

BYLAW NO. 9972

The Saskatoon Appeal Board Bylaw, 2024

The Council of the City of Saskatoon enacts:

Short Title

1. This Bylaw may be cited as *The Saskatoon Appeal Board Bylaw, 2024*.

Definitions

2. In this Bylaw:
 - (a) “**Board**” means the Saskatoon Appeal Board established pursuant to section 4;
 - (b) “**financial interest**” means a financial interest as described in section 115 of *The Cities Act*, with any necessary modification.

Purpose

3. The purpose of this Bylaw is to establish the Board as well as the rules, procedure and time limits of the Board.

Board Established

4.
 - (1) The Saskatoon Appeal Board is established.
 - (2) A reference to the Saskatoon Appeal Board in any City enactment is a reference to the Saskatoon Appeal Board established pursuant to subsection (1).

Board Membership and Organization

5.
 - (1) Council shall:
 - (a) appoint a secretary of the Board;

- (b) appoint 7 persons to serve as members of the Board;
 - (c) determine the term of office, duties and remuneration and expenses, if any, of the secretary and each member of the Board; and
 - (d) determine the manner in which vacancies of the Board are to be filled.
- (2) No member of Council is eligible to sit as a member of the Board.
 - (3) No member of the Board shall hear or vote on any decision that relates to a matter with respect to which the member has a financial interest.
 - (4) No member or secretary of the Board shall carry out any power, duty or function of that office until the member or secretary has taken an oath in the form set out in Schedule "A".
 - (5) The members of the Board shall choose a chairperson from among themselves.
 - (6) The chairperson of the Board may:
 - (a) appoint panels of not less than 3 members and not more than 5 members of the Board; and
 - (b) appoint a chairperson for each panel.
 - (7) Each panel appointed pursuant to subsection (6) may hear and determine appeals concurrently as though it were the Board in every instance.
 - (8) Quorum shall be:
 - (a) for the purposes of hearing and determining appeals, 3 members of a panel; and
 - (b) for the purposes of conducting other business of the Board, a majority of the members of the Board.
 - (9) A decision of the majority of the members of the Board or a panel of the Board is a decision of the Board.

Jurisdiction of Board

- 6. (1) The Board has exclusive jurisdiction to hear and determine:

- (a) appeals of City decisions respecting permits, licences and orders to remedy that are permitted to be made pursuant to the following bylaws:
 - (i) *The Adult Services Licensing Bylaw, 2012;*
 - (ii) *The Business Licence Bylaw, 2021;*
 - (iii) *The Cannabis Business Licence Bylaw, 2018;*
 - (iv) *The Drainage Bylaw, 2021;*
 - (v) *The Fire and Protective Services Bylaw, 2001;*
 - (vi) *The Private Swimming Pools Bylaw, 2000;*
 - (vii) *The Property Maintenance & Nuisance Abatement Bylaw, 2003;*
 - (viii) *The Sewer Use Bylaw, 2017;*
 - (ix) *The Traffic Bylaw;*
 - (x) *The Tree Protection Bylaw, 2024;*
 - (xi) *The Underground Encroachment and Sidewalk Safety Bylaw, 2012;*
 - (xii) *The Vehicles for Hire Bylaw, 2019;*
 - (xiii) *The Waste Bylaw, 2022;*
 - (b) appeals of City decisions to deny or suspend access to Access Transit; and
 - (c) in respect to the City's lot allocation process, requests for forgiveness of City mortgages.
- (2) Appeals of any decisions mentioned in subsection (1) that were initiated prior to the coming into force of this Bylaw shall be continued under the jurisdiction of the Board.
 - (3) Decisions mentioned in subsection (1) that were made prior to the coming into force of this Bylaw may, subject to the requirements set out in this Bylaw, be appealed to the Board.

Persons Entitled to Appeal

7. (1) An appeal may only be made:
 - (a) in the case of a decision respecting a licence or permit, by a person who:
 - (i) was denied a licence or permit or renewal of a licence or permit;
 - (ii) holds a licence or permit that has been suspended or cancelled; or
 - (iii) holds a licence or permit upon which terms or conditions have been imposed;
 - (b) in the case of a decision respecting Access Transit, by the person whose access to Access Transit was denied or suspended;
 - (c) in the case of a decision respecting the City's lot allocation process, by the person seeking forgiveness of a mortgage; and
 - (d) in the case of a decision respecting an order to remedy a contravention, by the person to whom the order to remedy was directed.
- (2) A person mentioned in clause (1)(a), (b) or (c) may appeal a decision of the City if they believe that the City committed an error in its decision.

Notice of Appeal

8. (1) A notice of appeal, together with the filing fee mentioned in section 9, must be filed with the secretary of the Board by personal service, registered mail or ordinary mail:
 - (a) in the case of appeals of decisions respecting licences, permits, Access Transit or forgiveness of a mortgage under the City's lot allocation process, within 30 days after the date the appellant is served or deemed to have been served with the decision of the City; and
 - (b) in the case of appeals of decisions respecting orders to remedy, within 15 days after the date of the order.

