



CITY OF EDMONTON

BYLAW 15166

**COMMUNITY STANDARDS AND LICENCE APPEAL
COMMITTEE BYLAW**

(CONSOLIDATED ON JULY 12, 2016)

THE CITY OF EDMONTON

BYLAW 15166

COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE BYLAW

Whereas, pursuant to section 145 of the *Municipal Government Act*, R.S.A. 2000, c. M-26, Council may pass bylaws in relation to the establishment and functions of Council Committees, and the procedure and conduct of Council Committees;

And Whereas, pursuant to section 203 of the *Municipal Government Act*, Council may by bylaw delegate its powers, duties or functions to a Council Committee, including its duty to decide appeals imposed on it by this or another enactment or bylaw;

Edmonton City Council enacts:

PART I - PURPOSE, DEFINITIONS AND INTERPRETATION

- | | | |
|--------------------|---|--|
| PURPOSE | 1 | The purpose of this bylaw is to establish the Community Standards and Licence Appeal Committee and to prescribe powers, functions, duties, structure and procedures for this Committee. |
| DEFINITIONS | 2 | In this bylaw, unless the context otherwise requires: <ul style="list-style-type: none">(a) “City” means the Municipal Corporation of the City of Edmonton;(b) “City Manager” means the Chief Administrative Officer of the City or that person’s delegate;(c) “Committee” means the Community Standards and Licence Appeal Committee established under this bylaw;(d) Repealed(e) “Council” means the Municipal Council of the City of Edmonton;(e.1) “Inaugural Meeting” means Council’s first regular meeting following a general municipal election; |

- (e.2) “**Licensing Decision**” means the decision to refuse, revoke, or suspend a licence, or impose conditions on a licence issued pursuant to the following bylaws of Council:
- (i) Animal Control and Licensing Bylaw, Bylaw 13145;
 - (ii) Business Licensing Bylaw, Bylaw 13138; and
 - (iii) Vehicle for Hire Bylaw, Bylaw 14700;
 - (iv) Vehicle for Hire Bylaw, Bylaw 17400;
- (e.3) “**Interim stay**” means a temporary suspension of enforcement pending a further decision of the Committee;
- (f) “**Member**” means a person appointed to the Committee pursuant to this bylaw, and includes a temporary member selected under section 7(7);
- (g) “**MGA Order**” means an order issued to a person pursuant to section 545 or 546 of the Municipal Government Act, or a written notice issued pursuant to section 29.2 of the Community Standards Bylaw, Bylaw 14600;
- (h) “**Municipal Government Act**” means the *Municipal Government Act*, RSA 2000, c M-26;
- (i) “**Organizational Meeting**” has the same meaning as defined in the Procedures and Committees Bylaw;
- (j) “**Preliminary Issue Application**” means an application, in a form acceptable to the City Manager, to revoke an interim stay; a request to postpone a scheduled hearing; or an appeal of a decision of the City Manager not to hear an appeal;
- (k) “**Procedures and Committees Bylaw**” means Council’s Procedures and Committees Bylaw, Bylaw 12300;
- (l) “**Weed Control Act**” means the *Weed Control Act*, SA 2008, c W-5.1; and
- (m) “**Weed Control Notice**” means a notice issued to a person pursuant to the Weed Control Act.

(S.2-S.3, Bylaw 15466, December 10, 2010)

(S.2-S.13, Bylaw 15793, November 30, 2012)

(S.2, Bylaw 16485, July 17, 2013)

(S.2, Bylaw 17391, September 22, 2015)
(S.2, Bylaw 17402, March 1, 2016)

**RULES FOR
INTEPRETATION**

- 3 The marginal notes and headings in this bylaw are for reference purposes only.

PART II - ESTABLISHMENT AND MANDATE

ESTABLISHMENT

- 4 The Community Standards and Licence Appeal Committee is hereby established as a committee of Council.

