

The Corporation of the Township of Huron-Kinloss



BY-LAW

2013-05

BEING A BY-LAW TO GOVERN THE PROCEEDINGS OF THE PROPERTY STANDARDS COMMITTEE AND THE CONDUCT OF ITS MEMBERS AND THE CALLING OF THE MEETINGS.

WHEREAS the *Building Code Act, S.O. 1992*, as amended, and the Township of Huron-Kinloss Property Standards By-law 99-124, as amended authorizes the establishment of a Property Standards Committee to conduct hearings of appeals to Property Standards Orders;

AND WHEREAS the *Statutory Powers Procedure Act, R.S.O. 1990, c. S.22*, as amended governs the conduct of the Property Standards Committee;

AND WHEREAS the Council of the Corporation of the Township of Huron-Kinloss deems it advisable to enact a new By-Law to govern the proceedings of the Property Standards Committee, the conduct of its members and the calling of meetings and to provide for procedures and statutory requirements in accordance with the Act;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF HURON-KINLOSS Enacts As Follows:

1.0 Purpose

On an appeal, the Committee has all the powers and functions of the Officer who made the order and the Committee may do any of the following things if, in the Committee's opinion, doing so would maintain the general intent and purpose of the Property Standard By-law and of the Official Plan or Policy Statement:

1. Confirm, modify or rescind the order to demolish or repair.
2. Extend the time for complying with the order.

RULE 1: APPLICATION AND DEFINITIONS

1.01 Definitions

(1) In these Rules:

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

“Appellant” means an owner or occupant that has been served with a Property Standards Order and who has sent a notice of appeal by registered mail to the Committee Secretary within fourteen (14) days after being served with the Property Standards Order;

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

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

“Committee Secretary” means the Secretary for the Committee;

“Council” means the Council of the Township;

“Chair” means the Chair of the Committee;

“Document” includes a sound recording, videotape, file, photograph, map, plan, survey and any other information recorded or stored by any means and includes any expert reports to be relied upon and a copy of the relevant expert’s curriculum vitae;

“Hearing” means the hearing of an Appeal;

“Member” means a person appointed by Council to be a member of the Committee;

“Municipal Office” means 21 Queen Street, P.O. Box 130, Ripley, Ontario, N0G 2R0;

“Party” includes the owner or occupant served with the Property Standards Order and the Township;

“Property Standards Order” means an order made under s. 15(2) of the *Building Code Act*;

“Representative” means a person authorized under the *Law Society Act*, R.S.O. 1990, c. L.8, as amended, to represent an Appellant or witness;

“Rules” means these Rules of Practice and Procedure for the Committee; and,

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

“Township” means The Corporation of the Township of Huron-Kinloss;

1.02 General

- (1) The Rules shall apply to all proceedings before the Committee.
- (2) The Rules apply subject to the *Statutory Powers Procedure Act* and any other legislation governing the Committee.
- (3) The Committee may, at any time, as it deems necessary, dispense with compliance with any Rule, save and except those prescribed as mandatory by the *Statutory Powers Procedure Act* and any other legislation governing the Committee.
- (4) If these rules do not provide for a matter of procedure that arises during a Hearing, the practice shall be determined by the Committee at the Hearing.
- (5) These Rules shall be liberally construed to secure the just, most expeditious and cost-effective determination of every proceeding on its merits.
- (6) Substantial compliance with requirements respecting the contents of forms, notices or Documents under these Rules is sufficient.
- (7) The Committee may exercise any of its powers under these Rules on its own initiative or at the request of a Party.

RULE 2: COMMITTEE MEETINGS AND CHAIR**2.01 Meetings**

- (1) The Committee shall meet at the request of the Committee Secretary.
- (2) Meetings of the Committee shall be held at Municipal Office, or such other location as the Committee deems advisable.
- (3) A majority of the Members constitutes a quorum for transacting the Committee's business.
- (4) Committee Members, including the Chair, may vote on all motions and other questions submitted at a Committee meeting.
- (5) In the case of a tie vote, a motion or question shall be deemed to have been lost.
- (6) The Committee shall review and adopt, with or without amendment, the minutes of a previous meeting at a subsequent meeting.

