

Proposed C-1238-23 Community Standards Appeal Committee Bylaw

Background

- Municipal Government Act Orders issued under the *Municipal Government Act* (MGA) may be appealed by affected parties
- Under the MGA the appeals can be heard by Council or can be delegated by Council to a Council Committee

What are Municipal Government Act Orders?

- A written Order issued under sections 545 and 546 of the MGA which requires a person responsible for the contravention of a bylaw or a provincial enactment that the municipality is authorized to enforce and to remedy the contravention if the circumstances so require
- Section 545 outlines the use of an order to remedy a contravention under any bylaw or a provincial enactment that the municipality is authorized to enforce
- Section 546 outlines the use of an order to specifically remedy a contravention dangerous to public safety or property regardless if there is a bylaw or other enactment in place regulating such property

Right to Appeal

- Order under s. 545 - written Notice of Appeal and appeal fee must be received by City within 14 days of receipt of Order
- Order under s. 546 - written Notice of Appeal and appeal fee must be received by City within 7 days of receipt of Order
- Council or a Council Committee may confirm, vary, substitute or cancel Order

Quasi-Judicial Hearing Principles

- Review of an Order completed by way of quasi-judicial hearing
- Hearing governed by principles of natural justice:
 - Right to be heard (appellant, respondent, affected parties)
 - Right to unbiased decision-maker
 - Decision must be from the representation of the entity that heard the appeal

Council vs. Council Committee

- MGA refers to Council reviewing an Order
- Under section 145 of the MGA Council may establish a Council Committee to carry out functions of Council on Council's behalf.

Advantage of Council Committee

- Council passes the regulations outlined in the bylaws upon which Orders are issued; it poses a conflict if they are then the body adjudicating on any appeals
- Avoids conflict between Councillor's legislative role as Council and an adjudicative role as a quasi-judicial body
- All-public member Council Committee conforms with the practice implemented for the SDAB, the other City quasi-judicial body

Disadvantage of Council Committee

- Appeals of Orders have been infrequent and sporadic
- Recruitment for a Council Committee is time-consuming, and it is possible a full term of such a Council Committee could expire without ever having to sit
- Recommended that SDAB members also be appointed to this Committee
 - Trained in administrative law principles
 - Experience with quasi-judicial hearings
 - Sitting in the wings in the event an appeal is filed

Implementation

- SDAB members would be officially appointed to the Council Committee after third reading is given to the bylaw
- The Committee would sit when appeals are filed

Questions?