- (2) A notice of appeal must be in writing in the form required by the City.
- (3) If, in the opinion of the secretary of the Board, a notice of appeal does not comply with this Bylaw, the secretary shall:
 - (a) notify the appellant of the deficiencies in the notice of appeal; and
 - (b) grant the appellant a 14-day extension to perfect the notice of appeal.
- (4) If the appellant fails to perfect the notice of appeal as required by subsection (3), the secretary of the Board may refuse to file the notice of appeal, which action is deemed to be a refusal by the Board to hear the appeal.
- (5) After receiving a notice of appeal that complies with this Bylaw, the secretary of the Board shall, as soon as is reasonably practicable, provide the City with a copy of the notice of appeal.
- (6) An appeal does not operate as a stay of the decision appealed from unless the Board, on an application by the appellant, decides otherwise.
- (7) If an appellant fails to file an appeal or pay the fee required by section 9 within the time required, the secretary of the Board shall refuse to file the notice of appeal.

Fees

9.
 - (1) An appellant who files a notice of an appeal of a licence or permit decision shall, at the time of filing the appeal, pay a fee of \$50.00 in respect of each notice of appeal.
 - (2) There is no fee to appeal a decision respecting Access Transit, forgiveness of a mortgage under the City's lot allocation process or an order to remedy.
 - (3) The fee mentioned in subsection (1) is non-refundable and shall not be waived or reduced in any circumstances.

Withdrawal of Appeal

10. An appellant may withdraw an appeal for any reason by notifying the secretary of the Board at least 7 days before the date set for the hearing, or as otherwise permitted by either the secretary or the Board.

Notice of Hearing

11. (1) The secretary of the Board shall be responsible for setting the date, time and location of a hearing before the Board, which hearing shall be held no later than 60 days after the date the notice of appeal is filed.
- (2) The secretary of the Board shall not set a hearing date for an appeal unless, in the secretary's opinion, the appellant has complied with all the requirements of this Bylaw.
- (3) The secretary of the Board shall, at least 15 days before a hearing, serve on the appellant and the City a notice stating:
 - (a) the date, time and location of the hearing; and
 - (b) that, if a party fails to appear at the hearing, the Board may:
 - (i) hear and decide the appeal in the absence of the party; or
 - (ii) dismiss the appeal without a hearing.
- (4) The secretary of the Board may serve on the appellant the notice required by subsection (3) by personal service, registered mail or ordinary mail to the address for service indicated on the appellant's notice of appeal.
- (5) After notice has been served pursuant to subsection (4), the appellant, the City and the secretary of the Board may agree to an earlier or later hearing date for the appeal.

Evidence

12. (1) If a party intends to make use of any report, document, record or other written evidence at the hearing of an appeal of a decision respecting:
 - (a) an order to remedy, the party shall file a copy of the materials with the secretary of the Board at least 3 days before the date set for the hearing; and
 - (b) Access Transit or forgiveness of a mortgage under the City's lot allocation process, the party shall file a copy of the materials with the secretary of the Board at least 5 days before the date set for the hearing.
- (2) The following process applies to hearings of appeals of licence or permit decisions:

- (a) if an appellant intends to make use of any report, document, record or other written evidence at the hearing, the appellant shall, at least 10 days before the date set for the hearing:
 - (i) file a copy of the materials with the secretary of the Board; and
 - (ii) serve a copy of the materials on the City;
- (b) the City shall, at least 5 days before the date set for the hearing, file with the secretary of the Board and serve on the appellant the following materials:
 - (i) a copy of the appellant's licence or permit, if any;
 - (ii) a copy of the notice from the City informing the appellant of its decision; and
 - (iii) any other reports, documents, records or other written evidence that the City intends to make use of;
- (c) if an appellant intends to make use of any report, document, record or other written evidence at the hearing in response to materials served on the appellant pursuant to clause (b), the appellant shall, at least 3 days before the date set for the hearing:
 - (i) file a copy of the materials with the secretary of the Board; and
 - (ii) serve a copy of the materials on the City.
- (3) If a party does not comply with subsection (1) or (2), the Board may:
 - (a) accept and consider the material sought to be filed; or
 - (b) refuse to accept or consider the material sought to be filed.
- (4) The time limits mentioned in subsections (1) and (2) apply only to documentary evidence, and nothing in this section precludes a party from filing a written submission, including legal argument, with the Board at the beginning of or prior to the hearing of the appeal.
- (5) Any party to an appeal shall tender all of the evidence on which the party relies at the hearing of the appeal.

- (6) Notwithstanding subsection (5), a Board may, after a hearing has commenced, require a party to make further inquiries into the facts of a case or provide further evidence in the manner and within the time required by the Board.

Public Hearings

13. (1) Subject to subsections (2), (3) and (4), the Board shall conduct its hearings in public.
- (2) The Board may, on the application of any party to an appeal, close all or part of its hearing to the public, if the matter to be discussed:
 - (a) is within one of the exemptions in Part III of *The Local Authority Freedom of Information and Protection of Privacy Act*; or
 - (b) refers to personal information of a party that, if disclosed, could result in an invasion of privacy that clearly outweighs the public interest in disclosure.
- (3) The Board may deliberate and make its decisions in meetings closed to the public.
- (4) If the Board closes a hearing to the public, it may also make all or any of the following orders:
 - (a) an order that personal information of an appellant that forms part of a report, decision or other document be purged or masked before the document is released to the public;
 - (b) any other order respecting procedures to be followed by the parties to the appeal respecting the disclosure or release of any information arising from the appeal.