2.02 Committee Chair

- (1) Members shall elect a Chair from among themselves; when the Chair is absent through illness or otherwise, the Committee may appoint another Member as acting Chair.
- (2) If the Chair of the Committee resigns as a Member of the Committee or resigns as the Chair of the Committee, the Committee shall appoint another Member as Chair for the balance of the current term, or until a successor is appointed.
- (3) The Chair shall preside at every Hearing and meeting of the Committee and may vote.
- (4) The Chair shall enforce the observance of order and decorum during the Hearing.
- (5) The Chair is the liaison between the Members and the Committee Secretary on matters of policy and process.

2.03 Secretary

- (1) The Clerk or appointed designate shall serve as Committee Secretary.
- (2) The Committee Secretary shall prepare minutes of the meetings of the Committee.
- (3) The Secretary shall keep on file the records of all official business of the Committee, including records of all Appeals and minutes of all decisions respecting those Appeals, and section 253 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, applies with necessary modifications to the minutes and records.

2.04 Committee Composition

- (1) All vacancies will be advertised and all names received will be brought forward for Council's consideration. The members will be appointed by Council on the Consolidated Appointment By-law as amended for the duration of the term.
- (2) The Committee will be composed of (5) persons as follows:
 - (i) Five (5) members who are citizen volunteers who reside and/or own property within the municipality, voting members

- (ii) Only members, appointed by Council, may vote on any issue.
 - (iii) The Mayor shall serve ex-officio as a voting member of the Committee.
- (3) Council may by resolution at any time and from time to time at its sole discretion remove any member, voting or non-voting, from the Committee, as it deems advisable and accordingly update the Consolidated Appointment By-law.
- (4) Resignations from the Committee must be in writing to the Municipal Clerk.

2.05 Term of Office

The term of the members of the Committee shall be four years coinciding with the term of the Council that has made the appointment and appointment is renewable thereafter based on acceptance by Council in the Committee Appointment By-Law.

RULE 3: NOTICE REQUESTING AN APPEAL

3.01 Notice of Appeal

- (1) An Appeal by an owner or occupant served with a Property Standards Order shall be made by sending a notice of appeal by registered mail to the Committee Secretary within fourteen (14) days after being served with the Property Standards Order.
- (2) The notice of appeal shall include:
- (a) a copy of the Property Standards Order appealed from;
 - (b) a statement setting out the grounds for the Appeal;
 - (c) the name, address and telephone number of the Appellant and his or her Representative, if applicable; and,
 - (d) a non-refundable fee prescribed by the Consolidated Fees By-Law as amended if applicable.
- (3) All notices of appeal shall be sent by registered mail to:

Secretary, Property Standards Committee
Township of Huron-Kinloss
21 Queen Street, P.O. Box 130
Ripley, Ontario, N0G 2R0

RULE 4: NOTICE OF HEARING**4.01 Where Notice of Appeal is Incomplete**

- (1) Where a person submits a notice of appeal that is not substantially in accordance with Rule 3.01, the Committee Secretary shall send to the person, or to the person's Representative, if applicable, a letter within twenty (20) days of receipt of the notice of appeal to specify what additional information is required by the Committee. If the Committee Secretary does not receive a response to his or her letter within twenty (20) days of the letter being sent, the Committee may consider the attempted Appeal to be abandoned.

4.02 Where Notice of Appeal is Complete

- (1) Where a notice of appeal has been submitted and it is in accordance with Rule 3.01, the Committee Secretary shall schedule a time and place for the Hearing of the Appeal.

4.03 Notice of Hearing

- (1) The Committee shall give notice, or direct that notice be given, of the Hearing to such Parties as the Committee considers advisable.
- (2) A notice of Hearing shall include:
 - (a) a statement of the time, place and purpose of the Hearing; and,
 - (b) a statement that, if the Party notified, or his or her Representative (if applicable), does not attend at the Hearing, the Committee may proceed in the Party's absence and the Party shall not be entitled to any further notice in the proceeding.

