

The Corporation of the Township of Huron-Kinloss



BY-LAW

2007-69

**BEING A BY-LAW TO DELEGATE THE AUTHORITY
FOR CONSIDERING APPLICATIONS FOR MINOR
VARIANCES AND TO ADOPT POLICIES,
PROCEDURES AND CONDITIONS FOR THE
OPERATION OF THE COMMITTEE OF
ADJUSTMENT**

WHEREAS pursuant to Section 44(1) of the Planning Act, that the Council of the Municipality may by by-law constitute and appoint a committee of adjustment for the municipality composed of such persons, not fewer than three, as the council considers advisable,

AND WHEREAS Section 44(9) of the Planning Act, provides that the members of the Committee of Adjustment shall be paid such compensation as the Council may provide,

AND WHEREAS pursuant to Section 69(1) of the Planning Act, the Council may, by by-law, establish a tariff of fees for the processing of applications;

AND WHEREAS Section 238(2) of the Municipal Act, as amended, requires that every local board shall adopt a procedure by-law for governing the calling, place and proceedings of meetings;

AND WHEREAS the Committee of Adjustment is a local board as defined in the Municipal Affairs Act, R.S.O. 1990, c.M.46;

AND WHEREAS Section 239 of the Municipal Act, as amended, requires all meetings of a local board to be open to the public and prohibits a meeting to be closed to the public during the taking of a vote unless the exceptions, set out in Sections 239(2) and 239(6);

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF HURON-KINLOSS HEREBY ENACTS AS FOLLOWS:

1. THAT remuneration for the Committee of Adjustment shall be as set out in Schedule "A" attached hereto and forming part of this by-law.
2. THAT mileage shall be paid to each member of the Committee of Adjustment as set out in Schedule "A" attached hereto and forming part of this by-law;
3. THAT the operation of the Committee of Adjustment shall be subject to the policies, procedures and conditions as set out in Schedule "B" attached hereto and forming part of this by-law;
4. THAT the fees for processing of applications shall be as set out by the County of Bruce Planning Department;
5. THAT this by-law shall come into force and take effect upon final passage

6. This by-law may be cited as the "Committee of Adjustment By-Law".

READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED this
18th day of June, 2007

Original Signed by Mitch Twolan
Mitch Twolan
Mayor

Original Signed by Sonya Watson
Sonya Watson
Clerk

SCHEDULE "A" TO BY-LAW 2007-69

**REMUNERATION PAID TO MEMBERS OF THE
COMMITTEE OF ADJUSTMENT**

1. The members of the Committee of Adjustment for the Township of Huron-Kinloss shall be paid the current meeting rate compensation as established in the Remuneration By-law for the Township of Huron-Kinloss Council.

2. Mileage shall be paid to each member of the Committee of Adjustment according to the Mileage Allowance Policy for the Township of Huron-Kinloss.

SCHEDULE "B" TO BY-LAW 2007-69

POLICIES, PROCEDURES AND CONDITIONS FOR THE OPERATION OF THE COMMITTEE OF ADJUSTMENT FOR THE TOWNSHIP OF HURON-KINLOSS

Definitions

1. (a) "Hearing" means the public meeting of the Committee of Adjustment held for the purpose of considering applications for minor variance, pursuant to the provisions of the Planning Act and acting as a whole.
- (b) "Committee Chair" means the Chair of the Committee of Adjustment elected by the members of the Committee at a hearing of the Committee. The Chair is responsible for chairing a hearing and in his/her absence a member of the Committee will be appointed to act as acting Chair by the committee members.
- (c) "Committee" means the members of the Committee of Adjustment, in attendance at a hearing held for the purpose of considering one or more applications for minor variance pursuant to the provisions of the Planning Act, R.S.O. 1990, c.P.13.
- (d) "Member" means an individual appointed by the Council of the Township of Huron-Kinloss to the Committee of Adjustment as per the Consolidated Appointment By-law.
- (e) "Secretary-Treasurer" means the Secretary-Treasurer of the committee of Adjustment who is appointed by the members of the Committee of Adjustment.
- (f) "Acting Secretary-Treasurer" means the Assistant Secretary-Treasurer of the Committee of Adjustment who is responsible for the duties of the Secretary-Treasurer in the absence of the Secretary-Treasurer.

