

## OFFICE CONSOLIDATION

*This is a consolidation of the Town's by-law to establish the rules governing the calling, place, proceedings and providing public notice of hearings of the Committee of Adjustment being By-law Number 2018-80 as amended by By-laws 2020-39 and 2022-029. The following consolidation is an electronic reproduction made available for information purposes only and is not an official version of the by-law. Official versions of all by-laws can be obtained from the Town Clerk by calling (905) 584-2272. If there are any discrepancies between this consolidation and By-laws 2018-80, 2020-39 and 2022-029 the by-laws shall prevail.*

### THE CORPORATION OF THE TOWN OF CALEDON

#### BY-LAW NUMBER 2018-80

A by-law to establish the rules governing the calling, place, proceedings; providing public notice of hearings of the Committee of Adjustment of the Town of Caledon; and repealing Committee of Adjustment By-law No. 2015-008.

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

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

AND WHEREAS Council of The Corporation of The Town of Caledon (the "Town" or "Town of Caledon") deems it necessary and expedient that there be rules governing the order and proceedings of the hearings of the Committee of Adjustment;

NOW THEREFORE the Council of the Corporation of Town of Caledon ENACTS AS FOLLOWS:

#### 1. DEFINITIONS

1.1 In this by-law:

[By-law 2020-39  
effective June 9/20]

"Act" means the Ontario Planning Act, R.S.O. 1990, c.P. 13, as amended or superseded.

[By-law 2020-39  
effective June 9/20]

"Agent" means any person authorized in writing by the owner(s) of any land, building or structure for which an Application is made.

[By-law 2020-39  
effective June 9/20]

"Applicant" means any person authorized in writing by the owner(s) of any land, building or structure for which an Application is made.

[By-law 2020-39  
effective June 9/20]

"Application" means an application made to the Committee under Section 45, 53 or 57 of the Act.

"Chair" means the Chair of the Committee appointed under subsection 44(7) of the *Planning Act*;

"Committee" means the Town of Caledon Committee of Adjustment established in accordance with section 44 of the *Planning Act*;

[Definition "*Electronic Hearing*" removed, By-law 2022-029 effective April 26/22]

[Definition  
"*Hearing*" deleted  
and replaced,  
By-law 2022-029,  
effective April  
26/22]

"Hearing" means any hearing of the Committee of Adjustment held in person and/or electronic means, or another means as determined by the *Secretary-Treasurer*.

"Member" means any member of the Committee and includes the Chair;

"Pecuniary Interest" means a direct or indirect pecuniary (monetary) interest within the meaning of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50;

"Point of Order" means any alleged breach of the rules or irregularity in the proceedings of a Hearing;

"Point of Privilege" means a statement calling attention to a matter where the integrity, character or reputation of an individual, individuals or the entire Committee, or the ability of an individual to participate, is perceived to be in question;

"Public Notice" means the public notice of an Application as prescribed by the Act.

"Quorum" means a majority of all the Members, in accordance with the *Planning Act*, who are required to be present at a Hearing in order for business to be conducted;

"Secretary-Treasurer" means the Secretary-Treasurer appointed by the Committee adjustment appointed under subsection 44(8) of the *Planning Act*.

"Vice Chair" means the Vice Chair of the Committee appointed under subsection 44(7) of the *Planning Act*.

[By-law 2020-39  
effective June 9/20]

## **2. APPLICATION**

- 2.1 The procedures contained in this by-law shall be observed in all proceedings of the Committee and shall be the procedures for the order and dispatch of Hearings conducted by the Committee.
- 2.2 Procedural matters not governed by the provisions of this by-law shall be governed by the provisions of the Town's Procedural By-law governing Council and Committees of Council.
- 2.3 In the event of a conflict between this by-law and the *Planning Act*, the *Planning Act* prevails.

## **3. CALLING OF HEARINGS**

- 3.1 The Secretary-Treasurer shall prepare a schedule of Hearings on an annual basis.
- 3.2 Where a Hearing needs to be rescheduled, the Secretary-Treasurer shall ensure that the new Hearing date satisfies all legislative notification requirements.
- 3.3 Where it is determined by the Secretary-Treasurer, in consultation with the Chair, that there are insufficient agenda items for a Hearing, the Secretary-Treasurer shall cancel the Hearing.
- 3.4 Members shall be provided with the Hearing agenda five (5) days prior to the Hearing, after which it shall be posted to the Town's website.
- 3.5 The location of all Hearings of the Committee shall be identified on the notice as circulated by the Secretary-Treasurer.

