



Township of Southgate Property Standards Appeal Committee Terms of Reference

Title

The Township of Southgate Property Standards Appeal Committee may also be referred to as the “Appeal Committee” respectively.

Mandate

The Property Standards Appeal Committee is established by Council to hear appeals to order issued pursuant to the Property Standards By-law. The Committee is established under the Building Code Act, 1992, S.O. 1992, c. 23 and the Township of Southgate Property Standards By-law currently in effect which prescribes standards for the maintenance and occupancy of property. The Committee shall be required to act as a quasi-judicial body.

On an appeal, the Committee has all the powers and functions of the Officer who made the order. 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 by-law.

1. Confirm, modify, or rescind the order; or
2. Extend the time for complying with the order.

The Property Standards Appeals Committee also sits as the Appeal Committee to hear Muzzle Order appeals issued pursuant to the Township of Southgate Canine Control By-law currently in effect which is a by-law to license and regulate the keeping of dogs and dog kennels and for the control of dogs within the Township of Southgate.

Enabling Legislation/Authorization By-law

Section 15.3 of the Building Code Act 1992, S.O. 1992, c. 23 provides for the establishment of a committee to hear appeals to property standards orders; and

Section 105(1) of the Municipal Act, 2001, S.O. 2001, c. 25 provides that if a municipality requires the muzzling of dogs under any circumstances that the Council of the municipality shall upon the request of the dog owner, hold a Hearing to determine whether or not to exempt the owner in whole or in part from the muzzling requirements.

The Township of Southgate Property Standards Appeal Committee is enabled by this Terms of Reference and Appointment By-laws approved by Council. The Committee is required to adhere to the provisions outlines in the Township of Southgate Procedure By-law, as amended.

Appeal Committee Specific - Appeal of an Order to Muzzle

Where a dog has been declared dangerous by the Canine Control Officer and/or an appointed By-law Enforcement Officer, pursuant to the provisions of the Township of Southgate Canine Control By-law currently in effect, the Owner of the Dog may apply to the Appeal Committee for a hearing in respect of such muzzle order.

Please refer to the Township of Southgate Canine Control By-law, Section 9, currently in effect for specific rules and procedures for conducting a hearing to appeal a muzzle order.

Property Standards Appeal Committee Specific

1. Application and Definitions

1.1. Definitions

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 of Southgate;

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 185667 Grey County Road 9, RR 1, Dundalk, ON, N0C 1B0

Owner means:

(a) the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the person's own account or as agent or trustee of any other person, or who would receive the rent if the land and premises were let, and

(b) a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property;

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(2) of the Building Code Act;

Representative means a person authorized to represent an Appellant or witness;

Rules means these Rules of Practice and Procedure for the Committee;

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 Southgate.

1.2. General

1.2.1. The Rules shall apply to all proceedings before the Committee.

1.2.2. The Rules apply subject to the Statutory Powers Procedure Act and any other legislation governing the Committee.

1.2.3. 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.

1.2.4. 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.

1.2.5. These Rules shall be liberally construed to secure the just, most expeditious and cost-effective determination of every proceeding on its merits.

1.2.6. Substantial compliance with requirements respecting the contents of forms, notices or documents under these Rules is sufficient.

1.2.7. The Committee may exercise any of its powers under these Rules on its own initiative or at the request of a Party.

2. Committee Meetings and Chair

2.1. Meetings

2.1.1. The Committee shall meet at the request of the Committee Secretary.

2.1.2. Meetings of the Committee shall be held at Municipal Office or such other location as the Committee deems advisable.

2.1.3. A majority of the Members constitutes a quorum for transacting the Committee's business.

2.1.4. Committee Members, including the Chair, may vote on all motions and other questions submitted at a Committee meeting.

2.1.5. In the case of a tie vote, a motion or question shall be deemed to have been lost.

2.2. Committee Chair

2.2.1. 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.

2.2.2. 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.