4.04 Effect of Non-Attendance at a Hearing

- (1) Where notice of Hearing has been given to a Party in accordance with the Rules and the Party does not attend at 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.

RULE 5: SERVING AND FILING DOCUMENTS**5.01 Documents Filed with Committee**

- (1) If a Party intends to make use of any written or Documentary evidence at the Hearing, that Party shall serve one (1) copy of the Documents on all other Parties no later than fifteen (10) days before the Hearing date and shall file eight (8) copies of the Documents with the Committee Secretary no later than fifteen (10) days before the Hearing date.

5.02 Serving Documents

- (1) Service of Documents is deemed to be effective when delivered:
 - (a) by personal service to a Party, or his or her Representative, if applicable, on the same day as the Documents were served;
 - (b) by registered mail, on the seventh (7th) day after the day of mailing;
 - (c) by facsimile transmission, on the same day as the transmission; or,
 - (d) by courier, on the second (2nd) full day after the Document was given to the courier.
- (2) Documents served personally or by fax after 4:30 p.m. shall be deemed to have been served on the next day that is not a holiday.
- (3) A Party who serves or files a Document shall include with it a statement of the Party's address, telephone number and the name of the proceeding to which the Document relates.

5.03 Filing Documents

- (1) Documents may be filed with the Committee Secretary by personal service, registered mail or by courier, but not by fax or by other electronic means.
- (2) Any Party filing a Document shall file with the Committee Secretary, along with the Document, a statement indicating who has been served and what Document has been served.
- (3) Documents must be filed with the Committee Secretary at:

Secretary, Property Standards Committee
Township of Huron-Kinloss
21 Queen Street, P.O. Box 130
Ripley, Ontario, N0G 2R0

5.04 Failure to Serve and File Documents

- (1) If a Party fails to serve and file a Document pursuant to the Rules, the Party may not refer to the Document in evidence at the Hearing without the consent of the Committee, which may be subject to terms and conditions that the Committee considers just.

RULE 6: TIME**6.01 Computation**

- (1) In the computation of time under the Rules:
 - (a) “days” means calendar days;
 - (b) where there is a reference to a number of days between two events, they shall be counted excluding the day on which the first event happens and including the day on which the second event happens; and,
 - (c) where the time for doing an act under the Rules expires on a holiday, the act may be done on the next day that is not a holiday.
- (2) Under the Rules, “holiday” means:
 - (a) any Saturday or Sunday;
 - (b) New Year’s Day;
 - (c) Family Day;
 - (d) Good Friday;
 - (e) Easter Monday;
 - (f) Victoria Day;
 - (g) Canada Day;
 - (h) Civic Holiday;
 - (i) Labour Day;
 - (j) Thanksgiving Day;
 - (k) Remembrance Day;
 - (l) Christmas Day;
 - (m) Boxing Day; and,
 - (n) any special holiday proclaimed by the Governor General or the Lieutenant Governor; and where New Year’s Day, Canada Day or Remembrance Day falls on a Saturday or Sunday, the following Monday is a holiday; and where Christmas falls the Holiday Closure at the Municipal Office as advertised yearly

6.02 Extension or Abridgement of Time

- (1) The Committee may extend or abridge the time prescribed by the Rules on such terms, if any, that the Committee deems just.
- (2) The Committee may exercise its discretion under Rule 6.02(1) before or after the expiration of the time prescribed.

