

The Corporation of the Town of Essex

By-Law Number 2237

Being a by-law to establish an Appeals
Committee in the Town of Essex

WHEREAS Section 23.1 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (hereinafter the "Municipal Act") permits a municipality to delegate its powers and duties under the Municipal Act or any other Act to a person or body;

AND WHEREAS Section 23.2(1) of the Municipal Act indicates that a municipality may delegate certain legislative and quasi-judicial powers under the Municipal Act only to:

- a) one or more members of its council or a council committee;
- b) a body having at least two members of whom at least 50 percent are:
 - (i) members of its council,
 - (ii) individuals appointed by its council,
 - (iii) a combination of individuals described in subclauses (i) and (ii);

AND WHEREAS the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended, provides a framework for proceedings of tribunals and quasi-judicial committees;

AND WHEREAS Section 15.6 of the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended (hereinafter the "Building Code Act") requires that a by-law passed under Section 15.1 of the Building Code Act shall provide for the establishment of a Property Standards Committee;

AND WHEREAS Section 278(1) of the Municipal Act defines an "employee" as any salaried officer, or any other person in the employ of the municipality or of a local board and includes persons that provide their services on behalf of the municipality without remuneration, exclusive of reimbursement of expenses or honoraria, if council of the municipality has passed a by-law designating such persons or classes of persons as employees for the purposes of this section;

AND WHEREAS Section 279(1) of the Municipal Act provides that a municipality may provide insurance for the protection of its employees or those of any local board of the municipality against risks that may involve pecuniary loss or liability on the part of those employees;

AND WHEREAS the establishment of an Appeals Committee permits The Corporation of the Town of Essex (hereinafter the "Town of Essex") to separate its quasi-judicial functions from its legislative and executive functions;

AND WHEREAS the Council of the Town of Essex wishes to create an Appeals Committee and delegate to it certain powers under the Municipal Act and various municipal by-laws;

NOW THEREFOERE be it resolved that the Council of The Corporation of the Town of Essex hereby enacts as follows:

1. Interpretation

- 1.1 This By-Law may be cited as the "Appeals Committee By-Law".
- 1.2 References in this By-Law or in any of the schedules attached hereto and forming part of this By-Law to any legislation or municipal by-law means as may be amended or replaced from time to time and include any regulations thereunder.

2. Definitions

- 2.1 **“Chair”** means the person appointed as the Chair of the Committee.
- 2.2 **“Council”** means the Council of the Town of Essex.
- 2.3 **“Member”** means the person(s) appointed by Council to the Committee for a specified term.
- 2.4 **“Members of the Public”** means a person(s) who is not a member of Council or a municipal employee of the Town.
- 2.5 **“Town”** or **“Town of Essex”** means The Corporation of the Town of Essex.

3. Appeals Committee

- 3.1 The Town of Essex Appeals Committee is hereby established and shall be comprised of five (5) Members of the Public, including the Chair, who shall be appointed by and sit at the pleasure of Council during such term of Council.
- 3.2 The Chair of the Appeals Committee shall be directly appointed by Council and the individual appointed must be a current or former member of the legal profession or have extensive knowledge of the rules and significant experience applicable to quasi-judicial bodies.
- 3.3 The Chair shall preside at all meetings of the Appeals Committee. In the case of the absence of the Chair, the Appeals Committee members may appoint another member as the Acting Chair for that particular meeting.
- 3.4 The Appeals Committee shall meet monthly, as necessary, for the expedient resolution of the matters brought before it.

4. Rules of Practice and Procedure

- 4.1 The Rules of Practice and Procedure governing the Appeals Committee shall be as set out in Schedule “B” attached hereto and forming part of this By-Law.

