

Purpose

1. To provide procedures for an appeal to the Property Standards Committee of a Property Standards Order and the subsequent proceedings of the Property Standards Committee.

Background

2. The *Planning Act*, R.S.O. 1990, c. P.13 authorizes a municipality to delegate to a committee of adjustment certain responsibilities in addition to the statutory responsibilities under the Planning Act.
3. The *Building Code Act*, 1992, S.O. 1992, c. 23 authorizes a municipality to establish a Property Standards Committee.
4. The *Municipal Act, 2001*, S.O. 2001, c.25 requires that the powers of a municipality be exercised by its Council and that such powers be exercised by by-law.
5. City Council has established a Committee of Adjustment by by-law (the "Committee of Adjustment By-law").
6. City Council has appointed members to the Committee of Adjustment by by-law (the "Board and Committee By-law").
7. The Committee of Adjustment By-law appoints members to act as a Property Standards Committee under the Building Code Act.
8. The Property Standards Committee will hold a hearing for all appeals of a Property Standards Order.
9. The *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 authorizes a Property Standards Committee to make rules governing the practice and procedure before it.
10. Committee of Adjustment matters, Property Standards Appeals, and other matters may be addressed at the same meeting.

Scope

11. This procedure applies to all appeals to the Property Standards Committee of a Property Standards Order.

Definitions

12. For the purposes of this procedure,

“Appeal” means an Appeal to the Property Standards Committee of a Property Standards Order;

“Appellant” means an owner or occupant that has been served with an Order and who has sent a Notice of Appeal to the Secretary within fourteen (14) days after being served with the Order;

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

“Business Day” means a day when City Hall is open for business and is not a Statutory Holiday;

“By-law” means the Property Standards By-law of the City in effect at the time of the appeal;

“Chair” means the chair of the Property Standards Committee;

“City” means the City of Owen Sound, and a reference to the City is a reference to the geographical area or The Corporation of the City of Owen Sound as the context requires;

“City Clerk” means the Clerk for the City;

“Committee” means the Property Standards Committee of the City;

“Council” means the Council for the City;

“Electronic Hearing” means a hearing held by conference telephone, video conference, or some other form of electronic technology allowing persons to hear one another. For the purposes of these rules “electronic hearing” and “virtual hearing” have the same meaning;

“Hearing” means a hearing in any proceeding of the Property Standards Committee, including an electronic hearing;

“Notice of Appeal” means the City’s prescribed form for Notices of Appeal to the Committee under these rules;

“Occupant” has the same meaning as it has in the City’s By-law;

“Officer” means a property standards officer who has been assigned the responsibility of administering and enforcing by-laws passed under section 15.1 of the Building Code Act;

“Order” means a Property Standards Order made under the Building Code Act;

“Owner” has the same meaning as it has in the City’s By-law;

“Party” includes the City and the Appellant;

“Planning Act” means the *Planning Act*, R.S.O. 1990, c. P.13 as amended;

“Proceeding” means a matter brought before the Property Standards Committee under the provisions of the By-law or the Building Code Act;

“Quorum” means three of the five members of the Property Standards Committee are in physical or virtual attendance and eligible to participate;

“Representative” means a person authorized by an Appellant to represent the Appellant;

“Secretary” means the Secretary for the Property Standards Committee as appointed by the City Clerk from time to time;

“Service” means the effective delivery of the documentation to any Party or, in the case of the Appellant, the Appellant’s Representative;

“Statutory Holiday” means any of the following holidays:

- New Year’s Day
- Family Day
- Good Friday
- Easter Monday
- Victoria Day
- Canada Day
- Civic Holiday
- Labour Day
- Truth and Reconciliation Day
- Thanksgiving Day
- Remembrance Day
- Christmas Day
- Boxing Day
- Any day fixed as a holiday by proclamation of the Governor General or Lieutenant Governor.

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

“Vice Chair” means the Vice Chair of the Property Standards Committee; and

“Witness Table” means the location in Council Chambers where the Secretary tells a witness to sit.

