the Chair shall ask the applicant or their representative to introduce themselves and present the application. The applicant or their representative shall be provided with a maximum five (5) minutes to present the nature of the application to the Committee. Any submissions beyond the five (5) minutes shall be at the discretion of the Committee.
- 6.11. The Chair shall ask Members if they have any questions of the applicant or their representative, following which Members may ask the Secretary- Treasurer to:
 - 6.11.1. read aloud all comments received from agencies who responded to the circulation of the notice of the application;
 - 6.11.2. read aloud any letters received from persons expressing an interest in the application;
 - 6.11.3. summarize the nature of the interest being expressed;
 - 6.11.4. read aloud the proposed conditions to be attached to the decision should the Committee approve the application.
- 6.12. Following the presentation of the application by the applicant, the Chair shall:
 - 6.12.1. invite anyone else having an interest in the application to come forward, identify themselves and express their interest;
 - 6.12.2. ask questions of the interested person on behalf of the Committee and allow the Members to ask questions relevant to the application before them.

- 6.13. Submissions from members of the public, in support or opposition to any application, shall be limited to five (5) minutes and shall be confined to the subject application. Any submissions beyond the five (5) minutes shall be at the discretion of the Committee.
- 6.14. Following submissions from members of the public, the Committee shall give the applicant or their representative the opportunity to respond to any comments received from commenting agencies or interested parties. This response shall be limited to five (5) minutes.
- 6.15. Any other public input after the applicant's response shall be at the discretion of the Committee.
- 6.16. Following submissions from members of the public and any response by the applicant, Members may ask additional questions relevant to the application before them.
- 6.17. Following the applicant's response, the Committee shall consider the issues raised by the applicant or their representative and any respondents, and the Chair shall:
 - 6.17.1. ask Members for a motion with respect to the disposition of the application;
 - 6.17.2. permit discussions on the motion;
 - 6.17.3. call for a vote by the Committee on the motion;
 - 6.17.4. announce the decision of the Committee; and
 - 6.17.5. may summarize any dissenting decisions orally.
- 6.18. The Chair may answer questions and comment in a general way, but if the Chair wishes to make a motion, speak to a motion under consideration, take part in the debate or leave the chair for any other reason, he or she shall first delegate the duties of the Chair to another member until he or she resumes the position of Chair.
- 6.19. On every application before it, the Committee may vote to approve, deny, defer, or reserve an application, and shall set out the reasons for the decision.
- 6.20. Any approval granted by the Committee may be for such time and subject to such terms and conditions or agreement as the Committee considers advisable and as are set out in the decision.
- 6.21. A written decision will be prepared for each hearing detailing any conditions imposed by the Committee and will be signed by all Members who concur with the decision.
- 6.22. The Secretary-Treasurer shall be permitted at any time and without prior notice to the parties to correct a technical or typographical

error, error in calculation or similar minor error made in the minutes or in a decision.

7. RULES OF CONDUCT AND DEBATE

- 7.1. It shall be the duty of the Chair to:
- 7.1.1. call the meeting to order;
 - 7.1.2. ensure that a quorum is established and is maintained throughout the course of the meeting;
 - 7.1.3. put to a vote all motions that arise in the course of the proceedings and announce the result of each vote;
 - 7.1.4. decline to put to vote motions that infringe upon the rules under this by- law;
 - 7.1.5. uphold on all occasions the rules and the observance of order and decorum amongst the Members and attendees in accordance with this by-law;
 - 7.1.6. rule on Points of Privilege and Points of Order and decide all questions relating to the orderly procedure of the meeting;
 - 7.1.7. adjourn the meeting without question or suspend the meeting to a time to be named by the Chair, if considered necessary because of grave disorder;
 - 7.1.8. adjourn the meeting at the earlier of when the business is concluded, or at the designated time.
- 7.2. A Member shall not:
- 7.2.1. disobey the rules of procedure;
 - 7.2.2. disturb the other Members by any disruptive or distracting conduct, including private conversations or electronic communications among Members during a meeting;
 - 7.2.3. display any behaviour which may be considered disruptive, inconsiderate or disrespectful, or use profane or offensive words or insulting expressions;
 - 7.2.4. leave their seat or make any noise or disturbance while a vote is being taken;
 - 7.2.5. speak until recognized by the Chair;
 - 7.2.6. interrupt a Member who is speaking, except to raise a Point of Order or a Point of Privilege;

- 7.2.7. leave the meeting at any time without advising the Chair;
 - 7.2.8. speak more than once on an item until every Member who desires to speak has spoken;
 - 7.2.9. comment or question on matters other than those directly pertaining to the subject application before him or her;
 - 7.2.10. use their status on the Committee for personal or political gain.
- 7.3. In the event that a Member persists in a breach of section 7.2 above, after having been called to order by the Chair, the Chair shall without debate call the question “Shall the Member be ordered to leave his or her seat for the duration of the meeting?”, and this question shall not be debatable.
- 7.4. If the Committee decides the question set out above in the affirmative by a majority vote of the Members present, the Chair shall order the Member to leave his or her seat for the duration of the meeting.
- 7.5. If the Member apologizes, the Committee may permit the Member to resume his or her seat.
- 7.6. If the Member does not apologize or does not leave his or her seat after being ordered to do so, then the Chair will direct the Secretary-Treasurer to seek the appropriate assistance from the Halton Regional Police Service.
- 7.7. If a member of the Committee is absent from three consecutive meetings or absent from over 50% of the meetings in a calendar year, the following process is followed:
- 7.7.1. The member shall be given written notice by the Secretary-Treasurer to the Committee of Adjustment of his/her absenteeism and advised that he/she may submit in writing the reasons for the absence, to be considered at the next Committee of Adjustment meeting.
 - 7.7.2. Upon receipt of the written notice, the member’s position on the Committee is suspended until a decision is made.
 - 7.7.3. The Committee of Adjustment, by resolution, may waive the attendance requirements, if reasonable or compassionate circumstances exist, and the member remains on the Committee.
 - 7.7.4. If no reasonable or compassionate response is given, the Committee of Adjustment shall pass a motion to declare his/her seat vacant.
- 7.8. In the event that a Member engages in grave misconduct in the course of their duties as a Member, including the violation of any

Corporate Policy, Council may remove said Member from the Committee.