## **4. OFFICE AND VACANCIES OF COMMITTEE MEMBERS**

- 4.1 The Committee shall be composed of seven (7) Members appointed by Town Council. The term runs concurrent with the Term of Council or until such time as successor(s) are appointed.
  - 4.1.1 A member shall not be appointed for more than three (3) consecutive terms of Council (for a total of 12 years). Any interim appointments are not to be included in the consideration of the total term of appointment of the member.

- 4.2 Subject to paragraphs 4.4 and 4.5 of this by-law, a vacancy on the Committee shall occur if a Member is absent for three (3) successive Hearings without confirmation from Council.
- 4.3 A Member who is unable to carry out his/her duties through illness or otherwise shall provide a note to the Secretary-Treasurer. The Secretary-Treasurer shall immediately notify the Town Clerk of the Member's absence and the anticipated date of return. Council shall then confirm the absence or deem the seat vacant. Upon Council's confirmation, a Member may be absent from his/her seat for three (3) successive Hearings from the date of his/her notice of illness or otherwise.
- 4.4 The Members shall appoint one Member as Chair and one Member as Vice-Chair for a two-year term.
- 4.5 After the two-year term, members shall appoint the Vice-Chair to serve as Chair and shall appoint a Vice-Chair.
- 4.6 In an election year, if a vacancy should occur, the seat shall remain vacant until Council has completed its membership appointment for the new term.

## 5. QUORUM

- 5.1 A vacancy in the membership or 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.
- 5.2 If Quorum is not obtained 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 Hearing shall stand adjourned until the next appointed time.
- 5.3. If a *Member* participating through electronic means experiences connection issues and cannot participate electronically, they shall be deemed to have left the *meeting*.

[Section 5.3 deleted and replaced, By-law 2022-029 effective April 26/22]

## 6. HEARING PROCEDURES AND VOTING

- 6.1 In accordance with the provisions of the *Municipal Act, 2001*, all Hearings of the Committee shall be open to the public.
- 6.2 The electronic format or platform used for a *Hearing* shall be determined by the *Secretary-Treasurer* taking into consideration the prevailing circumstances and context for a *Hearing*.
- 6.3 The Chair shall call order of the Hearing.
- 6.4 The Chair shall call for disclosure of any Pecuniary Interest of Members.
- 6.5 The Chair shall receive Minutes of the previous Committee Hearings.
- 6.6 The Chair shall call for requests for deferral or withdrawal of any matters before the Committee.
- 6.7 The Chair, with permission of the Committee, shall determine the order of the items on the agenda to facilitate the Hearing in the most expeditious manner.
- 6.8 The Chair shall ask the Applicant/Agent to introduce themselves and if they have any new information regarding their Application.
- 6.9 The Chair shall ask the Town Representative if they have any new information regarding the Application.
- 6.10 The Chair shall ask Members if they have any questions for the Applicant/Agent.

[Section 6.2 added, By-law 2022-029 effective April 26/22]

- 6.11 The Chair shall:
- 6.11.1 Invite those present having an interest in the Application to come forward, identify themselves and make submissions in respect of their interest; and
  - 6.11.2 Ask questions of clarification and permit the Members to ask questions relevant to the Application before them.

[Subsections 6.11.3 through 6.11.5 deleted and replaced, By-law 2022-29 effective April 26/22]

- 6.11.3 Members of the public may participate either in person or by electronic means, unless as a result of an emergency declared by the Premier, Cabinet, or the Municipal Head of Council under the *Emergency Management and Civil Protection Act*, whereby in person attendance may be restricted to protect the health and safety of all individuals.
- 6.11.4 Members of the public must submit a delegation request to the *Secretary-Treasurer* to participate in the *Hearing*.
- 6.11.5 Members of the public may submit written correspondence to the *Secretary-Treasurer* to be included as part of the public record.

[Subsections 6.11.6 and 6.11.7 deleted in their entirety, By-law 2022-29 effective April 26/22]

