

## THE CORPORATION OF HALDIMAND COUNTY

By-law Number /21

**Being a by-law to govern the procedure of the Committee of Adjustment for the Corporation of Haldimand County, the calling of meetings and the conduct of its members**

**WHEREAS** Section 238 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that every municipality and local board shall pass a procedure by-law for 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, Chapter P.13 as amended,

**NOW THEREFORE, the Council of The Corporation of Haldimand County enacts as follows:**

**THAT** for the purposes of this by-law:

### **PART 1 Definitions**

- a) “**Chair**” means a Member of the Committee appointed as the Chairperson of the Committee;
- b) “**Committee**” means the Committee of Adjustment;
- c) “**Council**” means the Council of the Corporation of Haldimand County;
- d) “**Deputy Chair**” means a Member of the Committee appointed to act from time to time in the place of the Chair when the Chair is absent;
- e) “**Meeting**” means a meeting of the Committee held for the purpose of considering an application or applications filed pursuant to the *Planning Act*, R.S.O. 1990, Chapter P. 13, as amended;
- f) “**Member**” means a Member of the Committee of Adjustment, appointed by Council;
- g) “**Motion**” means a resolution of the Committee that is under debate by the Committee;
- h) “**Quorum**” means a minimum of three (3) Members of the Committee present at a meeting;
- i) “**Recorded Vote**” means the recording of the name and vote of every Committee member present on an application at the hearing;

- j) “**Secretary-Treasurer**” means an employee of Haldimand County and/or their designate, assigned to keep on file minutes and records of all applications and the decisions thereon and of all other business of the Committee.

## **PART 2 – ROLE OF THE COMMITTEE OF ADJUSTMENT**

- 2.1 The Committee of Adjustment is a quasi-judicial body, operating independently from Council, established under the *Planning Act*, R.S.O. 1990, as amended, C. P. 13 (Act) to make decisions on minor variances, enlargements to legal non-conforming uses, consents, validation of title, etc. as authorized under the Act.

## **PART 3 – GENERAL PROVISIONS**

- 3.1 The procedures contained in this by-law shall be observed in all Meetings and shall be the procedures for the order and dispatch of business conducted by the Committee of Adjustment.
- 3.2 Proceedings of the Committee of Adjustment not specifically governed by the provisions of this by-law shall be regulated in accordance with the Procedure By-law for Haldimand County.
- 3.3 In the absence of any statutory obligations, the rules and regulations contained in this by-law may be suspended or altered for a single occasion with not less than a two-thirds majority vote of the Members present at a Meeting.

## **PART 4 – CALLING OF COMMITTEE OF ADJUSTMENT MEETINGS**

- 4.1 All meetings of the Committee of Adjustment shall be called by the Secretary-Treasurer and notice of any hearing shall be given by mail and the posting of a notice sign, or in a manner that the Committee of Adjustment deems appropriate in accordance with the Act and any applicable regulations.
- 4.2 Meeting dates shall be posted on Haldimand County’s website.

## **PART 5 – QUORUM**

- 5.1 If no quorum is present thirty (30) minutes after the time appointed for the Meeting to commence, the Secretary-Treasurer shall record the names of the Members present and the Meeting will stand adjourned until the next appointed time.
- 5.2 If, during the course of a Meeting, Quorum is lost, then the Chair may declare that the Meeting stands adjourned, to reconvene at such time and place as the Chair shall then determine, or cancel the balance of the Meeting if, in their opinion, it is not essential to deal with the balance of the agenda before the next regular Meeting.

## **PART 6 – CONFLICT OF INTEREST**

- 6.1 If a Member has any pecuniary interest, direct or indirect, in any matter in which the Committee is concerned, and if that Member is present at a Meeting at which the matter is the subject of consideration, the Member shall disclose the pecuniary interest and shall not take part in the consideration or the discussion of the matter nor vote on any Motion in regard to the matter.

