



**THE CORPORATION OF THE CITY OF MISSISSAUGA
COMMITTEE OF ADJUSTMENT PROCEDURE
BY-LAW 350-07**

(amended by 189-16, 137-20)

WHEREAS Council for The Corporation of the City of Mississauga at its hearing held on May 24, 1995 recommended the Report of the Commissioner of Corporate Services for the enactment of a procedure by-law for governing the calling, place and proceedings of hearings of the Committee of Adjustment;

AND WHEREAS The Corporation of the City of Mississauga has passed By-law 200-95 to constitute and appoint a Committee of Adjustment;

AND WHEREAS Section 238(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25 (the "*Municipal Act*"), as amended, requires every municipality and local board adopt a procedure by-law for the governing the calling, place and proceedings of hearings;

AND WHEREAS Section 239(1) and Section 239(5) of the *Municipal Act* requires all meetings to be open to the public and state that a meeting shall not be closed to the public during the taking of a vote;

AND WHEREAS the Committee of Adjustment has been established pursuant to the *Planning Act*, R.S.O. 1990, c.P.13, as amended;

NOW THEREFORE the Council of the Corporation of the City of Mississauga hereby ENACTS as follows:

PART I - APPLICATION

1. The procedures contained in this By-law shall be observed in all proceedings of the Committee of Adjustment and shall be the procedures for the order and dispatch of business conducted by the Committee of Adjustment.

PART II - CALLING OF HEARINGS

2. Where a zoning by-law is amended in response to an application by the owner of any land, building or structure affected by the by-law or by a person authorized in writing by the owner, no person shall apply for a minor variance from the provisions of a zoning by-law in respect of the same land, building or structure before the second anniversary of the day on which the by-law was amended. (189-16)

3. The Secretary-Treasurer shall refuse to accept an application for a variance where the circumstances in section 2 apply. (189-16)
4. Sections 2 and 3 do not apply in respect of an application where the Council for the Corporation of the City of Mississauga has declared by means of a resolution that such application is permitted. (189-16)
5. All hearings of the Committee of Adjustment shall be called by the Secretary-Treasurer of the Committee of Adjustment and notice of any hearing shall be given by pre-paid first class mail and posting of a notice sign or in a manner that the Committee of Adjustment deems appropriate in accordance with the *Planning Act*, R.S.O. 1990, c.P.13, as amended; and in accordance with applicable regulations. (189-16)

PART III - LOCATION OF HEARINGS

- 6 The location of all hearings of the Committee of Adjustment shall be identified on the Notice of Public Hearing as circulated by the Secretary-Treasurer of the Committee of Adjustment.

PART IV – QUORUM

7. A minimum of three (3) members shall be present to constitute a quorum.
8. Subject to Subsection (4) above, the inability of a member to act due to a declared conflict does not impair the powers of the committee or of the remaining members.
9. As soon as there is a quorum after the time appointed for the start of the hearing, the Hearing chair of the Committee of Adjustment shall call the hearing to order.
10. If no quorum is present thirty (30) minutes after the time appointed for a hearing of the Committee, the Secretary-Treasurer shall record the names of the members present and the meeting will stand adjourned until the next appointed time.

PART V - HEARING PROCEDURES

11. The Hearing chair of the Committee of Adjustment shall:
 - a. call the hearing to order;
 - b. call for declaration of Conflicts of Interest pursuant to Part IX;
 - c. call for any requests for adjournment/deferral of an application or any requests for withdrawal of an application pursuant to Part X; and
 - d. call each application in the order in which it appears on the agenda or at the Hearing chair and Committee's discretion.

Introduction of Applications

12. The Hearing chair will ask the applicant, the authorized agent or the applicant's representative to introduce him/herself and present the application. The applicant shall be provided with a maximum ten (10) minute time period to present the nature of the application to the Committee. Any presentations beyond the maximum time period shall be at the discretion of the Hearing chair and Committee.
13. The Committee may ask questions of the applicant at this time, during or after the presentation.
14. At anytime, the Hearing chair or Committee may ask the Secretary-Treasurer to:
 - a. read aloud all comments received from agencies who responded to the circulation of the notice of the application;
 - b. read aloud any letters received from persons expressing an interest in the application and;
 - c. at the direction of the Hearing chair, summarize the nature of the interest being expressed.
15. With respect to applications for Consent (including Changes of Conditions) and Certificate of Validation, the Hearing chair may ask the Secretary-Treasurer to read aloud the proposed draft conditions to be attached to the decision should the Committee approve the application. The Committee may delete from, add to or revise the proposed draft conditions.

