



City of Kingston Appeals Committee – Appellant’s Guide

This guide provides people appealing a decision to the City of Kingston Appeals Committee with general information about the process before, after and during an appeal *hearing*. It does not consider or address every circumstance that might arise in your appeal. Read through this document, and if you have questions, contact the City Clerk’s Department at cityclerk@cityofkingston.ca or 613-546-4291 extension 1207.

Consider Seeking Legal Advice

The *Appeals Committee* may make decisions which affect you and your interests or rights.

This guide does not provide legal advice. You should consider getting legal advice from a lawyer or a paralegal about your appeal. In deciding whether to get legal advice, you should consider:

- the complexity of your appeal;
- the risk of significant negative impact on your interests or rights if your appeal is unsuccessful; and
- your understanding of the *Appeals Committee’s* process and the legal and factual issues in your appeal.

Commonly Used Terms

Appellant: An *appellant* is a person who has made an appeal to the *Appeals Committee*.

Appeals Committee: The *Appeals Committee* consists of two members of Council and three residents of Kingston who are appointed by Council. Council has given the *Appeals Committee* the authority to make decisions on appeals from certain decisions made by City of Kingston staff.

Clerk: The *Clerk* is a City of Kingston staff member responsible for coordinating the *Appeals Committee* and is the main point of contact for *Appellants*. The *Clerk* organizes the meeting agenda, receives documents submitted by the parties and distributes them to *Appeal Committee* members, and issues decisions on behalf of the *Appeals Committee*.

Chair: The *Chair* is a member of the *Appeals Committee* who generally supervises and directs the activities of the *Appeals Committee*.



Hearing: A *hearing* is when the *Appeals Committee* hears the parties' evidence and arguments and decides an appeal.

Minor variance: A *minor variance* is a variance from the requirements of either the *Fences By-Law* or the *Signs By-Law* that, in the opinion of the *Appeals Committee*, maintains the general intent and purpose of the by-law or if the *Appeals Committee* is satisfied that the variance is appropriate;

Motion: A *motion* is a request for a temporary decision or order on one or more issues before the *Appeals Committee* reaches a final decision on an appeal, including a request for an adjournment (to move the *hearing* to another date) or other procedural requests;

Notice of Appeal: A *Notice of Appeal* is the document required to be filed with the *Clerk* in order to begin an appeal to the *Appeals Committee* or to request that the *Appeals Committee* grant a *minor variance*;

Order: An *order* is an order made by a City employee requiring repairs to be made to a property in order to comply with the standards prescribed in the *Property Standards By-Law*; and

Representative: A *representative* is a person authorized by an *appellant* to represent them in their appeal. A *representative* may be an *appellant's* business partner, family member or friend. A *representative* may not charge the *appellant* any money for representing them in their appeal.

Matters Heard by the Appeals Committee

A person may appeal to the *Appeals Committee* from the following decisions:

- an *order* requiring repairs to be made to a property in order to comply with the standards prescribed by *City of Kingston By-Law Number 2005–100* (the “**Property Standards By-Law**”);
- requiring the muzzling of a dog under *City of Kingston By-Law Number 2021–166* (the “**Animal Control By-Law**”);
- refusing an application for the grant or renewal of a permit or suspending or revoking a permit under *Animal Control By-Law*;
- refusing an application for the grant or renewal of a licence or suspending or revoking a licence under *City of Kingston By-Law Number 2006–213* (the “**Business Licensing By-Law**”);



- refusing an application for the grant or renewal of a licence or suspending or revoking a licence under *City of Kingston By-Law Number 2021–10* (the “**Short Term Rental By-Law**”); and
- refusing an application for the grant or renewal of a licence, imposing conditions on a licence, or suspending or revoking a licence under *City of Kingston By-Law Number 2022–6* (the “**Transportation Network Company By-Law**”).

A person may also request the following from the *Appeals Committee*:

- the grant of a *minor variance* from the requirements of *City of Kingston By-Law Number 2003–405* (the “**Fences By-Law**”); and
- the grant of a *minor variance* from the provisions of *City of Kingston By-Law Number 2009–140* (the “**Signs By-Law**”).