RULE 7: ADJOURNMENTS**7.01 Adjournments**

- (1) A Hearing may be adjourned at the discretion of the Committee upon its own motion or upon the motion of a Party where that Party satisfies the Committee that the adjournment is required to permit an adequate Hearing to be held.
- (2) In deciding whether to grant an adjournment, the Committee may consider one or more of the following factors:
 - (a) the sufficiency of the reasons advanced for the request to adjourn;
 - (b) the timeliness of the request;
 - (c) the resources of the Committee;
 - (d) the prejudice to the Parties;
 - (e) whether any adjournments have been granted previously;
 - (f) the consent of the Parties; and,
 - (g) any other relevant factor.
- (3) The Committee may grant adjournments on such terms and conditions as it considers just.
- (4) Any Party seeking an adjournment shall seek the consent of the opposing Party or Parties before bringing a motion before the Committee.
- (5) If consent is obtained pursuant to Rule 7.01(4) above, the Party seeking the adjournment shall contact the Committee Secretary and provide the reasons for the request and the consent of the other Party or Parties. The Committee Secretary shall then provide the request to the Committee who shall decide whether or not to grant the adjournment. If the Committee declines to grant the adjournment, the Party may seek a hearing of the request under Rule 7.01(6).
- (6) If the Party seeking an adjournment is unable to obtain the consent of the other Party or Parties, the Party seeking the adjournment may request that the adjournment request be determined at the beginning of the Hearing. Notice of such an adjournment request shall be given to the other Parties, and to the Committee Secretary, at the earliest possible time.
- (7) The Committee may, in its discretion, refuse an adjournment even though the Parties consent.

RULE 8: DISCLOSURE**8.01 Disclosure**

- (1) At any stage of the proceeding before completion of the Hearing, the Committee may make orders for:
 - (a) the exchange of Documents;
 - (b) the oral or written examination of a Party;
 - (c) the exchange of witness statements and reports of expert witnesses;
 - (d) the provision of particulars; or,
 - (e) any other form of disclosure relative to the subject matter.

The Committee may not make an order requiring the disclosure of privileged information.

- (2) Individual Members of the Committee holding a Hearing shall not have taken part, before the Hearing, in any unauthorized communication, either directly or indirectly in relation to the subject-matter of the Hearing, with any Party or his or her Representative.
- (3) The Committee may seek legal advice from an adviser independent from the Parties and, in such case, the nature of the advice should be made known to the Parties in order that they may make submissions as to the law.

8.02 Failure to Disclose

- (1) If a Party fails to comply with a production order of the Committee, or the Rules, the Party may not refer to the Document or thing, or introduce the Document or thing, in evidence at the Hearing without leave of the Committee, which may be on terms and conditions as the Committee considers just.

8.03 Order for Witness Statements

- (1) If a Party fails to provide a witness statement, or a summary of the evidence a witness shall give, in accordance with orders made under Rules 8.01 or 8.02, the Party may not call the person as a witness without leave of the Committee, which may be on such terms and conditions as the Committee considers just.
- (3) If an order has been made to exchange witness statements, or summaries of the evidence witnesses shall give, a Party may not call a witness to testify to matters not disclosed in the witness statement without leave of the Committee, which may be on such terms and conditions as the Committee considers just.

8.04 Expert Witness

- (1) A Party that intends to call an expert witness at the Hearing shall provide to every other Party and file with the Committee Secretary a written report signed by the expert containing the name, address and qualifications of the expert and the substance of the expert's proposed evidence including a list of all the Documents to which the expert shall refer.
- (2) If a Party fails to comply with the provisions of Rule 8.04(1), the Party may not call the expert witness without leave of the Committee, which may be on such terms and conditions as the Committee considers just.

RULE 9: WITNESSES

9.01 Administration of Oaths

- (1) Any Member of the Committee may administer oaths and affirmations for the purpose of any of its proceedings.

9.02 Rights of Parties to examine witnesses at Hearings

- (1) A Party to a proceeding may, at a Hearing:
 - (a) call and examine witnesses and present evidence and submissions; and,
 - (b) conduct cross-examinations of witnesses at the Hearing to the extent reasonably required for a full and fair disclosure of all matters relevant to the issues in the Hearing.

9.03 Rights of Witnesses to a Representative

- (1) A witness at a Hearing is entitled to be advised by a Representative as to his or her rights but such Representative may take no other part in the Hearing without leave of the Committee.
- (2) Where a Hearing or portion thereof is closed to the public, the Representative for a witness is not entitled to be present except when that witness is giving evidence.