5. Jurisdiction

- 5.1 The Appeals Committee has the authority and power to:
 - a) hear and determine all applications made, proceedings instituted, and matters brought before it and for such purpose to make such orders, give such directions, issue such approvals, deny, or vary applications, and otherwise do and perform all such acts, matters, deeds, and things as may be necessary or incidental to the exercise of its powers;
 - b) perform such other functions and duties as are now or hereafter conferred upon or assigned to the Appeals Committee by municipal by-law or under statutory authority;
 - c) make, give, or issue or refuse to make, give, or issue any order, directions, regulations, rule, permission, approval, certificate, or direction, which it has the power to make, give or issue; and

d) hear and determine, with respect to matters within its jurisdiction, all questions of law or of fact.

5.2 The Appeals Committee shall be the Property Standards Committee required under Section 15.6 of the *Building Code Act, 1992*.

6. Delegated Powers and Duties

6.1 The Appeals Committee shall be delegated the powers and duties to hear and determine appeals filed in accordance with the by-laws listed in Schedule "A" attached hereto and forming part of this By-Law, as may be amended from time to time, and any other appeals as are hereafter conferred upon or assigned to the Appeals Committee by municipal by-law or statutory authority.

6.2 The Appeals Committee shall be delegated the authority to hear and grant exemptions from the relevant provisions of the by-laws listed in Schedule "A" attached hereto and forming part of this By-Law, as may be amended from time to time, and any other by-laws as are hereafter conferred upon or assigned to the Appeals Committee by municipal by-law or statutory authority, upon the conclusion of any administrative processes described therein.

6.3 The Appeals Committee shall be delegated the authority to hear and grant exemptions from the reports and studies listed in Schedule "A" attached hereto and forming part of this By-Law, as may be amended from time to time, and any other reports and studies as are hereafter conferred upon or assigned to the Appeals Committee by municipal by-law or statutory authority.

7. By-Law Amendments

7.1 Section 44.6.1 of By-Law Number 936, being a by-law to prescribe standards for the maintenance and occupancy of property within the Town of Essex ("Property Standards By-Law"), is hereby amended to read as follows:

"The Appeals Committee shall be and is hereby appointed as the Property Standards Committee for the purposes of this By-Law."

7.2 Section 44.9.1 of By-Law Number 936, the Property Standards By-Law, is hereby amended to read as follows:

"The Chair of the Appeals Committee shall be directly appointed by Council and the individual appointed must be a current or former member of the legal profession or have extensive knowledge of the rules and significant experience applicable to quasi-judicial bodies. The Chair shall preside at all meetings of the Appeals Committee. In the case of the absence of the Chair, the Appeals Committee members may appoint another member as the Acting Chair for that particular meeting."

7.3 Section 3.01 of By-Law Number 1052, being a by-law to provide for licensing, regulating and governing of taxicabs and taxicab drivers in the Town of Essex ("Taxicab Licensing By-Law"), is hereby amended to delete the definition of "Appeals Tribunal" and to replace them with the following:

"Appeals Committee" means the committee that Council has delegated the authority and responsibility to conduct appeal hearings under this By-Law.

- 7.4 By-Law Number 1052, the Taxicab Licensing By-Law, is hereby amended to delete the words "Appeals Tribunal" wherever they appear and to replace them with the words "Appeals Committee".
- 7.5 Sections 12.02, 12.03, 12.05, 12.06, and 12.07 of By-Law Number 1052, the Taxicab Licensing By-Law, are hereby repealed upon the final passage of this By-Law.
- 7.6 Section 12.08 of By-Law Number 1052, the Taxicab Licensing By-Law, is hereby amended to delete the words "of the decision of Council" and to replace them with the words "of the decision of the Appeals Committee".
- 7.7 Schedule "1" to By-Law Number 1052, the Taxicab Licensing By-Law, is hereby amended to delete the third item "Filing an Appeal to the Appeal Tribunal" in the table therein and the corresponding fee of "\$75.00".
- 7.8 Schedule "D" to By-Law Number 2025, being a by-law to license and regulate Short Term Rental Units in the Town of Essex ("STRU Licensing By-Law"), is hereby amended to delete the second item "Filing an Appeal to the Appeals Committee" and the corresponding fee of "\$100.00".
- 7.9 Section 2.0 of By-Law Number 2167, being a by-law regulating the erection of signs within the geographical boundaries of the Town of Essex ("Sign By-Law"), is hereby amended to insert the following definition of "Appeals Committee":