Commencing an Appeal

Complete and Submit the Notice of Appeal

To begin an appeal, you must complete the *Notice of Appeal* form. City staff will give you a copy of this form when you receive an *order*, when you apply for a *minor variance*, or on request.

Complete the form and submit it before the deadline noted on the form.

You may submit a *Notice of Appeal* in the following ways:

- By email to cityclerk@cityofkingston.ca
- In person to the Clerk’s Department, first floor of Kingston City Hall, 216 Ontario Street.
- By registered mail to:
Kingston City Hall
Attention: Clerk’s Department
216 Ontario Street
Kingston ON K7L 2Z3

Paying the Fee

You must pay the required appeal fee in order to commence an appeal. The fee is set out in the *Notice of Appeal* form. You may pay the fee in the following ways:

- By cheque or money order payable to “The Corporation of the City of Kingston”



when filing a *Notice of Appeal* by mail or in-person.

- By cash, credit or debit in-person at the Payment Centre located on the first floor of Kingston City Hall, 216 Ontario Street.

If you do not pay the required fee, the *Appeals Committee* may decide not to hear your appeal.

Dismissing an Appeal without a Hearing

The *Appeals Committee* may dismiss an appeal without a *hearing* if it decides that the appeal is frivolous, vexatious or was commenced in bad faith, the appeal is about something outside the *Appeals Committee's* jurisdiction, or the *appellant* has abandoned the appeal.

If the *Appeals Committee* intends to dismiss an appeal without *hearing*, it will first give the *appellant* an opportunity to make written submissions.

Preparing for the Hearing

After you submit a *Notice of Appeal*, the *Clerk* will contact you and provide you with a notice of *hearing* with the date, time and location of the *hearing* of your appeal.

You may attend the *hearing* in-person or virtually via Zoom. If you wish to attend via Zoom, please advise the *Clerk* as soon as possible.

Evidence

At the *hearing*, you (or any other party to the appeal) may present evidence to try to prove facts. Evidence may include oral testimony, documents or any other thing.

If you intend to give a witness' oral testimony, a document or another thing as evidence at the *hearing*, you must, as least three days before the *hearing*, disclose to the other party (or parties): (a) a list of your witnesses and a brief description of their anticipated testimony; (b) the existence of every document or other thing you intend to give as evidence; and (c) a copy of every document you intend to give as evidence.

The other parties must do the same.

A document or thing does not automatically become evidence once it has been given to the *Appeals Committee* or the other parties (either before or during a *hearing*). It is up to the *Appeals Committee* to decide whether to accept a document or thing as evidence during the *hearing*.



Representation

You may authorize a *representative* to represent you in your appeal. If you wish to allow a *representative* to represent you, you must give your *representative's* name and contact information to the *Clerk* at least three days before the *hearing* of your appeal.

Motions

An *appellant* may request a temporary decision on an issue before the *Appeals Committee* by making a *motion*. The most common type of *motion* is a request for an adjournment (to move the *hearing* to another date) or other procedural request.

You may make a *motion* by delivering a notice of *motion* to the *Appeals Committee* and all other parties. In the notice of *motion*, you must set out the temporary decision you are requesting the *Appeals Committee* to make, the reasons the *Appeals Committee* should make that decision, the evidence supporting your request, and your proposed *hearing* format for the *motion* (in person or in writing).

You must deliver your request for a *motion*, and all supporting materials, at least five days before the *hearing* of your appeal.

Other Parties

A person (other than the *appellant* and the City) may request to participate at a *hearing*. The *Appeals Committee* may add that person as a party to the appeal if it finds that the person has a significant interest in the appeal or if the person meets the criteria for participation in the relevant by-law. If the *Appeals Committee* adds a person as a party to an appeal, that person may generally participate in the *hearing* in the same way as the other parties.

At the Hearing

Before the start of your *hearing*, the *Chair* will likely provide everyone with an overview of the process and ask if you have any questions regarding the procedures. During the *hearing*, you and the other parties will have an opportunity to present your cases by asking witnesses questions, introducing relevant things and documents as evidence and making arguments about the facts and the law.