(S.14, Bylaw 15793. November 30, 2012)

MANDATE

- 5 The Committee is delegated the powers, duties, and functions to hear and adjudicate Preliminary Issue Applications and appeals of:
- (a) Licensing Decisions;
 - (b) MGA Orders; and
 - (c) Weed Control Notices

(S.15, Bylaw 15793. November 30, 2012)

PART III - STRUCTURE AND PROCEDURES

MEMBERSHIP

- 6 Repealed,
- 6.1 (1) Council will appoint four Councillors as Members of the Committee at Council's Inaugural Meeting.
- (1.1) The Mayor is not a Member of the Committee.
 - (2) Councillors appointed to the Committee will serve on the Committee from the time of their appointment until the next Council is sworn into office.
 - (3) Councillors may be appointed to the Committee for successive terms totalling not more than eight consecutive years.
 - (4) If a Councillor vacates the office of Councillor while on the Committee, Council may replace the vacating Councillor in accordance with the provisions of the Procedures and Committees Bylaw.

- (5) The Members will select from their number a Chair and Vice Chair at its first meeting following October 1 each year.
- (6) The Chair will preside at all meetings of the Committee, and if the Chair is not present the Vice Chair will preside, but if neither of them are present, the Members will elect a Chair for that meeting, and the Chair so elected will preside.

(S.4-S.5, Bylaw 15466. December 10, 2010)

(S.16, Bylaw 15793. November 30, 2012)

(S.9, Bylaw 16825, July 16, 2014)

PROCEDURES

- 7 (1) The agenda orders the business for a meeting and will follow the order of business and time schedule as set out in Schedule A, attached and forming part of this bylaw.
- (2) Except where inconsistent with this bylaw, the Committee will follow the:
 - (a) meeting procedures prescribed for council committees by the Procedures and Committees Bylaw; and
 - (b) hearing and adjudicative procedures adopted by the Committee in accordance with this Bylaw
- (3) The Committee must establish a rotation for meetings, scheduling three Members for each meeting, excluding the Mayor.
- (4) Only scheduled Members may attend a meeting.
- (5) Quorum of a Committee meeting is three Members and Members must be personally present at a meeting to count towards quorum.
- (6) Attendance at a meeting must be an odd number.
- (7) If quorum is not possible because of the absence of one or more scheduled Members, priority for selection of alternate Members will be as follows:
 - (a) a non-scheduled Member will be requested to attend the meeting;
 - (b) Deleted;
 - (c) the membership will be augmented using the deputy mayor

roster beginning with the current deputy mayor.

- (8) The Committee, by a majority vote of the Members present at a meeting, may adopt or amend any hearing and adjudicative procedures that will apply to any hearings and meetings of the Committee.

(S.17-S.21, Bylaw 15793. November 30, 2012)

(S.4-5, Bylaw 17686, July 12, 2016)

MEETINGS

- 7.1 (1) Committee meetings will be held on the dates specified by Council at Council's Organizational Meeting.

- (2) The City Manager may schedule a special Committee meeting date provided that written notice of the special meeting:

- (a) is issued at least 28 days prior to the special meeting date;

- (b) specifies the date, time, location, and purpose of the special meeting;

- (c) is delivered to each Member of the Committee; and

- (d) is posted publicly at least 24 hours prior to the special meeting.

(S.22, Bylaw 15793. November 30, 2012)

- 7.2 (1) Notwithstanding that a meeting of the Committee has been scheduled pursuant to Section 8 or Section 13 of the Procedures and Committees Bylaw, if there are no appeals or preliminary hearing applications remaining on the agenda of the Committee by 4 p.m. of the day prior to the meeting:

- (a) The City Manager may cancel the meeting by posting notification of the cancellation at both the City Room of City Hall and at the offices of the Committee; and

- (b) The Adoption of the Minutes of any prior meetings will be rescheduled to take place at the next meeting of the Committee.

- (2) Section 14 and 18 of the Procedures and Committees Bylaw does not apply to the cancellation of a meeting under this section.

- 7.3 (1) Where the City Manager receives an appeal of a Weed Control Notice, the City Manager will schedule the appeal for the next regular meeting of the Committee that is a minimum of 5 days

from the date that the appeal was received.

- (2) In the event that the next meeting is more than 5 days from the receipt of the appeal, the City Manager will send to the appellant a copy of Schedule "B".