Procedure

General

13. These rules apply to all proceedings before the Committee.
14. These rules will be applied in a manner consistent with the Statutory Powers Procedure Act (SPPA) and with other legislation governing the Committee.
15. The Committee may, at any time, as it deems necessary, dispense with compliance with any rules, save and except those prescribed as mandatory by the SPPA and any other legislation governing the Committee.
16. If these rules do not provide for a matter of procedure that arises during a Hearing, the procedure will be determined by the Committee at the Hearing.
17. These rules will be liberally construed to secure the just, most expeditious, and cost-effective determination of every proceeding on its merits.
18. Substantial compliance with requirements respecting the contents of forms, notices or documents under these rules is sufficient.
19. The Committee may exercise any of its powers under these rules on its own initiative or at the request of a Party.
20. Three members of the Committee constitute quorum for a Hearing.
 - a. If no quorum is present 15 minutes after the time appointed for the commencement of the Hearing, the members will stand adjourned, and the Secretary will record the names of the members present upon such adjournment. The Secretary will reschedule the Hearing.
 - b. The Committee must not hear an appeal with an even number of Committee members sitting. Where an even number of Committee members are present, the Committee will follow the Secretary's procedure for selecting the Property Standards Committee Appeal members in effect at the time of the selection.
 - c. The decision of a majority of Committee members is the decision of the Committee.
 - d. Despite Section 20, if, after the commencement of a Hearing, a Committee member becomes unable to act for any reason, the remaining Committee members may continue to hear the appeal and, if Committee members constituting a simple majority of the panel are in agreement on the decision that should be given,
 - i. they may give that decision; and
 - ii. it is the decision of the Committee.

- e. If, after a Hearing continued under Section 20.d, it appears that no majority decision is possible, the remaining Committee members must order that a new Hearing commence with at least two different committee members.
 - f. Committee members must remain for the entirety of the Hearing. If a Committee member needs to leave the Council Chambers for any reason, the Chair must call a recess until the Committee member returns to their seat.
21. Hearings may proceed in person, by conference telephone, by videoconference, or some other form of electronic technology allowing persons to hear one another, or a combination thereof, at the discretion of the Secretary so long as the manner of Hearing does not cause a Party significant prejudice.
22. Hearings will be open to the public except where the Committee is of the opinion that:
- a. matters involving public security may be disclosed; or
 - b. 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 interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public; or
 - c. for an electronic hearing it is not practical to hold the hearing in a manner that is open to the public, in which case the Committee may hold the hearing or parts thereof in the absence of the public.
23. A Party may be represented by a Representative.

Notice Requesting an Appeal

24. A Notice of Appeal of an Order must be sent to the Secretary within fourteen (14) days after being served with the Order unless specified otherwise in the Order.
25. A Notice of Appeal may be filed by an Owner or Occupant who has been served with a Property Standards Order.

26. A Notice of Appeal must include:
 - a. A completed and signed Notice of Appeal that includes the following:
 - i. address of property being appealed;
 - ii. order issue date;
 - iii. order appeal deadline date;
 - iv. order compliance date;
 - v. the name of the person(s) (specifically, the property owner, occupant, and representative) requesting the appeal and their address, telephone number, and email address;
 - vi. the grounds and/or reasons for the appeal;
 - vii. request for an electronic hearing or closed hearing and the rationale for the request (if applicable);
 - viii. an authorization to act as representative for notice of appeal (if applicable); and
 - ix. property standards appeal fee as set out in the City's Fees and Charges By-law in effect at the time of the appeal. This fee is non-refundable.
 - b. A copy of the Order related to the appeal.
27. Where a person submits a Notice of Appeal that is not substantially in accordance with Section 26, the Secretary will send to the Appellant, or the Appellant's Representative, if represented, an Acknowledgement Letter. The Acknowledgement Letter will:
 - a. specify what additional information is required to complete the Notice of Appeal substantially in accordance with Section 26;
 - b. request that outstanding information be provided to the Secretary within five (5) business days of receipt of the Acknowledgement Letter; and
 - c. advise that if the outstanding information is not provided by the deadline date, the Notice of Appeal will be considered abandoned.
28. Where a person submits a Notice of Appeal after the appeal deadline or submits outstanding information after the deadline noted in the Acknowledgement Letter, the Secretary will send to the Appellant, or the Appellant's Representative, if represented, notice that a Hearing will not be scheduled.

29. Where an Appellant has completed a Notice of Appeal in substantial accordance with Section 26, the Secretary will appoint a time and place for the Hearing of the appeal in accordance with Sections 30 and 31.