- 6.12 Following submissions from all interested parties, the Committee shall give the Applicant/Agent an opportunity to respond to any comments received from the Members, commenting agencies and interested parties. This response shall be limited to five (5) minutes.
- 6.13 Following submissions from members of the public and any response by the Applicant/Agent, the Committee may ask additional questions relevant to the Application before them and shall consider the issues raised by the Applicant/Agent, commenting agencies or interested parties.
- 6.14 The Committee shall:
  - 6.14.1 Review the draft condition(s) to determine if they are reasonably related to the Application and make necessary changes; and
  - 6.14.2 Confirm with the Applicant/Agent whether he/she is able to indicate acceptance of the draft conditions should the Application be favourably considered.
- 6.15 Following the Applicant's response in respect of the draft conditions, the Committee shall consider the issues raised by the Applicant/Agent and any respondents, and the Chair shall:
  - 6.15.1 Ask Members for a motion with respect to the disposition of the Application, being one of the following: approval, refusal, deferral, or approval with conditions, and shall set out the reasons for such disposition;
  - 6.15.2 Upon receipt of a motion from a Member, ask for a seconder to the motion;
  - 6.15.3 Permit discussions on the motion;
  - 6.15.4 Call for a vote by the Committee on the motion by the Chair calling out the name of each Member to record their vote.
  - 6.15.5 If the initial motion fails, request a new motion and continue until a majority of the Members approve a motion.
- 6.16 All Members present shall be required to vote and if any Member refuses to do so, they shall be deemed to be voting in the negative.
- 6.17 The Chair shall indicate his/her vote only after all other Members have voted. Notwithstanding the foregoing, when the Committee comprises an

[Subsection 6.15.4 deleted and replaced, By-law 2022-29 effective April 26/22]

even number, and still has Quorum, the Chair may refrain from voting to preclude a tie vote.

- 6.18 Any motion on which there is a tie vote, the motion shall be deemed to be defeated.
- 6.19 Once a motion has been moved, seconded and carried, the Chair shall announce the decision of the Committee.
- 6.20 No discussion shall be permitted after the Chair has announced the decision of the Committee.
- 6.21 Any approval granted by the Committee may be for such time and subject to such terms and conditions and agreements as the Committee considers advisable and as set out in the decision.
- 6.22 A written decision shall be prepared for each Application; set out any conditions imposed by the Committee; and be signed by all Members who concur with the decision.
- 6.23 The Secretary-Treasurer shall be permitted at any time and without prior notice to the parties to correct a technical or typographical error, error in calculation or similar minor error made in the minutes or in a decision.

## **7. RULES OF CONDUCT AND DEBATE**

- 7.1 It shall be the duty of the Chair to:
  - 7.1.1 Call the Hearing to order;
  - 7.1.2 Ensure that a Quorum is established and maintained throughout the course of the Hearing;
  - 7.1.3 Put to vote all motions that arise in the course of the proceedings and announce the result of each vote;
  - 7.1.4 Decline to put to vote motions that infringe upon the terms of this by-law;
  - 7.1.5 Uphold on all occasions this by-law and the observance of order and decorum amongst the Members and attendees in accordance with this by-law;
  - 7.1.6 Rule on Points of Privilege and Points of Order and decide all questions relating to the orderly procedure of the Hearing;
  - 7.1.7 Adjourn the Hearing without question or suspend the Hearing to a time to be named by the Chair, if considered necessary; and
  - 7.1.8 Adjourn the Hearing at the earlier of when the business is concluded, or at the designated time.
- 7.2 A Member shall not:
  - 7.2.1 Discuss an Application with an Agent, Applicant, or member of the public prior to the Hearing;
  - 7.2.2 Disobey the terms of this by-law;
  - 7.2.3 Disturb the other Members by any disruptive or distracting conduct, including private conversations or electronic communications among Members during a Hearing;
  - 7.2.4 Display any behaviour which may be considered disruptive, inconsiderate or disrespectful, or use profane or offensive words or insulting expressions;
  - 7.2.5 Leave their seat or make any noise or disturbance while a vote is being taken;
  - 7.2.6 Speak until recognized by the Chair;

- 7.2.7 Interrupt a Member who is speaking, except to raise a Point of Order or a Point of Privilege;
  - 7.2.8 Leave the Hearing at any time without advising the Chair;
  - 7.2.9 Speak more than once to an item until every Member who desires to speak has spoken;
  - 7.2.10 Comment or question on matters other than those directly pertaining to the subject Application before him or her; and
  - 7.2.11 Use their status on the Committee for personal or political gain.
- 7.3 In the event that a Member persists in a breach of section 7.2 above, after having been called to order by the Chair, the Chair shall without debate call the question "Shall the Member be ordered to leave his or her seat for the duration of the Hearing?", and this question shall not be debateable.
- 7.4 If the Committee decides the question set out above in the affirmative by a majority vote of the Members present, the Chair shall order the Member to leave his or her seat for the duration of the Hearing.
- 7.5 If the Member apologizes, the Committee may permit the Member to resume his or her seat.
- 7.7 In the event that a Member engages in grave misconduct in the course of their duties as a Member, Council may remove said Member from the Committee.
- 7.8 Attendees at a Hearing shall maintain order and shall not display signs or placards, applaud, heckle or engage in telephone or other conversation or any behaviour which may be considered disruptive, inconsiderate, disrespectful or intimidating to others.
- 7.9 Any person who disrupts a Hearing shall be asked by the Chair to stop the disruptive behaviour and if the person persists they shall be asked to leave the Hearing.
- 7.11 All cell phones and electronic devices, except those in use to record or otherwise facilitate the Hearing, shall be turned off or otherwise set so as to not emit any audible sound during a Hearing.
- 7.12 Any person who contravenes any provision of this section, may be expelled from the Hearing by the Chair.

