

The Corporation of the Township of Southgate

By-law Number 2025-065

being a by-law to provide rules for governing the Order and Procedure of the Committee of Adjustment of the Township of Southgate

WHEREAS Subsection 5(3) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS Section 238(2) of the Municipal Act, R.S.O. 2001, c.25, as amended, requires every municipality and every local board to pass a procedural by-law for governing the calling, place and proceedings or meetings;

AND WHEREAS Section 44 of the Planning Act, R.S.O. 1990, c.P.13, as amended, provides for a municipality to constitute and appoint a Committee of Adjustment;

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

AND WHEREAS Council of the Corporation of the Township of Southgate deems it necessary and expedient that there be rules governing the order and procedure of the hearings of the Committee of Adjustment;

AND WHEREAS all points of order or procedure not provided for in this by-law shall be decided in accordance with [Robert's Rules of Order](#) and the Chair shall submit the ruling without debate; and

Now therefore be it resolved that the Council of the Corporation of the Township of Southgate hereby enacts as follows:

1. Definitions

For the purpose of the By-law, unless stated otherwise of the context requires a different meaning:

- a) **"Acting Secretary-Treasurer"** shall mean the Acting Secretary-Treasurer of the Committee of Adjustment who is responsible for the duties of the Secretary-Treasurer in the absence of the Secretary-Treasurer;
- b) **"Application"** shall mean an application made under Section 45, 53 or 57 of the Planning Act, R.S.O. 1990, c.P13;
- c) **"Chair"** shall mean the Chair of the Committee of Adjustment, elected by members of the Committee at a regular meeting of the Committee;
- d) **"Committee"** shall mean the Township of Southgate Committee of Adjustment established in accordance with section 44 of the Planning Act;
- e) **"Hearing"** shall mean any hearing of the Committee of Adjustment held in person and/or by electronic means, or another means as determined by the Secretary-Treasurer in accordance with the provisions of this Procedural By-law;
- f) **"Member"** shall mean an individual appointed by By-law from the Council of the Corporation of the Township of Southgate to the Committee of Adjustment;
- g) **"Motion"** shall mean a proposal, moved by one Member and seconded by another Member to adopt, amend, or otherwise deal with a matter before the Committee of Adjustment. When a motion is adopted, it becomes a Resolution;
- h) **"Municipal Act"** shall mean the Municipal Act, 2001, S.O 2001, c.25, as amended;

- i) **"Municipality"** shall mean The Corporation of the Township of Southgate;
- j) **"Pecuniary Interest"** shall mean a direct or indirect pecuniary (monetary) interest within the meaning of the Municipal Conflict of Interest Act, R.S.O 1990, c. M. 50, as amended;
- k) **"Planning Act"** shall mean the Planning Act, R.S.O. 1990, c. M.50, as amended;
- l) **"Point of Order"** shall mean a statement made by a Member during a Hearing calling attention to a possible violation of the rules of customary procedures of this By-law;
- m) **"Point of Privilege"** shall mean the raising of a question by a Member to request immediate action on a matter affecting the rights and privileges of the Committee of Adjustment as a whole, or one or more Members;
- n) **"Quorum"** shall be defined under Section #4 of this Procedural By-law;
- o) **"Resolution"** shall mean a formal expression of opinion, decision, or intention by the Committee of Adjustment;
- p) **"Rules of Procedure"** shall mean the rules and requirements contained within this Procedural By-law;
- q) **"Secretary-Treasurer"** shall mean the Secretary-Treasurer of the Committee of Adjustment, of the Corporation of the Township of Southgate, appointed by members of the Committee of Adjustment at a regular meeting of the Committee and includes an Acting Secretary-Treasurer in the absence of the Secretary Treasurer;
- r) **"Vice Chair"** shall mean the Vice Chair of the Committee of Adjustment, elected by members of the Committee at a regular meeting of the Committee to sit in place of the Chair during the absence of the Chair.

2. Calling of Hearings

- a) The Secretary-Treasurer shall prepare a schedule of Hearings on an annual basis.
- b) All Hearings of the Committee of Adjustment, pursuant to Section 238(1) of the Municipal Act, 2001, shall be called by the Secretary-Treasurer or the Chair of the Committee.
- c) Where it is determined by the Secretary-Treasurer that there are insufficient agenda items for a Hearing, the Secretary-Treasurer shall cancel the Hearing.
- d) Members shall be provided with the Hearing agenda a minimum of five (5) days prior to the Hearing, and concurrently shall be posted to the Township's website.
- e) The location of all Hearings of the Committee shall be identified on the notice as circulated by the Secretary-Treasurer.

3. Committee Composition

- a) The Committee shall be comprised of no fewer than three (3) members and no more than seven (7) members appointed by Council, all of whom may be appointed as members from Council or members of the public. The members shall elect a Chair annually at their first regular Hearing

4. Quorum

- a) As per Section 44(5) of the Planning Act, where the Committee is composed of more than three members, three members are required to constitute a quorum. 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.
- b) If no Quorum is present fifteen (15) minutes after the time appointed for a hearing of the Committee, the Chair of the hearing or the Secretary-Treasurer may discharge the members present and may cancel or reschedule the Hearing and notice for same shall be given. The Secretary-Treasurer shall record the names of the members present, and the Hearing will stand adjourned until the next appointed time.
- c) A member of Committee of Adjustment who is participating electronically in a Hearing may be counted in determining whether a quorum of members is present at any point in time. Where a member is participating in a Hearing by electronic means, all rules and procedures as outlined in the Township of Southgate Electronic Participation Policy No. 86 shall be adhered to.