9.04 Summons to Witness

- (1) The Committee may issue a summons to a witness.
- (2) The Committee may require any person, including a Party, by summons:
 - (a) to give evidence on oath or affirmation at a Hearing; and,
 - (b) to produce in evidence at a Hearing Documents and things specified by the Committee;relevant to the subject matter of the proceeding and admissible at a Hearing.
- (3) A summons issued under Rule 10.04(1) shall be in the prescribed form (in English or French) and, shall be signed by the Chair of the Committee.
- (4) The summons shall be served personally on the person summoned.
- (5) The person summoned is entitled to receive the same fees or allowances for attending at or otherwise participating in the Hearing as are paid to a person summoned to attend before the Ontario Superior Court of Justice, and payment to such fees is the responsibility of the Party who requested the summons.
- (6) A judge of the Ontario Superior Court of Justice may issue a warrant against a person if the judge is satisfied that:
 - (a) a summons was served on the person under this section;
 - (b) the person has failed to attend or to remain in attendance at the Hearing; and,
 - (c) the person's attendance or participation is material to the ends of justice.
- (7) The warrant shall be in the prescribed form (in English or French), directed to any police officer, and shall require the person to be apprehended anywhere within Ontario, brought before the Committee forthwith and,
 - (a) detained in custody as the judge may order until the person's presence as a witness is no longer required; or,
 - (b) in the judge's discretion, released on a recognizance, with or without sureties, conditioned for attendance or participation to give evidence.
- (8) Service of a summons may be proved by affidavit in an application to have a warrant issued under Rule 9.04(6).
- (9) Where an application to have a warrant issued is made on behalf of the Committee, the Chair of the Committee may certify to the judge the facts relied on to establish that the attendance or other participation of the person summoned is material to the ends of justice, and the judge may accept the certificate as proof of the facts.
- (10) Where the application is made by a Party to the proceeding, the facts relied on to establish that the attendance or other participation of the person is material to the ends of justice may be proved by the Party's affidavit.

- (11) The Party requesting the summons from the Committee shall ensure that it is served within a reasonable time before the date the witness' attendance is required.

9.05 Abuse of Processes

- (1) The Committee may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes.
- (2) The Committee may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding.
- (3) The Committee may exclude from a Hearing anyone, other than a person licensed under the *Law Society Act*, R.S.O. 1990, c. L.8, as amended, appearing on behalf of a Party or as an adviser to a witness, if it finds that such person is not competent to properly represent or to advise the Party or witness or does not understand and comply at the Hearing with the duties and responsibilities of an advocate or adviser.

RULE 10: EVIDENCE

10.01 Admissible Evidence at a Hearing

- (1) Subject to Rule 10.01(2) and 10.01(3) below, the Committee, in its discretion, 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;relevant to the subject matter of the Hearing and may act on such evidence, but the Committee may exclude anything unduly repetitious.
- (2) 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 proceeding arises or any other statute.
- (3) Nothing in Rule 10.01(1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, Documents or things may be admitted or used in evidence in any proceeding before the Committee.
- (4) Where the Committee is satisfied as to its authenticity, a copy of a Document or other thing may be admitted as evidence at a Hearing.
- (5) Where a Document has been filed in evidence at a Hearing, the Committee may, or the person producing it or entitled to it may with leave of the Committee, cause the Document to be photocopied and the Committee may authorize the photocopy to be filed in evidence in the place of the Document filed and release the Document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the Document filed certified by a Member of the Committee.
- (6) A Document purporting to be a copy of a Document filed in evidence at a Hearing, certified to be a copy thereof by a Member of the Committee, is admissible in evidence in proceedings in which the Document is admissible as evidence of the Document.

RULE 11: HEARINGS**11.01 Hearings**

- (1) A Hearing shall be open to the public except where the Committee is of the opinion that:
 - (a) matters involving the public security may be disclosed; or,
 - (b) intimate financial or personal 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;

in which case the Committee may hold the Hearing, or portion thereof, in the absence of the public.