Public Input

16. Public input shall be sought following the presentation of each application, reading of comments and proposed draft conditions. The Committee may limit the length of a public submission if there are multiple submissions from the public to ensure that all members of the public can be heard. Any other Public input after the Applicant's Reply shall be at the discretion of the Hearing chair & Committee.
17. An interested person shall confine his/her remarks to the subject application.
18. Following the introduction of each application, the Hearing chair shall:
 - (a) invite anyone else having an interest in the application to come forward, identify themselves and express his/her interest; and
 - (b) ask questions of the interested person on behalf of the Committee and allow the Committee members to ask questions.

Applicant's Reply

19. Following the public input stage, the Committee shall give the applicant, the authorized agent or the applicant's representative the opportunity to respond to any comments received from commenting agencies or interested parties; and to provide a summary of the substance of the application.
20. The Hearing chair and Committee may ask additional questions at this time.

Minor Variances

21. Following the Applicant's Reply on applications for Minor Variance, the Committee shall consider the issues raised by the applicant, agent and any respondents and the evidence heard by the Committee. The Hearing chair shall:
 - (a) ask whether the members wish to conduct further discussions on the merits of the application;
 - (b) at the conclusion of submissions, ask the members of the Committee for a motion with respect to the disposition of the application;
 - (c) upon a motion from a Committee member, ask for a remaining member to second the motion;
 - (d) permit discussions on the motion;
 - (e) call for a vote by the Committee on the motion;
 - (f) announce the decision of the Committee; and
 - (g) may summarize any dissenting decisions orally.

Consents

22. Following the Applicant's Reply on applications for Consent (including Changes of Conditions), Certificate of Validation and Approval for Foreclosure or the Exercise of Power of Sale, the Committee shall consider the issues raised by the applicant, agent and any respondents and the evidence heard by the Committee. The Hearing chair shall:
 - (a) ask whether the members wish to conduct further discussions on the merits of the application;
 - (b) at the conclusion of submissions, ask the members of the Committee for a motion with respect to the disposition of the application;
 - (c) upon a motion from a Committee member, ask for a remaining member to second the motion;

- (d) permit discussions on the motion;
- (e) call for a vote by the Committee on the motion;
- (f) announce the decision of the Committee; and
- (g) may summarize any dissenting decisions orally.

PART VI - VOTING

Minor Variances

23. Each member of the Committee, when requested by the Hearing chair on a seconded motion, shall indicate by show of hands, or by any other form of acknowledgement, their position on the motion. The majority decision of the Committee on this motion shall constitute the decision of the Committee. If the initial motion fails, a new motion is requested by the Hearing chair and continued until a majority of the Committee's members approve a motion.

Consents

24. Each member of the Committee, when requested by the Hearing chair on a seconded motion, shall indicate by show of hands, or by any other form of acknowledgement, their position on the motion. The majority decision of the Committee on this motion shall constitute the decision of the Committee. If the initial motion fails, a new motion is requested by the Hearing chair and continued until a majority of the Committee's members approve a motion.

PART VII - POWERS OF THE CHAIR AT THE PUBLIC HEARING

25. Public Hearings shall be chaired by a member of the Committee, as determined by the Committee on a rotating basis.
26. The Hearing chair is entitled to all rights of a Committee member, including voting.