7.4 Where the appellant has appealed a Weed Control Notice and the appellant and the City have reached an agreement on all matters, including an agreement relating to the refund of the fee under Section 15 of the Weed Control Regulation, the City Manager shall, without the requirement to have a hearing, refund the fee in accordance with the agreement.

(S.6, Bylaw 17686, July 12, 2016)

**CITY MANAGER
ROLE**

- 8 (1) The City Manager will:
 - (a) receive the notice of appeal from an appellant;
 - (a.1) receive Preliminary Issue Applications;
 - (a.2) determine the sufficiency of the notice of appeal, including whether the notice of appeal was received within the relevant time period;
 - (a.3) establish forms for notices of appeal and Preliminary Issue Applications;
 - (b) send notices related to hearings of Preliminary Issue Applications and appeals;
 - (c) answer inquiries and provide information to appellants, respondents and the public subject to applicable legislation;
 - (d) schedule Preliminary Issue Application and appeal hearings;
 - (e) keep a written record of Committee proceedings that includes:
 - (i) the Preliminary Issue Application or notice of appeal;
 - (ii) the notice of hearing of Preliminary Issue Application or appeal;
 - (iii) a summary of the evidence presented at the hearing; and

(iv) the Committee's decision and reasons.

(2) The City Manager may exercise any powers necessary for the operation of this Committee.

(S.23-S.29, Bylaw 15793. November 30, 2012)

- 9
- (1) If the City Manager determines the notice of appeal to be sufficient, the City Manager must schedule a hearing for the appeal.
 - (2) If the City Manager determines the notice of appeal to be insufficient, the City Manager must either:
 - (a) request the appellant to correct the deficiencies within a specified time period; or
 - (b) determine that the deficiencies cannot be corrected.
 - (3) If the City Manager determines that the deficiencies cannot be corrected, or if the appellant fails to correct the deficiencies within the time period specified, the City Manager must notify the appellant at the address provided that the appeal will not be heard.
 - (4) The City's Manager decision not to hear an appeal may be appealed to the Committee by submitting a written Preliminary Issue Application to the City Manager specifying the grounds of appeal of the City Manager's decision.

(S.30, Bylaw 15793. November 30, 2012)

INTERIM STAY

- 10
- (1) If the City Manager determines that a notice of appeal is sufficient, an interim stay on the Licensing Decision, Weed Control Notice, or MGA Order under appeal will automatically be granted until a final decision on the appeal is issued by the Committee.
 - (2) Notwithstanding subsection (1), an interim stay granted pursuant to this bylaw may be revoked by the Committee if a Preliminary Issue Application is received from a party to the appeal and the Committee is satisfied that:
 - (a) there has been a material change in circumstances that warrants revoking the interim stay;
 - (b) the conduct of the appellant warrants revoking the stay; or
 - (c) the operation of the interim stay creates or contributes to a

situation of imminent danger to public safety.

- (3) A party applying to revoke an interim stay granted pursuant to this section must submit a written Preliminary Issue Application to the City Manager specifying the circumstances or conduct warranting a revocation of the interim stay.

(S.31, Bylaw 15793. November 30, 2012)

**PRELIMINARY
ISSUE**

- 10.1 (1) Upon receipt of a Preliminary Issue Application, the City Manager will schedule a hearing as soon as reasonably practicable.
- (2) Preliminary Issue Applications may be scheduled for hearing on the same date the appeal is scheduled to be heard.
- (3) Upon scheduling a hearing for the Preliminary Issue Application, the City Manager will send a notice of hearing to the appellant, respondent, and party making the Preliminary Issue Application specifying the date and time of the hearing and enclosing a copy of the written Preliminary Issue Application submitted by the applicant.