Notice of Hearing

30. A Notice of Hearing will be sent to the Appellant or Appellant's Representative by the Secretary by electronic mail, regular mail or personal service to all parties affected by the Order at least twenty (20) business days in advance of the Hearing.
31. A Notice of Hearing will include:
- a. a statement of the time, place and purpose of the Hearing and details about the manner in which the Hearing will be held;
 - b. a statement that if the Appellant, or Appellant's Representative, does not attend the Hearing, the Committee may proceed in the Appellant's absence and the Appellant will not be entitled to any further notice in the proceeding; and
 - c. if the Hearing is to be an electronic hearing, a statement that if video or audio for the Appellant, or Appellant's Representative, malfunction during the Hearing, the Committee may proceed in the Appellant's absence and the Appellant will not be entitled to any further notice in the proceeding; and
 - d. if the Hearing is to be an electronic hearing, a statement that the party notified may, by satisfying the Committee that holding the hearing as an electronic hearing is likely to cause the party significant prejudice, require the Committee to hold the Hearing as an "in person" hearing and provide the rationale for the request.
32. Where Notice of a Hearing has been given to a Party in accordance with this procedure and the Party does not attend the Hearing, the Committee may proceed in the absence of the Party and the Party is not entitled to any further notice in the proceeding.

Hearing Agenda

33. The Secretary will prepare an agenda based on the information to be addressed prior to the Hearing in accordance with the City's Procedural By-law.
34. The Hearing Agenda, along with the Order(s) and any other relevant file information will be emailed to the Committee members for review at least seventy-two (72) hours in advance of the Hearing, as well as posted on the City's website.

Serving and Filing Documents

35. If a Party intends to make use of any written or documentary evidence at the Hearing, that Party is required to serve one (1) copy of the documents (referred to as the disclosure package) to the Secretary no later than nine (9) business days before the Hearing date.
36. For the purposes of Section 35, "document" includes any report, memorandum, witness list, witness statement, sound recording, videotape, file, photograph, map, plan, survey, and any information recorded or stored by any means, and any expert reports to be relied upon and a copy of the curriculum vitae of the authors of any such expert reports.
37. The Secretary will provide the disclosure packages to all Parties no later than seven (7) business days before the Hearing date by the service method identified in the Notice of Appeal.
38. Service is deemed to be effective when delivered:
 - a. Personally to the Party or, in the case of the Appellant, the Appellant's Representative on same day of delivery;
 - b. By electronic mail on the same day as the transmission;
 - c. By regular mail on the fifth day after the day of mailing; or
 - d. By courier, including Priority Post, on the second full day after the document was given to the courier by the Party serving.
39. Documents delivered after 4:30 p.m. are deemed to have been delivered on the next day that is not a weekend day or statutory holiday.
40. A person who serves or files a document must include with it a statement of the person's address, telephone number, email address, if available, and the name of the proceeding to which the document relates.
41. Documents may be filed with the Secretary by any of the methods of delivery in Section 38.

42. Documents must be filed with the Secretary at:

City of Owen Sound
Secretary of the Property Standards Committee
808 2nd Avenue East
Owen Sound, ON N4K 2H4
clerks@owensound.ca

43. If a Party fails to serve and file a document pursuant to this procedure, the Party may not refer to the document in evidence at the Hearing without the Committee's consent, which may be on terms and conditions as the Committee considers just.

Hearing Procedure

44. The Chair calls the Hearing to order.

45. The Chair explains the purpose of the Committee and the format of the Hearing.

46. For each appeal heard, the Chair calls the name of the Appellant and the municipal address of the property concerned.

47. An "In-Person" Hearing will be held as follows:

- a. The City may provide an opening statement.
- b. The Appellant may provide an opening statement.
- c. The City will present its case first. The City will call their witness(es) who may be a By-law Enforcement Officer and/or other witnesses. Once called, a witness is placed at the witness table and is sworn or affirmed. At the conclusion of the testimony of each City witness, the Appellant and then the Committee may ask their own questions of the witness(es).
- d. After the City has called all their witnesses, the Appellant will call their witness(es) who may be the Appellant themselves and/or other witnesses. Once called, a witness is placed at the witness table and is sworn or affirmed. At the conclusion of the testimony of each of the Appellant's witnesses, the City and then the Committee may ask their own questions of the witness(es).
- e. The City and the Appellant may make their closing statement. The closing statement should include what each party is requesting of the Committee with respect to confirming, modifying, or rescinding the Order and/or extending the time for complying with the Order.