- 6.2 Every Member disclosing a pecuniary interest at a Meeting shall complete and file with the Secretary-Treasurer a written Statement of Disclosure in the prescribed form setting out the interest and its general nature. All disclosures shall be noted in the meeting minutes and a registry for Statements of Disclosure will be made available for public access.
- 6.3 If a Member is not present at a Meeting and has any pecuniary interest in any matter which is the subject of consideration at that Meeting, the Member shall disclose the interest at the next Meeting in attendance.
- 6.4 Where a matter under consideration relates to the suspension of remuneration of a Member under subsection 223.4 (5) or (6) of the *Municipal Act*, 2001, S.O. 2001, c. 25, the Member may take part in the discussion of the matter and may make submissions to the Committee. The Member may attempt to influence the voting on the matter, however, the Member is not permitted to vote on the matter.

## **PART 7 – MEETINGS**

- 7.1 The location of all Meetings of the Committee of Adjustment will take place at the Haldimand County Administration Building in the Council Chamber at 9:00 a.m. one Tuesday of each month, unless otherwise decided by resolution of the Committee.
- a) Advance notice of every regularly scheduled Meeting shall be sent to every Member by the Friday prior to each Meeting. The notice will consist of an agenda and all supporting material, whether provided in hard copy or electronically. Such notice shall be considered as adequate notice of all regularly scheduled Meetings.
  - b) All Meetings shall be open to the public and no person shall be excluded from a hearing except for those involved in improper conduct.
  - c) The minutes shall record the place, date and time of each Meeting, names of Members and staff present, the adoption of minutes of previous Meetings, without note or comment.
  - d) The record of each Hearing which takes place during each Meeting shall conform to the requirements of the *Statutory Powers Procedure Act*, R.S.O. 1990, c.S.22.

## **Part 8 – ELECTRONIC PARTICIPATION**

- 8.1 At any time,
- a) A Member of the Committee who is participating electronically in a meeting may be counted in determining whether or not a Quorum of Members is present at any point in time.
  - b) Members shall advise the Secretary-Treasurer of their intent to participate electronically in advance of the meeting so that appropriate arrangements can be made. Where all Members of the Committee participate in a Meeting through electronic means, delegations will not be permitted to appear in person at the Meeting, however, written submissions regarding agenda items will be

accepted by e-mail prior to the meeting, and will be distributed to Members of the Committee.

- c) All votes will be by show of hands or verbal consent.

## **PART 9 – CHAIR**

- 9.1.1 A Chair and Vice-Chair will be elected from within the membership at the first Meeting of each term of Council.

## **PART 10 – CONDUCT OF MEMBERS**

- 10.1 No Member shall:
- use indecent, offensive or insulting language;
  - speak on any subject matter other than the subject in debate; or
  - disturb another Member or the Committee itself by any disorderly conduct.
- 10.2 A Member shall not disobey the rules of the Committee or a decision of the Chair, on points of order or on the interpretation of the rules of procedure of the Meeting.
- 10.3 A Member shall not leave their seat or make any noise or disturbance while a vote is being taken or until the vote is declared.
- 10.4 A Member shall not interrupt a Member who is speaking, except to raise a point of order or a question of privilege.
- 10.5 In the event that a Member persists in a breach of the rules of this by-law, after having been called to order by the Chair, the Chair may put the question “Shall the Member be ordered to leave their seat for the duration of the Meeting?” and such question is not debatable.
- 10.6 If the Committee decides the question set out in Section 10.5 of this by-law in the affirmative by a majority vote of the Members present, the Chair shall order the Member to leave their seat for the duration of the Meeting.
- 10.7 If the Member apologizes, the Chair may permit the Member to resume their seat with the approval of a majority of the Members present.
- 10.8 No member of the public shall:
- disturb the meeting by shouting, clapping or any other form of disorderly conduct; or
  - use indecent, insulting or offensive language.
- 10.9 If a member of the public is in violation of the rules of this by-law and fails to cease such activity upon direction of the Chair, the Chair has the discretion to adjourn the Meeting.

