

BYLAW 45-2021
BYLAW ENFORCEMENT ORDER REVIEW COMMITTEE BYLAW

Section 145 of the *Municipal Government Act*, RSA 2000, c M-26 ("Municipal Government Act"), allows the council of a municipality to pass bylaw in relation to the establishment and function of council committees and other bodies; and

Section 8(d) of the Municipal Government Act allows the council of a municipality to pass bylaws that provide for an appeal, the body that is to decide the appeal, and related matters; and

Council wishes to establish a committee to hear appeals from orders issued under the Municipal Government Act and Strathcona County's bylaw, where those Orders do not already have a legislated appeal process.

Council enacts:

PART I – DEFINITIONS AND INTERPRETATION

Definitions

1 In this bylaw:

- (a) "*Boards and Committees Bylaw*" means Strathcona County's *Boards and Committees Bylaw 28-2021*;
- (b) "Chief Commissioner" means the chief administrative officer of the County, or delegate;
- (c) "Committee" means the Bylaw Enforcement Order Review Committee, established by this bylaw;
- (d) "County" means the municipal corporation of Strathcona County, a specialized municipality established under the authority of the Municipal Government Act, RSA 2000, c M-26 and Order in Council 761/95;
- (e) "*Meeting Procedures Bylaw*" means Strathcona County's *Meeting Procedures Bylaw 21-2021* or any replacement thereof; and
- (f) "order" means an order issued by the County under:
 - (i) a Strathcona County bylaw;
 - (ii) the Municipal Government Act;
 - (iii) any other provincial legislation.

Interpretation

2 The following rules apply to interpretation of this bylaw:

- (a) margin notes in this bylaw are for ease of reference only;
- (b) gender-specific words, phrases, and references are intended to be gender-neutral, and the singular includes the plural as the context requires;
- (c) every provision of this bylaw is independent of all other

provisions and if any provision of this bylaw is declared invalid by a Court, all other provisions of this bylaw remain valid and enforceable; and

(d) references to bylaws and enactments in this bylaw include amendments and replacement bylaws and enactments, and regulations and orders thereunder.

PART II – MANDATE

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| Committee Established | 3 | (1) The Bylaw Enforcement Order Review Committee is established as a Council Committee.

(2) The Bylaw Enforcement Order Review Committee is an Appeal Committee. |
| Permitted Review Hearings | 4 | (1) The Bylaw Enforcement Order Review Committee is authorized to conduct review hearings to evaluate the terms of orders.

(2) The Bylaw Enforcement Order Review Committee is not authorized to review orders that are under the legislated jurisdiction of:

(a) the Subdivision and Development Appeal Board;

(b) the Land and Property Rights Tribunal; or

(c) any other legislated board, committee, or tribunal. |

PART III – MEMBERSHIP

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| Committee Members | 5 | The Committee is composed of the members of the Subdivision and Development Appeal Board. |
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PART IV – APPLICATION FOR REVIEW HEARING

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| Application Process | 6 | A person who receives an order may apply to the Committee for a review of the order. |
| | 7 | The application must be in the form approved by the Chief Commissioner. |
| | 8 | The application must be received by the Chief Commissioner no later than 14 days after the date the order is received by the applicant. |
| | 9 | As part of the application, the applicant must pay the appeal fee as set out in the County's <i>Fees, Rates, and Charges Bylaw, 49-2020</i> . |

- Scheduling Review Hearing
- 10 The Chief Commissioner will forward the application to the Committee within five days of receiving the application.
 - 11 The Committee must hold a review hearing within 30 days of receiving the application from the Chief Commissioner.
 - 12 The Committee must provide the applicant with at least seven days of notice of the date of the review hearing.

PART V – REVIEW HEARING

- Review Hearing Panel
- 13 The Chair of the Committee will appoint between two and five members of the Committee to form a panel to conduct the review hearing.
 - 14 If the Chair and Vice-chair of the Committee are not available, the members of the panel will appoint a Chair for the review hearing, from among the members of the panel.
 - 15 Quorum for a review hearing is all members of the panel who were present for the entire review hearing, and in any case at least 2 members.