2.2.3. The Chair shall preside at every Hearing and meeting of the Committee and may vote.

2.2.4. The Chair shall enforce the observance of order and decorum during the Hearing.

2.2.5. The Chair is the liaison between the Members and the Committee Secretary on matters of policy and process.

2.3. Secretary

2.3.1. The Clerk or appointed designate shall serve as Committee Secretary.

2.3.2. The Committee Secretary shall prepare minutes of the meetings of the Committee.

2.3.3. 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, (MFIPPA) applies with necessary modifications to the minutes and records.

2.4. Committee Composition

2.4.1. All vacancies will be advertised, and all names received will be brought forward for Council's consideration. The members will be appointed by Council by by-law for the duration of the term.

2.4.2. The Committee will be composed of not more than 5 and not less than 3 persons who are citizen volunteers who reside and/or own property within the municipality.

2.4.3. Only members, appointed by Council, may vote on any issue.

2.4.4. The Mayor shall serve ex-officio as a voting member of the Committee and shall not be included to comprise the requirement for the minimum of 3 members in relation to section 2.4.2.

2.4.5. 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 by-law so long as the minimum membership requirement in section 2.4.2 is met.

2.4.6. Resignations from the Committee must be in writing to the Municipal Clerk.

2.5. Term of Office

2.5.1. The term of the members of the Committee shall expire on December 31st of a municipal election year.

3. Notice Requesting an Appeal

3.1. Notice of Appeal

3.1.1. 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.

3.1.2. The notice of appeal shall include:

- (a) a copy of the Property Standards Order appeal form;
- (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 Fees and Charges By-Law currently in effect, if applicable .

3.1.3. All notices of appeal shall be sent by registered mail to:

Secretary, Property Standards Committee
Township of Southgate
185667 Grey County Road 9, RR 1
Dundalk, Ontario, N0C 1B0

4. Notice of Hearing

4.1. Where Notice of Appeal is Incomplete

4.1.1. Where a person submits a notice of appeal that is not substantially in accordance with Rule 3.1, 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.

4.2. Where Notice of Appeal is Complete

4.2.1. Where a notice of appeal has been submitted and it is in accordance with Rule 3.1, the Committee Secretary shall schedule a time and place for the Hearing of the Appeal.

4.3. Notice of Hearing

4.3.1. The Committee shall give notice, or direct that notice be given, of the hearing to such parties as the Committee considers advisable.

4.3.2. 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.

4.4. Effect of Non-Attendance at a Hearing

- 4.4.1. 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.

5. Serving and Filing Documents

5.1. Documents Filed with Committee

- 5.1.1. 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 with the the other Party or the Committee Secretary (as the case may be) no later than fifteen (15) days before the hearing date. The Committee Secretary shall cause to distribute the evidence to the members of the Committee no later than ten (10) days before the hearing date.

5.2. Serving Documents

- 5.2.1. 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 or electronic 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.
- 5.2.2. Documents served personally or by fax or email after 4:30 p.m. shall be deemed to have been served on the next day that is not a holiday.
- 5.2.3. 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.

5.3. Filing Documents

- 5.3.1. 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.
- 5.3.2. 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.

5.3.3. Documents must be filed with the Committee Secretary at:

Secretary, Property Standards Committee
Township of Southgate
185667 Grey County Road 9, RR 1
Dundalk, Ontario, N0C 1B0

5.4. Failure to Serve and File Documents

5.4.1. 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.

6. Time

6.1. Computation

6.1.1. 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.

6.1.2. 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 of the Municipal Office as advertised.

6.2. Extension or Abridgement of Time

6.2.1. The Committee may extend or abridge the time prescribed by the Rules on such terms, if any, that the Committee deems just.

6.2.2. The Committee may exercise its discretion under Rule 6.2.1 before or after the expiration of the time prescribed.

7. Adjournments

7.1. Adjournments

7.1.1. 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.

7.1.2. 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.