(S.32, Bylaw 15793. November 30, 2012)

RECORD

- 11 (1) At least 30 days prior to the scheduled hearing of a Licensing Decision appeal, the person who made the decision under appeal must provide six copies of the record to the City Manager.
- (2) The City Manager must distribute the record to the appellant and the respondent, and must make a copy of the record available for viewing by interested parties.
- (3) Deleted

(S.33-S.34, Bylaw 15793. November 30, 2012)

**PRE HEARING
DISCLOSURE**

- 12 (1) At least 21 days prior to the scheduled hearing of a Licensing Decision appeal, all parties, including interested parties, wishing to speak or introduce evidence must submit to the City Manager six copies of argument, evidence, and substance of testimony to be given at the hearing.
- (2) At least 10 days prior to the scheduled hearing of a Licensing Decision appeal, all parties, including interested parties, wishing to respond to evidence must submit to the City Manager six copies of argument, evidence and substance of testimony to be given in rebuttal at the hearing.

- (3) The City Manager must distribute the material under (1) and (2) to the appellant and the respondent, and make a copy available for viewing by interested parties.
- (4) Where a party has not complied with this section, the Committee may:
 - (a) consider and grant an adjournment to the hearing;
 - (b) proceed with the hearing without accepting the argument and evidence; or
 - (c) proceed with the hearing accepting all or part of the argument and evidence.
- (5) Deleted
- (6) Deleted

(S.35-S.38, Bylaw 15793. November 30, 2012)

**HEARING
PROCEDURE**

- 13 (1) While hearing a Preliminary Issue Application, an appeal of a Weed Control Notice, or an appeal of an MGA Order, the Committee:
 - (a) must allow the applicant or appellant five minutes to speak;
 - (b) may vote to allow an interested party in favour of the applicant's or appellant's position up to five minutes to speak;
 - (c) must allow the respondent five minutes to speak;
 - (d) may vote to allow an interested party in favour of the respondent's position up to five minutes to speak;
 - (e) must allow the applicant or appellant and the respondent up to five minutes to respond to any new information that has been presented.
- (2) While hearing a Licensing Decision appeal, the Committee:
 - (a) must allow the appellant twenty minutes to speak;
 - (b) may vote to allow an interested party in favour of the appellant's position up to five minutes to speak;
 - (c) must allow the respondent twenty minutes to speak;

- (d) may vote to allow an interested party in favour of the respondent's position up to five minutes to speak;
 - (e) must allow the appellant and the respondent up to twenty minutes to respond to any new information that has been presented.
- (3) The Committee may vote to extend the period of time a person is allowed to speak or respond to new information.

(S.39-S.43, Bylaw 15793. November 30, 2012)

**DECISION OF
COMMITTEE**

- 14 (1) Deleted
- (2) Subject to the Municipal Government Act, any other Act, or any other bylaw of Council, all appeals heard by the Committee will be hearings *de novo*.
 - (3) The Committee may discuss matters in private in accordance with the Municipal Government Act.
 - (4) The Committee must vote in public.
 - (5) The majority vote of the Members present at the hearing constitutes the decision of the Committee.
 - (6) The Committee must furnish a written statement of its decision.
 - (7) A written copy of its decision must be delivered or sent by mail to the applicant or appellant and the respondent at the address provided to the City Manager.
 - (8) Service is presumed to be effected under (7):
 - (a) seven days from the date of mailing if the document is mailed in Alberta to an address in Alberta; or
 - (b) subject to (a), fourteen days from the date of mailing if the document is mailed in Canada to an address in Canada;unless the document is returned to the sender other than by the addressee, or the document was not received by the addressee, the proof of which lies on the addressee.
 - (9) In deciding an appeal of a Licensing Decision, the Committee has the same powers granted to the City Manager under the applicable bylaw, including but not limited to the power to vary any condition on a licence.

(S.44-S.47, Bylaw 15793, November 30, 2012)
(S.3, Bylaw 16485, July 17, 2013)

**REQUIREMENTS
OF OTHER
BYLAWS**

15 Deleted

(S.48, Bylaw 15793, November 30, 2012)

**RULES OF
EVIDENCE**

16 (1) Nothing in this bylaw:

- (a) requires that any evidence or allegations of fact made to the Committee be made under oath; or
- (b) requires the Committee to adhere to the Rules of Evidence applying to courts of criminal or civil jurisdiction.

(2) Cross-examination of witnesses is not permitted.

(3) Despite (2), any Member may ask questions to any person giving evidence before the Committee.