Calling of Meetings and Hearings:

2. All hearings of the Committee of Adjustment, pursuant to Section 238(2) of the Municipal Act, as amended, shall be called by the Chair or Secretary-Treasurer of the Committee.
3. The Secretary-Treasurer shall prepare and cause to be delivered an agenda to each member of the Committee together with copies of each application and all correspondence received from commenting agencies.
4. In consultation with the Chair, the Secretary-Treasurer may cancel or reschedule a hearing.

Location of Meetings and Hearings:

5. All meetings and hearings of the Committee shall be held in the Township of Huron-Kinloss Council Chambers.

Quorum:

6. Pursuant to Section 44(5) of the Planning Act where a committee is composed of more than three members, three members constitute a quorum.

Notice of Applications:

7. The notice of an application to be considered at a hearing shall be given in a manner in accordance with provisions of the Planning Act, as amended, and any applicable regulations thereunder.
8. The Committee of Adjustment shall hold a public hearing on every application before a decision is made on the application.

Hearing Procedures:

9. (a) The hearing shall be called to order by the Chair.

- (b) The committee members shall disclose any pecuniary interest or bias in any matter to be considered at the hearing.
- (c) The Chair shall call for any requests for deferral or withdrawal of an application.
 - (i) A request for deferral of an application to a later hearing date must be for reasonable cause.
 - (ii) The committee may set a new hearing date for consideration of the deferred application.
 - (iii) The committee may indicate requirements or conditions for deferral, such as re-notification, payment of rescheduling fee, amendment to the application or additional information to be submitted.
 - (iv) If any particulars concerning the application are discussed or if the correspondence has been read, the hearing panel is seized of the application.
- (d) The Committee Chair or Secretary-Treasurer shall call each application in an order determined by the agenda.
- (e) The Committee Chair shall ask the applicant, authorized agent and/or the applicant's representative (hereinafter referred to as the "applicant") to introduce him/herself to the panel.
- (f) The Committee Chair shall request the Secretary-Treasurer to provide the applicant with a copy of correspondence received from agencies, residents and others who responded to the circulation of the notice of an application (for the purposes of the foregoing, the Secretary-Treasurer may provide a written summary of the contents of the correspondence to the applicant).
- (g) The Committee may ask questions of the applicant, including whether or not the applicant understands the conditions requested and whether the applicant has any questions or comments on same.
- (h) The Committee Chair shall invite all persons having an interest in the application to come forward, state their name and address and advise the committee of their positions. The committee may ask questions of those persons expressing an interest.
- (i) The Committee Chair shall give the applicant the opportunity to respond to any comments received from commenting agencies or interested persons.
- (j) After having considered the issues raised by the applicant and any other persons and the evidence heard at the hearing, the Committee Chair shall ask the members of the hearing panel for a decision with respect to the disposition of the application.
- (k) Committee members concurring in the decision shall sign the decision at the hearing. All Committee members must make a decision on the minor variance application and may not abstain from voting unless they have disclosed a pecuniary interest in the application at hand.
- (l) In such cases where a tie vote should result the committee members will sit until such time a decision to approve or deny the application has been met.

Conduct of Meetings, Hearings, Members and Staff:

- 10. The conduct of hearings and members with respect to matters not specifically addressed in this By-law, generally shall be in accordance with the Statutory Powers Procedures Act, R.S.O. 1990, c.S.22, as amended, and the Municipal Conflict of Interest Act, R.S.O. 1990, c.M.50, as amended. Conduct not covered by these Acts will be in accordance with The Township of Huron-Kinloss Procedural By-law.
- 11. The Secretary-Treasurer shall prepare and retain for the Committee of Adjustment a record or minutes of each hearing containing a summary of the verbal representations made to the hearing panel, together with a copy of all correspondence considered at the hearing.

12. The Secretary-Treasurer shall be required to carry out the duties as prescribed in the Planning Act, R.S.O. 1990, c.P.13, as amended. Nothing in this by-law shall prevent the Council of the Corporation of the Township of Huron-Kinloss from entering into an agreement with other municipalities to share the services of a Secretary-Treasurer.
13. The Secretary-Treasurer shall not give advice respecting any principles of Planning Law.