## **8. POINT OF PRIVILEGE**

- 8.1 A Member may at any time raise a Point of Privilege directing attention to a matter that affects the integrity, character or reputation of an individual, individuals, or the entire Committee, or the ability of an individual to participate.
- 8.2 A Point of Privilege shall take precedence over any other matter.
- 8.3 A Member shall not be permitted to enter into any debate or introduce any motion not related to the Point of Privilege.
- 8.4 The Chair shall decide upon the Point of Privilege and advise the Members of the decision.
- 8.5 Unless a Member immediately appeals the Chair's decision, the decision of the Chair shall be final.
- 8.6 If the decision of the Chair is appealed, the question "Shall the ruling of the Chair be upheld?" shall be called without debate, and its results shall be final.
- 8.7 When the matter has been determined to be a Point of Privilege, the Member shall be afforded an opportunity to propose a motion in relation to that Point of Privilege.

## **9. POINT OF ORDER**

- 9.1 A Member may at any time raise a Point of Order to a perceived violation of this by-law.
- 9.2 The Chair shall decide upon the Point of Order and advise the Members of the decision.
- 9.3 Unless a Member immediately appeals the Chair's decision, the decision of the Chair shall be final.
- 9.4 If the decision of the Chair is appealed, the question "shall the ruling of the Chair be upheld?" shall be called without debate, and its results shall be final.

## **10. ADJOURNMENT**

- 10.1 All Hearings shall stand adjourned when the Committee has completed all business as listed on the agenda, or at 4:30 p.m., whichever is earlier, unless otherwise determined through a motion by a majority of the Members present.
- 10.2 If there are remaining Applications on the agenda which have not been heard by the time required to adjourn the Hearing, the Secretary-Treasurer shall assign a date to resume the public Hearing, and further Public Notice shall be required to be provided to those in attendance who have requested.

## **11. DECISIONS OF THE COMMITTEE**

- 11.1 No decision of the Committee on an Application is valid unless it is concurred by the majority of the Members that heard the Application, and the decision of the Committee shall be in writing and shall set out the reasons for the decision and shall be signed by the Members who concur in the decision.
- 11.2 A copy of the Committee's written decision shall be prepared and issued in accordance with the provisions of the *Planning Act*.

## **12. CONFLICT OF INTEREST**

- 12.1 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.
- 12.2 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.
- 12.2 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 clerk of the municipality or the secretary of the committee or local board.

## **13. REQUESTS FOR DEFERRAL OR WITHDRAWAL**

- 13.1 A request for deferral of a matter on the scheduled Hearing date by the Applicant/Agent must be for reasonable cause and must be made at the Hearing or by a written request.
- 13.2 If the Committee grants the request for deferral, the Committee in consultation with the Secretary-Treasurer shall set a new Hearing date for the Application to be heard and indicate any other requirements of the deferral, such as re-notification, amendment, and the deferral fee.

- 13.3 Any deferral granted by the Committee shall be for a period of six (6) months or sooner, to a maximum of three (3) deferrals per Application.
- 13.4 The Applicant/Agent may request that an Application be withdrawn. Such requests may be made to the Secretary-Treasurer in advance of the Hearing date or at the Hearing. If the Committee grants the request for withdrawal, the Secretary-Treasurer shall record that the Application was withdrawn from the Committee's agenda and the Committee shall take no further action on the matter at the Hearing.

#### **14. GENERAL**

- 14.1 Following the Application by the owner/Agent, for any land, building or structure located within the Town of Caledon, but prior to the Hearing where the Application shall be considered by the Committee, the Members may conduct individual site visits.
- 14.2 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.

#### **15. REPEALMENT**

- 15.1 That By-law 2015-008 be hereby repealed.

#### **16. SHORT TITLE**

- 16.1 The short title of this by-law is the Committee of Adjustment Procedural By-law.

**Enacted by the Town of Caledon Council this 18<sup>th</sup> day of December, 2018.**

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"Allan Thompson"  
Allan Thompson, Mayor

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"Amanda Fusco"  
Amanda Fusco, Interim Town Clerk