"Appeals Committee" means the committee that Council has delegated the authority and responsibility to conduct appeal hearings under this By-Law.
- 7.10 Section 18.1 of By-Law Number 2167, the Sign By-Law is hereby amended to delete the word "Council" wherever it appears and replace it with "Appeals Committee".
- 7.11 Section 18.1 of By-Law Number 2167, the Sign By-Law, is hereby amended to delete the words "Council may approve an amendment to this By-Law by means of a site plan control agreement, by resolution or by a supplementary by-law, at its discretion" and to replace them with the following:

"The Appeals Committee may approve an exception to this By-Law by means of a resolution at its discretion."

8. Decisions of the Committee

- 8.1 The Appeals Committee shall make decisions that further the public interest and is consistent with the purpose and intent of the relevant by-law.
- 8.2 Every decision or order of the Appeals Committee is final, without right of appeal to any Court or to Council, except as specifically provided for by municipal by-law or statute.

9. Liability

- 9.1 No member of the Appeals Committee or any municipal employee is personally liable for anything done by it, or him or her, under the authority of this By-Law.
- 9.2 The Town of Essex shall provide insurance for the protection of the members of the Appeals Committee against risks that may involve pecuniary loss or liability.

10. Conflict with Other By-Laws

10.1 If any provision of this By-Law conflicts with any provision of any other by-law of the Town of Essex, the provisions of this By-Law shall take precedence.

11. Severability

11.1 If any section, clause, sentence or provision or any part or parts thereof of this By-Law is declared by any court of competent jurisdiction to be invalid, illegal, or ultra-vires, such section, clause, sentence or provision or part or parts thereof shall be severable and shall not affect the validity of any other section, clause, sentence, provision, or part of this By-Law.

12. Enactment

12.1 This By-Law shall come into full force and effect upon the final passing thereof.

Read a first and a second time and provisionally adopted on December 4, 2023.



Mayor



Clerk

Read a third time and finally passed on December 18, 2023.



Mayor



Clerk

Schedule "A" to By-Law Number 2237

Delegated Powers and Duties

In accordance with Section 6.1 of this By-Law, the Appeals Committee is delegated the powers and duties to hear and determine the following:

- Appeals filed in accordance with Property Standards By-Law No. 936
- Appeals filed in accordance with Animal Care and Control By-Law No. 1996
- Appeals filed in accordance with Taxicab Licensing By-Law No. 1052
- Appeals filed in accordance with Short Term Rental Unit Licensing By-Law No. 2025
- Appeals filed in accordance with Tree Management By-Law No. 2205
- Appeals filed in accordance with Fortification By-Law No. 2210
- Appeals filed in accordance with Kennel Licensing By-Law No. 2221

In accordance with Section 6.2 of this By-Law, the Appeals Committee is delegated the authority to hear and grant exemptions from the relevant provisions of the following by-laws, upon the conclusion of any administrative processes described therein:

- By-Law No. 224 – Parking
- By-Law No. 314 – Pool Fences
- By-Law No. 320 – Collection, Removal & Disposal of Waste
- By-Law No. 384 – Fences
- By-Law No. 485 – Water Conservation
- By-Law No. 1070 – Firearm Discharge
- By-Law No. 1194 – Loitering and Nuisance
- By-Law No. 1538 – Recreational Vehicles
- By-Law No. 2011 – Fireworks
- By-Law No. 2038 – Noise Control
- By-Law No. 2167 – Signs

In accordance with Section 6.3 of this By-Law, the Appeals Committee is delegated the authority to hear and grant exemptions from the following reports and studies:

- Development Standards Manual

NOTE: This Schedule may be amended from time to time.