(4) The Committee has the authority to determine the admissibility, relevance, and weight of evidence given at a hearing.

(S.49, Bylaw 15793, November 30, 2012)

PART IV - GENERAL

PRIVITIVE CLAUSE

17 Deleted

(S.50, Bylaw 15793, November 30, 2012)

REPEALS

18 The following provisions from Bylaw 12300, the Procedures and Committees Bylaw are repealed:

- (a) section 147(f);
- (b) Division 5, section 166;
- (c) Division 9, sections 180-187;
- (d) Schedule A, Part 1(b).

Bylaw **15166**

EFFECTIVE DATE 19 This bylaw takes effect beginning on July 31, 2009.

(NOTE: Consolidation made under Section 69 of the *Municipal Government Act*, S.A. 2000, c.L-21 and Bylaw 12005, and printed under the City Manager's authority.)

Amendments:

Bylaw 15466, December 10, 2010

Bylaw 15793, November 30, 2012

Bylaw 16485, July 17, 2013

Bylaw 16825, July 16, 2014

Bylaw 17391, September 22, 2015

Bylaw 17402, March 1, 2016

Bylaw 17686, July 12, 2016

SCHEDULE A – ORDERS OF THE DAY

Call to Order

Adoption of Minutes

Preliminary Issue Applications

Appeal Hearings

Changes to Procedure Manual

Adjournment

(S.51, Bylaw 15793, November 30, 2012)

(S.2, Bylaw 17686, July 12, 2016)

SCHEDULE B – WEED CONTROL NOTICE SCHEDULING LETTER

In this case a notice of appeal was received on (date) appealing a (either a debt recovery notice or a local authority notice) which was sent out on _____. (or which is dated _____)

There are various requirements in the *Weed Control Act* (WCA) SA 2008 Chap W-5.1 and the *Weed Control Regulation* (WCR) AR 19/2010 related to the timing of hearings that involve either a Local Authority Notice or a Debt Recovery Notice. To start, Section 19 of the WCA sets out the right to appeal and requires an independent appeal panel to review the matter. Section 11 and 12 of the WCR outlines the time in which the appeal must be filed and the requirements for the appeal to be valid.

Section 13(1) of the WCR states that an appeal panel shall hear and determine the appeal within 5 days of the receipt of the notice of appeal. Both the WCR and the WCA are silent about the effect of not having a hearing within that short timeframe. The short timeframe contemplated in the WCR appears to, at least on some level, contradict Section 19 of the WCA which says that a local authority shall establish an appeal panel, “at least annually”. It is likely that the short timeframe on a local authority notice is intended to have decisions made quickly so weeds do not cause any further problems on the property, and municipalities can remedy these problems quickly. It is less clear why a quick timeframe would be required on a debt recovery notice where the weeds have already been removed and there is no longer any apparent urgency.

It is important to ensure that having a hearing within a quick timeline does not interfere with the fairness of the hearing process. If the timelines to have a hearing interfere any parties ability to prepare for a hearing, or to have a fair hearing, that would be a problem.

In the City of Edmonton a process has been set up where individuals will attend an oral hearing on weed control matters, and present their position at that oral hearing. This process is found within the *Community Standards and Licence Appeal Bylaw* 15166 (CSLAC). The bylaw contemplates setting a hearing date after determining an appeal is sufficient, and then having both parties make an appearance to present evidence and arguments on the issues that have been raised.

In many cases it would not be possible to have an oral hearing on this issue within the 5 day timelines since parties may not be available, a panel may not be available, or it may not be possible for a party to prepare for the hearing within that short timeframe. It appears that that short timeframe therefore will interfere with the fairness of the hearing process as a whole. Further, there does not appear to be explanation as to what happens if a hearing is not held. Does that mean the notice is struck, the appeal is struck, or a party has to get the Court to order the tribunal to have a hearing.

For these reasons, it is the view of this Committee that the short timeframes within the WCR are therefore not mandatory.

Schedule B

The Committee therefore directs that this matter be set down to be heard on _____
in accordance with the procedures outlined within the CSLAC bylaw.

(S.3, Bylaw 17686, July 12, 2016)