- Persons Entitled to Present
- 16 The following persons are entitled to present at the review hearing:
 - (a) the applicant;
 - (b) if the order is in respect of a property and the applicant is not the owner of the property, the owner of the property; and
 - (c) the Chief Commissioner.
 - 17 Any person who is entitled to present at the review hearing will be given a reasonable amount of time to present their information and argument.
 - 18 The Chair of the panel may permit any other person to present at a review hearing and may set limits on the time and content of the presentation.

- Hearing Procedures
- 19 The Chair of the panel will provide an overview of the hearing procedure at the start of the hearing.

- Questions by the Panel
Authority of Committee
- 20 The panel may ask questions of the hearing participants.
 - 21 Unless specified in the enactment the order is issued under, the Committee is authorized to confirm, vary, or reverse the order.

- Decision of the Committee
- 22 At the conclusion of the presentations, the panel may adjourn the review hearing to prepare the Committee’s decision.

- 23 (1) In arriving at its decision, the majority vote of those members of the panel who were present for the entire review hearing will constitute the decision of the Committee.
- (2) If there are an equal number of votes for and against the appeal, the appeal is denied.
- 24 (1) Within 7 days of the conclusion of a review hearing, the Committee must provide its decision, including the written reasons of the majority.
- (2) In the event of a tied vote the Committee is only required to provide the reasons the appeal is denied.
- (3) The dissenting members of the panel may provide reasons for the dissent.
- 25 The decision and reasons must be provided to every person who was entitled to present at the review hearing.
- No Costs Award 26 The Committee is not authorized to award costs.

PART VI – COMMITTEE PROCEDURES

- Relationship to Other Enactments 27 The rules, procedures, and processes set out in the *Boards and Committees Bylaw* and the *Meeting Procedures Bylaw* apply to the meetings of the Committee, including review hearings.
- 28 The Committee may make rules for the conduct of its members, business, review hearings, and meetings, so long as those rules are consistent with this bylaw, the Municipal Government Act, the *Boards and Committees Bylaw*, and the *Meeting Procedures Bylaw*.
- 29 The Committee may alter the rules, procedures, and processes set out in the *Boards and Committees Bylaw* and the *Meeting Procedures Bylaw* where they are inconsistent with administrative fairness and administrative justice.
- 30 Where there is a conflict between the provisions of this bylaw and the provisions in the *Boards and Committees Bylaw* or the *Meeting Procedures Bylaw*, the provisions of this bylaw take precedence.
- Records of Proceedings 31 The Committee must keep a record of all the Committee's proceedings.
- 32 (1) The records of the Committee, including information and documents submitted before or during a review hearing, are public records and must be made available for public inspection, upon request.

(2) Records that contain personal information, or that may be kept private under the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25, may be redacted or withheld from public viewing.

PART VII – GENERAL

Consequential
Amendment

33 Bylaw 28-2021, the *Boards and Committees Bylaw*, is amended as follows:

(a) Section 11(a.1) is added immediately after section 11(a):

11(a.1) Appeal Committees;

(b) Section 28.1 is added immediately after section 28:

28 An Appeal Committee will hold at least one general meeting each year and will hold review hearings as necessary to fulfill the Appeal Committee’s mandate.

(c) Section 39.1 is added immediately after section 39:

39.1 An Appeal Committee is not required to create a work plan

(d) Section 43.1 is added immediately after section 43:

43.1 Despite section 43, an Appeal Committee is not required to report to Priorities Committee.

Effective Date

34 This bylaw comes into effect on October 18, 2021.

FIRST READING: September 14, 2021

SECOND READING: September 14, 2021

THIRD READING: September 14, 2021

SIGNED THIS 29th day of September, 2021.

Rod Frank

MAYOR

Mavis Nathoo

DIRECTOR, LEGISLATIVE AND LEGAL
SERVICES