Members of the *Appeals Committee* are neutral. Therefore, they cannot give you legal advice or tell you how to present your appeal.

Everyone at the *hearing* is expected to be courteous and respectful.



This is the typical process (although it may vary from *hearing* to *hearing*):

1. The *Chair* introduces the *hearing* on the agenda.
2. The City (or its *representative*) may present its evidence by calling witnesses to testify and introducing documents or other things as evidence.
3. After the City calls each witness, the *appellant* (or its *representative*) may ask the witness questions (cross-examine them).
4. The *Appeals Committee* members may then ask the witness questions.
5. Lastly, the City may ask the witness follow-up questions to the witness' answers of the *appellant's* or the *Appeals Committee's* questions.
6. When the City has finished presenting its evidence, the *appellant* (or their *representative*) may present its evidence by calling witnesses to testify and introducing documents or other things as evidence.
7. After the *appellant* calls each witness, the City (or its *representative*) may ask the witness questions (cross-examine them).
8. The *Appeals Committee* members may then ask the witness questions.
9. Lastly, the *appellant* may ask the witness follow-up questions to the witness' answers of the City's or the *Appeals Committee's* questions.
10. After all of the evidence has been presented, the City and then the *appellant* (or their *representatives*) may make closing statements summarizing why the appeal should be granted or dismissed.

After the *hearing* is finished, the *Appeals Committee* will consider the parties' evidence and arguments and make its decision. The *Appeals Committee* may decide the appeal on the same day as the *hearing* or it might "reserve" its decision (which means it will take more time to decide).

If the *Appeals Committee* decides the appeal on the same day as the *hearing*, it may ask the parties to briefly leave the *hearing* room (or the *Appeals Committee* members may briefly leave the *hearing* room) in order to consider the evidence and arguments without the parties present. When it is ready, the *Appeals Committee* will give its decision orally with the parties present.

If the *Appeals Committee* reserves its decision, the *Appeals Committee* members may



meet, in person or remotely, as many times as necessary to consider the evidence and arguments and to make a decision.

In either case, the *Clerk* will send the parties a written copy of the decision.

A party may request that the *Appeals Committee* give reasons for its decision.

Types of Decisions

The *Appeals Committee* may make different types of decisions depending on the type of appeal. See the list below for more details.

Appeal from a *Property Standards By-Law* Decision

- To confirm the *order*;
- To modify the *order*;
- To rescind the *order*; or
- To extend the timeline for compliance with the *order*.

Appeal from a Decision under the *Animal Control By-Law*

- to affirm the decision; or
- to direct staff to issue, renew or reinstate the permit, and impose any conditions the *Appeals Committee* deems appropriate.

Appeal from a Requirement to Muzzle a Dog under the *Animal Control By-Law*

- to affirm the City decision; or
- to exempt the owner in whole or in part from the requirement.

Appeal from a Decision under the *Business Licensing By-Law*

- to affirm the decision; or
- to direct staff to issue, renew or reinstate the licence.

Appeal from a Decision under the *Short-Term Rental By-Law*

- to affirm the decision; or
- to direct staff to issue, renew or reinstate the licence, and impose any conditions the *Appeals Committee* deems appropriate.

Appeal from a Decision under the *Transportation Network Company By-Law*

- to confirm the decision;



- to modify the decision; or
- to rescind the decision.

Request for a *Minor Variance* under the *Fences By-Law*

- deny the request for a *minor variance*; or
- grant the *minor variance* and impose any conditions the *Appeals Committee* deems appropriate.

Request for a *Minor Variance* under the *Signs By-Law*

- deny the request for a *minor variance*; or
- grant the *minor variance* and impose any conditions the *Appeals Committee* deems appropriate.

Challenging a Decision

A party may be able appeal an *Appeals Committee* decision or to apply for judicial review of an *Appeals Committee* decision by the Divisional Court. You may wish to contact a lawyer to seek legal advice. You may also refer to this [guide](#) on the Ontario Superior Court of Justice website.