**PART 11 – ORDER OF PROCEEDINGS**

- 11.1 The Secretary-Treasurer shall prepare the agenda for all Meetings of the Committee consisting of the following order of business:
- a) Call to order
  - b) Roll call
  - c) Disclosures of pecuniary interest
  - d) Approval of previous Committee Meeting Minutes
  - e) Hearings re: Consents
  - f) Hearings re: Minor Variances
  - g) Hearings re: Previously Deferred Matters
  - h) Other Business
  - i) Adjournment

**PART 12 – HEARINGS RE: APPLICATIONS**

- 12.1 All Hearings will be conducted in accordance with the *Statutory Powers Procedure Act*, R.S.O. 1990, c.S.22.
- 12.2 The Secretary-Treasurer shall announce each application in the order in which it appears on the agenda, or at the Committee's discretion.
- 12.3 The Secretary-Treasurer shall explain the purpose of each application and will summarize correspondence received pertaining to the application.
- 12.4 The Chair will ask the applicant or agent to speak to the application and provide any additional information. Members may pose questions to the applicant or the agent.
- 12.5 The Chair will seek any additional input from members of the public who are present.
- 12.6 Following public input, the applicant shall have opportunity to respond to any comments.
- 12.7 Once all input has been heard, the Committee shall consider the application.

**PART 13 – MOTIONS AND VOTING PROCEDURES**

- 13.1 Each Member of the Committee shall have one vote.
- 13.2 Motions shall be moved and seconded before being debated or put to a vote.
- 13.3 A Motion shall be put to a vote by the Chair immediately after all Members desiring to speak on the motion have spoken in accordance with the rules of debate.
- 13.4 After a Motion is put to a vote by the Chair, no Member shall speak on that Motion, nor shall any other Motion be made until after the result of the vote is announced by the Chair.
- 13.5 Every Member present at a Meeting when a question is put shall vote thereon, except where the Member is disqualified to vote by reason of a pecuniary interest or is absent from the Chamber when the question is put.

- 13.6 Every Member who is not disqualified from voting by reason of a declared pecuniary interest shall be deemed to be voting against the Motion if the Member declines or abstains from voting.
- 13.7 All votes shall be by show of hands, except when a Recorded Vote is requested. The manner of determining the decision of the Committee on a Motion shall not be by secret ballot or by any other method of secret voting.
- 13.8 The Chair shall announce the result of every vote and shall record the results of the vote on the Motion noting the number of Members voting in support of, and against, the Motion. Upon the taking of any vote, if all of the Members present when the vote is taken vote unanimously, the Chair shall record the vote accordingly.
- 13.9 If a Member disagrees with the number of votes for and against a Motion as announced by the Chair, that Member may object immediately to the declaration and, with the consent of the Members, the vote shall be re-taken.
- 13.10 When there is a tie vote on any Motion, it shall be deemed to have been decided in the negative.
- 13.11 When a motion on an application under consideration by the Committee is lost, a subsequent motion to take an alternate action on the application shall be the next order of business. Decisions on applications shall be for approval, refusal or deferral only.
- 13.12 A Member may call for a Recorded Vote at a Meeting immediately prior to or immediately following the taking of the vote.
- 13.13 When a Recorded Vote is called by any Member, the Recorded Vote shall be taken by the Secretary-Treasurer in alphabetical order, save and except the Chair, who shall vote last. The Secretary-Treasurer shall announce the vote.
- 13.14 When a Recorded Vote is taken, the names of those who voted for and those who voted against the Motion shall be entered into the minutes of the Committee.
- 13.15 In a vote, the number of Members constituting the Committee shall be determined by excluding the number of Members who are present at the Meeting but who are excluded from voting by reason of the *Municipal Conflict of Interest Act* R.S.O. 1990, c. M 50.

#### **PART 14 – DECISIONS OF THE COMMITTEE OF ADJUSTMENT**

- 14.1 No decision of the Committee on an application is valid unless it is concurred on by the majority of the Members of the Committee that heard the application, and the decision of the Committee, whether granting or refusing an application, shall be in writing and shall set out the reasons for the decision, contain a brief explanation of the effect that written and oral submissions had on the decision, and shall be signed by the Members who concur with the decision.

- 14.2 During a meeting where Members participate by electronic means, an e-mail supporting majority decisions shall serve in place of a Member's signature until such time that the Member can attend and sign to indicate concurrence.
- 14.3 A copy of the Committee's decision will be prepared and issued in accordance with the provisions of the Act.

READ a first and second time this 16<sup>th</sup> day of February, 2021.

READ a third time and finally passed this 16<sup>th</sup> day of February, 2021.

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MAYOR

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CLERK