5. Chair

- a) The Chair and the Vice Chair of the Committee shall be elected annually by the Committee Members.
- b) The Chair shall be counted in determining a quorum and shall be entitled to all the rights of a member on the Committee, including voting.
- c) Where the Chair is absent, the Vice Chair will sit in the Chair's place for the hearing or portion thereof.
- d) Where the Chair and Vice Chair are both absent, the Secretary-Treasurer shall call for the election of an Acting Chair for the Hearing.

6. Location of Hearings

- a) The location of the Hearing 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.

7. Notice

- a) The Notice of an Application to be considered at a Committee Hearing shall be issued by the Secretary-Treasurer in accordance with the requirements of the Planning Act, and any regulations passed thereunder.
- b) The Committee shall hold a Hearing on every application before a decision is made on the application.

8. Application Information

- a) A staff report, including recommended conditions, shall be provided by the Secretary-Treasurer, the Acting Secretary-Treasurer or a Planning staff member. Committee Members shall receive a copy of all applicable agenda packages, including the applicable staff report, prior to the hearing on or before the Friday preceding the scheduled Committee Hearing.

- b) Following the circulation of the agenda package to the Committee of Adjustment Members, the agenda package including the applicable staff reports will be made available on the Township website.

9. Hearing Procedures

- a) The Committee shall deal with the business matters of the Committee of Adjustment in the following order:
- Call to Order
 - Confirmation of Agenda
 - Declaration of Pecuniary Interest
 - Adoption of Minutes
 - Reports of Municipal Officer
 - Hearing
 - Adjournment
- b) The Hearing of the Committee shall be called to Order by the Chair of the Meeting or the Secretary-Treasurer.
- c) The Chair shall ask the Members to declare any interest they may have in applications before the Committee, and the provisions of the Municipal Conflict of Interest Act shall apply.
- i. All Members required to do so by the provisions of the Municipal Conflict of Interest Act, R.S.O. 1990, c.M.50, as amended, shall disclose any direct or indirect Pecuniary Interest for themselves or a family member and shall state the general nature of such Pecuniary Interest and it shall be recorded by the Secretary-Treasurer accordingly. The Member shall leave the Hearing for the duration of the matter for which a Pecuniary Interest is declared.
 - ii. The Member shall not take part in the discussion or vote on any question with respect to the matter and shall not attempt in any way before during and/or after the meeting to influence the voting on any such question.
 - iii. At a Hearing at which a member discloses a Pecuniary Interest, or as soon as possible afterwards, the member shall file a written statement of the interest and its general nature with the Secretary-Treasurer of the Committee.
- d) All Hearings shall be open to the public, except as indicated in part:
- i. Hereunder, and no person shall be excluded therefrom except from improper conduct;
 - ii. Meetings shall be closed only in the manner and circumstances identified by s. 239(2) of the Municipal Act, 2001;
- e) The Chair shall call for any requests for deferral or withdrawal of any matters before the Committee.
- i. A request for 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 after consultation with the Secretary-Treasurer will set a new Hearing date for the application to be heard. No further notice of the Hearing date shall be required as per the Planning Act.
- f) The Chair shall ask the Secretary-Treasurer to confirm the circulation of the Notice and posting of the Public Sign Notice on the subject property were met.
- g) The Chair shall ask for a presentation of the planning report, review of comments received, and review of the proposed conditions to be attached to the decision should the Committee approve the application.

- h) The Chair shall ask the applicant or their representative to introduce themselves and present any further information. The applicant or their representative shall be provided with a maximum of 10 minutes to present their application.
- i) The Chair shall ask if any members have questions of the applicant, representative, or staff.
- j) The Chair shall invite anyone else having an interest in the application to come forward, identify themselves and express their interest. Submissions from the public shall be limited to a maximum of 3 minutes each and shall be confined to the subject application. Any submission beyond the 3 minutes requires a majority vote of the members. The applicant or their representative shall have the opportunity to respond after all submissions are received and shall be allocated no more than 5 additional minutes.
- k) The Chair shall provide Committee Members with a final opportunity to ask any additional questions relevant to the application before them.
- l) After having considered the evidence and submissions heard at the Hearing by the Committee, a Motion with respect to the disposition of the application will be asked for by the Chair of the Hearing. The Chair of the Meeting upon receipt of a Motion from a Committee Member shall then ask for a seconder to the Motion.
- m) The Chair shall call a vote by the Committee on the Motion, and the Chair shall announce the Decision of the Committee at the Hearing. The Chair shall announce whether the Motion is carried or defeated. A defeated Motion is not to be considered a Decision, and a new Motion must then be presented until one is carried by a majority of the members.
- n) Decisions of the Committee of Adjustment, whether granting, or refusing an application, shall be in writing and shall be signed by the members who concur with the Decision. Members that do not concur with the Decision shall not sign the Decision. Members that are absent, shall be noted as "absent" on the Decision.
- o) A copy of the Committee's written decision shall be prepared and issued in accordance with the provisions of the *Planning Act*.
- p) The Chair of the Hearing, having completed the entire agenda shall request a Motion to adjourn the Hearing. All Hearings shall stand adjourned when the Committee has completed all business as listed on the agenda, unless otherwise determined through a motion by a majority of the Members present.

10. General

- a) Following the Application by the Owner/Agent, but prior to the Hearing where the application will be considered by the Committee, the Members may conduct individual site visits. During site visits Members shall not discuss with the applicant, or other interested individuals, any of the merits of the application or any issue or matter in connection with the application to be decided by the Committee. All information shall be presented to the Committee at the Hearing.

Read a first, second and third time and finally passed this 21st of May 2025.

Original Signed By

Brian Milne - Mayor

Original Signed By

Lindsey Green – Clerk