7.1.3. The Committee may grant adjournments on such terms and conditions as it considers just.

7.1.4. Any Party seeking an adjournment shall seek the consent of the opposing Party or Parties before bringing a motion before the Committee.

7.1.5. If consent is obtained pursuant to Rule 7.1.4 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 7.1.6.

7.1.6. 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.

7.1.7. The Committee may, in its discretion, refuse an adjournment even though the Parties consent.

8. Disclosure

8.1. Disclosure

8.1.1. At any stage of the proceeding before completion of the Hearing, the Committee may make orders for:

- (a) the exchange of documents;
- (b) the exchange of witness statements and reports of expert witnesses;
- (c) the provision of particulars; or,
- (d) any other form of disclosure relative to the subject matter.

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

8.1.2. 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.

8.1.3. 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. The Committee Secretary shall undertake the receipt of the legal advice from the Municipal Solicitor.

8.2. Failure to Disclose

8.2.1. 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.

8.3. Order for Witness Statements

8.3.1. 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 8.1 or 8.2, 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.

8.3.2. 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.

8.4. Expert Witness

8.4.1. 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.

- 8.4.2. If a Party fails to comply with the provisions of Rule 8.4.1, 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.

9. Witnesses

9.1. Administration of Oaths

- 9.1.1. The Committee Secretary or any Member of the Committee may administer oaths and affirmations for the purpose of any of its proceedings.

9.2. Rights of Parties to examine witnesses at Hearings

- 9.2.1. 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.

9.3. Rights of Witnesses to a Representative

- 9.3.1. 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.
- 9.3.2. 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.

9.4. Summons to Witness

- 9.4.1. The Committee may issue a summons to a witness.
- 9.4.2. 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.
- 9.4.3. A summons issued under Rule 9.4.1 shall be in the prescribed form in English and, shall be signed by the Chair of the Committee.
- 9.4.4. The summons shall be served personally on the person summoned.

9.5. Abuse of Processes

- 9.5.1. The Committee may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes.
- 9.5.2. 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.

- 9.5.3. 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.

10. Evidence

10.1. Admissible Evidence at a Hearing

- 10.1.1. Subject to Rule 10.1.2 and 10.1.3 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.

- 10.1.2. 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.

- 10.1.3. Nothing in Rule 10.1.1 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.

- 10.1.4. 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.

11. Hearings

11.1. Hearings

- 11.1.1. 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.

11.2. Right to a Representative

11.2.1. A Party to a proceeding may have a Representative.

11.3. Record of Proceeding

11.3.1. 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;
- (c) the notice of hearing;
- (d) any interlocutory orders made by the Committee;
- (e) 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.

11.4. Disposition of Proceeding Without a Hearing

11.4.1. 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.

11.5. Recording of a Hearing

11.5.1. No person shall take or attempt to take a photograph, motion picture, audio recording or other record capable of producing visual or oral representations by electronic means or otherwise at a Hearing before the Committee that is open to the public.

11.5.2. 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.

11.5.3. 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.

11.5.4. 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. 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.

- 11.5.5. 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.

11.6. Conflict of Interest

- 11.6.1. 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.

12. Hearing Procedures

12.1. Procedures

- 12.1.1. 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.

12.2. Committee Inspection

- 12.2.1. When the Committee determines that an inspection of the property is warranted, the Committee Members may conduct an inspection of the property.
- 12.2.2. 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. No communication regarding the Order shall be made between the Parties and the Members.

12.3. Committee Decision

- 12.3.1. The Committee may give an oral decision or may reserve its decision.
- 12.3.2. 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

- 12.4.1. The Secretary shall forward notice of the Committee's decision to all those notified of the Hearing and to everyone who appeared before the Committee.
- 12.4.2. 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. Supporting Documents

13.1. List of supporting documents to be reviewed

13.1.1. Township of Southgate Property Standards By-law

13.1.2. Statutory Powers Procedures Act

13.1.3. Building Code Act

13.1.4. Municipal Act