11.02 Right to a Representative

- (1) A Party to a proceeding may have a Representative.

11.03 Record of Proceeding

- (1) The Committee Secretary shall compile a record of any proceeding in which a Hearing has been held which shall include:
 - (a) a copy of the Property Standards Order appealed from;
 - (b) the notice of appeal and any accompanying documentation;
 - (b) the notice of hearing;
 - (c) any interlocutory orders made by the Committee;
 - (d) all Documentary evidence filed with the Committee, subject to any limitation expressly imposed by any Act on the extent to or the purposes for which any such Documents may be used in evidence in any proceeding; and,
 - (f) the decision of the Committee and reasons, where written reasons have been given.

11.04 Disposition of Proceeding Without a Hearing

- (1) If the Parties consent, a proceeding may be disposed of by a decision of the Committee given without a Hearing, unless another Act or a regulation that applies to the proceeding provides otherwise.

11.05 Recording of a Hearing

- (1) No person shall take or attempt to take a photograph, motion picture, audio recording or other record capable of producing visual or aural representations by electronic means or otherwise at a Hearing before the Committee that is open to the public.
- (2) Any Party may arrange for the attendance of a qualified verbatim reporter at his or her own expense for the purpose of recording all testimony and submissions during a Hearing.
- (3) Before a qualified verbatim reporter is permitted to record only part of a Hearing, the Party retaining the qualified verbatim reporter must obtain leave of the Committee. In considering whether to provide leave, the Committee shall consider, among other matters, whether to permit a record of only part of the Hearing would result in prejudice to a Party.

- (4) If a Party orders a transcript or partial transcript, the Party shall notify the Committee, and the other Parties to the Hearing that it has done so, and the Committee shall receive a copy free of charge, if the Committee requests a copy. The Party must furnish the copy of the transcript to the Committee within three days of the date of the Party's receipt of the transcript.
- (5) The Committee may at its own expense and, on notice to the Parties, order a transcript or partial transcript from the qualified verbatim reporter without furnishing a copy of the transcript to the Parties; however, in any such case the Committee shall advise the Parties that it has ordered the transcript and where the Committee orders a partial transcript the Committee shall notify the Parties as to the part of the transcript the Committee has ordered.

11.06 Conflict of Interest

- (1) Where a Committee Member has any pecuniary interest, direct or indirect, in any proceeding that is before the Committee, the Committee Member:
 - (a) shall, prior to any consideration of the agenda matter, disclose the interest and the general nature thereof;
 - (b) shall excuse him or herself from the Hearing of that matter; and,
 - (c) shall not attempt in any way whether before, during or after the Hearing to influence the decision of the Committee.

RULE 12: HEARING PROCEDURES

12.01 Procedures

- (1) The Committee may hear Appeals and motions in an order and in a manner the Committee deems appropriate to ensure that a fair and just Hearing is conducted.

12.02 Committee Inspection

- (1) When the Committee determines that an inspection of the property is warranted, the Committee Members may conduct an inspection of the property.
- (2) The Parties shall be notified of the time of the inspection of the property by the Committee and may be present with the Committee at the time of the inspection.

12.3 Committee Decision

- (1) The Committee may give an oral decision or may reserve its decision.
- (2) If the decision is reserved, the Chair shall advise the Appellant that the Appellant shall be notified by registered mail of the Committee's decision.

12.4 Notice of Decision

- (1) The Secretary shall forward notice of the Committee's decision to all those notified of the Hearing and to everyone who appears before the Committee.
- (3) The written decision sent in the notice of decision shall be signed by all Members of the Committee that took part in the Hearing.

13.0 EFFECTIVE DATE

13.1 This By-law shall come into full force and effect upon its final passage.

14.0 TITLE

14.1 This By-law may be cited as the "Township of Huron-Kinloss Property Standards Committee By-law".

Read a First, Second and Third time and finally passed this 28th of January, 2013.

Original Signed by Mitch Twolan

Mayor

Mitch Twolan

Original Signed by Sonya Watson

Clerk

Sonya Watson