48. An Electronic Hearing will be held as follows:
- a. The City may provide an opening statement.
 - b. The Appellant may provide an opening statement.
 - c. The City will present its case first. The City will call their witness(es) who may be a By-law Enforcement Officer and/or other witnesses. Once called, a witness will be asked to turn on their video and unmute their microphone and is sworn or affirmed. At the conclusion of the testimony of each City witness, the Appellant and then the Committee may ask their own questions of the witness(es).
 - d. After the City has called all their witnesses, the Appellant will call their witness(es) who may be the Appellant themselves and/or other witnesses. Once called, a witness will be asked to turn on their video and unmute their microphone and is sworn or affirmed. At the conclusion of the testimony of each of the Appellant's witnesses, the City and then the Committee may ask their own questions of the witness(es).
 - e. The City and the Appellant may make their closing statement. The closing statement should include what each party is requesting of the Committee with respect to confirming, modifying, or rescinding the Order and/or extending the time for complying with the Order.
49. An electronic hearing is a hearing event, and this procedure applies. The conduct of a hearing by conference telephone or videoconference and/or other technology does not change the obligation of witnesses and counsel to conduct themselves in accordance with the rules of professional conduct of their applicable professions. The Secretary will mute the microphone and turn off the video of the witness or counsel at the direction of the Chair if they are acting inappropriately.

Evidence

50. Subject to Sections 51 and 52, 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 provided in accordance with Sections 35 to 43, relevant to the subject matter of the proceeding and may act on such evidence, but the Committee may exclude anything unduly repetitious.

51. Nothing is admissible in evidence at a Hearing,
 - a. that would be inadmissible in a court by reason of any privilege under the law of evidence; or
 - b. that is inadmissible by the statute under which the Hearing arises or any other statute.
52. Nothing in Section 51 overrides the provisions of any Act expressly limiting the extent to or purposes of which any oral testimony, documents or things may be admitted or used in evidence in any proceeding.

Committee Deliberations

53. The Committee may retire in person and/or electronically to deliberate in the absence of the public, the City, and the Appellant. The Secretary will retire with the Committee to record its decision.

Notice of Decision

54. The Committee will render its decision on the matter in the presence of the public, the City, and the Appellant and/or the Appellant's Representative subject to the following:
 - a. If the Committee determines that additional information is required to render a decision, it may adjourn the matter to a future hearing date; or
 - b. If the Committee determines that time is required to provide fulsome reasons for the decision, an oral decision will be provided with written reasons to follow.
55. In considering an Appeal, the Committee has all the powers and functions of the Officer who made the Order and in disposing of the matter, the Committee may,
 - a. confirm the Order;
 - b. modify the Order;
 - c. rescind the Order;
 - d. extend the time for complying with the Order;if, in the Committee's opinion, the general intent and purpose of the By-law is maintained.
56. The Secretary will, not later than fourteen (14) days from the making of the decision, send one copy of the decision including the reasons for the decision of the Committee, certified by them, to the Appellant by the service method identified in the Notice of Appeal.

Right to Appeal a Property Standards Committee Decision

57. The City or any owner or occupant or person affected by a decision under subsection 15.3 (3.1) of the Building Code Act, may appeal to the Superior Court of Justice by notifying the City Clerk in writing and by applying to the Court within fourteen (14) days after a copy of the decision is sent.

Duties of the Secretary

58. The Secretary will:
- a. keep on file records of all official business of the Committee, including records of all business meetings, Notices of Appeal, minutes of all Hearings, and Decisions, including minutes of any portion of a meeting closed to the public, respecting those Notices of Appeal;
 - b. prepare minutes of the Committee's business meetings and Hearings;
 - c. note the decision of the Committee on any Hearing on the Notice of Decision form, including the reasons for the decision, and ensure that it is signed by the Committee members who concur in the decision;
 - d. send a copy of the Notice of Decision to the Appellant and to anyone else who has submitted a written request for the decision at the Hearing by regular mail or electronic mail; and
 - e. republish the meeting agenda with the Notice of Decision attached for archival purposes.

Procedure Review

59. The City Clerk will review and update this procedure as needed to ensure it reflects current business processes.

References and Additional Information

Internal

60. Acknowledgement Letter Template
61. [Board and Committee By-law](#)
62. Committee of Adjustment By-law
63. Notice of Appeal Form
64. Notice of Appeal Hearing Template
65. Notice of Decision Template
66. [Procedural By-law](#)

External

- 67. [Building Code Act](#)
- 68. [Planning Act](#)
- 69. [Statutory Powers Procedure Act](#)

Appendices

- 70. N/A

Revision History

Staff Authority	Date	Description of Amendment
Committee of Adjustment	2024-03-19	Adopted by the Committee of Adjustment through Resolution No. CA-240319-002 pursuant to Section 25.1 of the <i>Statutory Powers Procedure Act</i> , R.S.O. 1990, c. S.22.
City Clerk	2024-03-25	Administrative change – remove references to “Agent”.