PART VIII - DECISIONS OF THE COMMITTEE OF ADJUSTMENT

27. No decision of the Committee on an application is valid unless it is concurred in by the majority of the members of the Committee that heard the application. In addition, the decision of the Committee shall: (189-16)
- (a) be in writing, whether granting or refusing an application;
 - (b) set out the reasons for the decision;
 - (c) contain a brief explanation of the effect, in any, that the written and oral submissions relating to the application made to the committee before its decision or at the hearing, had on the decision; and

- (d) be signed by the members who concur in the decision.
- 28. A copy of the Committee's written decision will be prepared and issued in accordance with the provisions of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, and applicable regulations.
- 29. A copy of the Committee's written decisions shall be sent to each person who appeared in person or by counsel to express his/her interest in the application. In addition, any other person expressing an interest in an application shall leave his/her name and address with the Secretary-Treasurer at the hearing, or may submit a written request, should they wish to receive a copy of the written decision of the Committee and any further correspondence with respect to the Application pursuant to the provisions of the *Planning Act*, R.S.O. 1990, c.P.13, as amended.

PART IX - CONFLICT OF INTEREST

- 30. In accordance with the *Municipal Conflict of Interest Act*, R.S.O. 1990, c.M.50, as amended, any member of the Committee required to do so by the provisions of the Act, shall disclose any direct or indirect pecuniary interest for themselves or a family member and shall state the general nature of such interest; and it shall be recorded by the Secretary-Treasurer accordingly. The member shall leave the hearing room for the duration of the subject application.

PART X- REQUESTS FOR DEFERRAL OR WITHDRAWAL

- 31. A request for adjournment/deferral of a matter on the scheduled hearing date by the applicant or authorized agent must be for reasonable cause and must be made at the hearing. If granted, the Committee will set a new hearing date for the application at the hearing and indicate any other requirements or conditions of the adjournment/deferral, such as re-notification or amendment, at that time.
- 32. (a) A request for an application to be withdrawn from the scheduled hearing date by the applicant or authorized agent must be for reasonable cause. The request for withdrawal must be set out in writing if made prior to the hearing, or the request may be made orally at the commencement of the hearing. (189-16)
- (b) If a request for withdrawal of an application is made in writing prior to the commencement of the hearing, on the basis of reasonable cause, the Secretary-Treasurer shall make a record that the application has been withdrawn and shall immediately give notice to all property owners within 60 m of the subject lands that the application has been withdrawn. Where the Secretary-Treasurer has made a record that an application has been withdrawn, the Committee shall take no further action in respect of that application. (189-16)
- (c) Where a written request for withdrawal of an application fails to set out reasonable cause for the withdrawal, or where the Secretary-Treasurer is unable to determine whether the written request for the withdrawal sets out reasonable cause, the request for withdrawal of an application shall be presented to the Committee at its next scheduled hearing and the Committee shall determine what further action to take in respect of that application. (189-16)

- (d) Where a request for withdrawal of an application is made orally at the hearing, the Committee shall become seized of the matter and shall determine whether to grant the request or whether to continue with a hearing on the application. If the Committee grants the request for withdrawal of an application, upon the conclusion of the hearing the Secretary-Treasurer shall immediately give notice to all property owners within 60 m of the subject lands that the application has been withdrawn. (189-16)

PART XI - REPEAL

- 33. By-law Number 200-95 is hereby repealed.

PART XII – EMERGENCY PERIOD (137-20)

For the purposes of this PART XII, “COVID-19 Emergency Period” shall mean the period of time commencing on June 1, 2020 and ending on September 31, 2020.

- 34. Despite the requirements in this By-law to hold hearings in person, during the COVID-19 Emergency Period:
 - (1) hearings may be conducted virtually;
 - (2) quorum may be reached electronically;
 - (3) any notice, request or other communication required under this By-law may be provided electronically; and
 - (4) written decisions may be provided electronically.
- 35. During the COVID-19 Emergency Period, the City Clerk shall have the authority to do the following in order for the Committee to conduct its hearings virtually, as effectively and efficiently as possible:
 - (1) waive compliance with any of the provisions of this By-law; or
 - (2) create new procedures
- 36. For greater clarity, the City Clerk shall only make decisions according to section 35 of this By-law that maintain and uphold any and all administrative law principles of procedural fairness including (but not limited to) impartiality, the right to be heard and the duty of fairness.

ENACTED and PASSED this 12th day of September, 2007
SIGNED BY: Hazel McCallion, Mayor and Crystal Greer, City Clerk