- 7.9. Attendees at a meeting shall maintain order and quiet and shall not display signs or placards, applaud, heckle or engage in telephone or other conversation or any behaviour which may be considered disruptive, inconsiderate, disrespectful or intimidating to others.
- 7.10. Any person who disrupts a meeting shall be asked by the Chair to stop the disruptive behaviour and if the person persists they shall be asked to leave the meeting.
- 7.11. If a person refuses to leave the meeting upon being requested to do so by the Chair, the Chair may recess the meeting and may direct the Secretary- Treasurer to seek the appropriate assistance from the Halton Regional Police Service.
- 7.12. All cell phones and electronic devices, except those in use to record or otherwise facilitate the meeting, shall be turned off or otherwise set so as to not emit any audible sound during a meeting.

8. VOTING

- 8.1. The Chair shall call the vote immediately after all Members desiring to speak to a motion have spoken. No further speakers shall be permitted after the Chair has called the vote.
- 8.2. Each Member, when requested by the Chair, shall indicate by show of hands, their position on the motion under consideration. The majority decision of the Committee on the motion shall constitute the decision of the Committee. If the initial motion fails, a new motion is requested by the Chair and continued until a majority of the Members approve a motion.
- 8.3. Subject to 8.4, all Members present shall be required to vote and if any Member refuses to do so, they will be deemed to be voting in the negative. The Chair shall indicate his/her vote only after all other Members have voted.
- 8.4. When the Committee is comprised of an even number, and still has quorum, the Chair may refrain from voting to preclude a tie vote.
- 8.5. Any motion on which there is a tie vote shall be deemed to be defeated.

9. POINT OF PRIVILEGE

- 9.1. A Member may at any time raise a Point of Privilege directing attention to a matter that affects the integrity, character or reputation of an individual, individuals, or the entire Committee, or the ability of an

individual to participate.

- 9.2. A Point of Privilege shall take precedence over any other matter.
- 9.3. A Member shall not be permitted to enter into any debate or introduce any motion not related to the Point of Privilege.
- 9.4. The Chair shall decide upon the Point of Privilege and advise the Members of the decision.
- 9.5. Unless a Member immediately appeals the Chair's decision, the decision of the Chair shall be final.
- 9.6. If the decision of the Chair is appealed, the question "Shall the ruling of the Chair be upheld?" shall be called without debate, and its results shall be final.
- 9.7. When the matter has been determined to be a Point of Privilege, the Member shall be afforded an opportunity to propose a motion in relation to that Point of Privilege.

10. POINT OF ORDER

- 10.1. A Member may at any time raise a Point of Order to a perceived violation of the rules of procedure.
- 10.2. The Chair shall decide upon the Point of Order and advise the Members of the decision.
- 10.3. Unless a Member immediately appeals the Chair's decision, the decision of the Chair shall be final.
- 10.4. If the decision of the Chair is appealed, the question "Shall the ruling of the Chair be upheld?" shall be called without debate, and its results shall be final.

11. ADJOURNMENT

- 11.1. All meetings shall adjourn by 10:00 p.m. unless otherwise determined through a motion by a majority of the Members present. No meeting shall proceed beyond the hour of 10:30 p.m.
- 11.2. If there are remaining applications on the agenda which have not been heard by the time required to adjourn the meeting, the Secretary-Treasurer will assign a date to resume the public meeting, and no further public notice will be required to be provided.

12. DECISIONS OF THE COMMITTEE

- 12.1. No decision of the Committee on an application is valid unless it is

concurring by the majority of the Members that heard the application. The decision of the Committee shall be in writing and shall set out the reasons for the decision and the effect that written and oral submissions had on their decision making and shall be signed by the Members who concur in the decision.

- 12.2. A copy of the Committee's written decision will be prepared and issued in accordance with the provisions of the *Planning Act*.
- 12.3. A copy of the Committee's written decision shall be sent to each person who appeared in person or by agent or representative to express an interest in the application. In addition, any other person expressing an interest in an application shall leave their name and address with the Secretary-Treasurer at the meeting, or may submit a written request, should they wish to receive a copy of the written decision and any further correspondence with respect to the application, pursuant to the provisions of the *Planning Act*.

13. CONFLICT OF INTEREST

- 13.1. All Members required to do so by the provisions of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, as amended, shall disclose any direct or indirect Pecuniary Interest for themselves or a family member and shall state the general nature of such Pecuniary Interest and it shall be recorded by the Secretary-Treasurer accordingly. The Member shall leave the meeting for the duration of the matter for which a Pecuniary Interest is declared.

14. REQUESTS FOR DEFERRAL OR WITHDRAWAL

- 14.1. A request for deferral of a matter on the scheduled meeting date by the applicant or authorized agent must be for reasonable cause and must be made at the meeting. If granted, the Committee after consultation with the Secretary-Treasurer, will set a new meeting date for the application to be heard and notwithstanding section 3 of this by-law, no further notice of the meeting date will be provided.
- 14.2. The applicant or their representative may request that an application be withdrawn. Such requests may be made to the Secretary Treasurer in advance of the meeting date or at the meeting. The Secretary-Treasurer will record that the application was withdrawn from the Committee's agenda and the Committee will take no action on the matter at the meeting.