Proceedings Before Board

14. (1) The Board is not bound by the rules of evidence or any other law applicable to court proceedings and has the power to determine the admissibility, relevance and weight of any evidence.
- (2) The Board may require any person giving evidence before it to do so under oath or by affirmation.

- (3) All oaths or affirmations necessary to be administered to witnesses may be administered by any member of the Board hearing the appeal.
- (4) The Board may make rules to govern its proceedings that are consistent with *The Cities Act*, this Bylaw and the duty of fairness.

Witnesses

- 15. (1) A party to an appeal may testify, and call witnesses to testify, at a hearing before the Board.
- (2) For the purposes of a hearing before the Board, a party may request the secretary of the Board to issue a subpoena to any person to:
 - (a) appear before the Board;
 - (b) give evidence; and
 - (c) produce any documents and things that relate to the matters at issue in the appeal.
- (3) The party that requested the issuance of a subpoena pursuant to subsection (2) shall serve the subpoena on the person to whom it is directed by personal service or registered mail.
- (4) Subject to subsection (5), no person who is served with a subpoena pursuant to subsection (3) shall:
 - (a) without just excuse fail to attend at the time and place specified in the subpoena; or
 - (b) refuse to appear, give evidence or produce any documents or things as required under the subpoena.
- (5) If a person who is not a party to an appeal is required by a subpoena to attend at a hearing of an appeal, the person is relieved of the obligation to attend unless, at the time of service of the subpoena, the person is paid money in an amount calculated in accordance with the rules of the Court of King's Bench.
- (6) Unless the Board otherwise orders, the party responsible for service of a subpoena is liable to make the payment required by subsection (5).

Failure to Appear

16. If a party fails to appear either personally or by agent at a Board hearing, the Board may:
- (a) hear and decide the appeal in the absence of the party; or
 - (b) dismiss the appeal without a hearing.

Amending Notice of Appeal

17. (1) On application made by an appellant appearing before it, the Board may, by written order, grant leave to the appellant to amend their notice of appeal to add a new ground on which it is alleged that error exists.
- (2) An order made pursuant to subsection (1) may be made subject to any terms or conditions that the Board considers appropriate.

Decisions

18. (1) Subject to subsection (2), after hearing an appeal, the Board may, as the Board considers just and expedient:
- (a) confirm, modify or repeal the City's decision; or
 - (b) substitute its own decision for the decision appealed from.
- (2) In determining an appeal under subsection (1), the Board:
- (a) is bound by the provisions of the bylaw, policy or procedure pursuant to which the City's decision pertains; and
 - (b) may confirm, modify or repeal the City's decision only if the Board's decision would not:
 - (i) contradict the purpose or intent of the applicable bylaw, policy or procedure;
 - (ii) grant the appellant a special privilege inconsistent with the restrictions on other persons under the applicable bylaw, policy or procedure; or

- (iii) amount to a relaxation of the provisions of the applicable bylaw, policy or procedure so as to contradict the purpose or intent of the bylaw, policy or procedure.
- (3) After a decision is made pursuant to subsection (1), the secretary of the Board shall, by ordinary mail, send a copy of the decision together with written reasons, if any, for the decision to each party to the appeal.
- (4) Every decision of the Board respecting:
 - (a) a licence or permit, Access Transit or forgiveness of a mortgage under the City's lot allocation process is final and not open to question or review in any court, and shall not be restrained by injunction, prohibition, mandamus, quo warranto, certiorari or other process or proceeding in any court or be removeable by application for judicial review or otherwise into any court on any grounds; and
 - (b) an order to remedy may be further appealed in accordance with *The Cities Act*.

Service of Documents

19. Any notice or other document that relates to an appeal is deemed to be received on:
- (a) the fifth business day after the date of its mailing, unless the person to whom the notice or other document was mailed establishes that, through no fault of their own, the person did not receive the notice or other document or received it at a later date; or
 - (b) the delivery date, if:
 - (i) personally delivered; or
 - (ii) sent by registered mail and the delivery date shown on the signed post office receipt card is a date earlier than the fifth business day after the date of its mailing.

Bylaw Nos. 9036 and 7804 Repealed

20. (1) Bylaw No. 9036, *The Saskatoon Licence Appeal Board Bylaw, 2012*, is repealed.

- (2) Bylaw No. 7804, *The Remuneration of Members of Appeal Boards Bylaw, 1999*, is repealed.

Coming into Force

21. This Bylaw comes into force on January 1, 2025.

Read a first time this 24th day of April, 2024.

Read a second time this 24th day of April, 2024.

Read a third time and passed this 24th day of April, 2024.

"Charlie Clark"

Mayor

"Adam Tittlemore"

City Clerk

"SEAL"

Schedule "A"

Declaration of Member of Saskatoon Appeal Board

I, _____, having been appointed to the office of _____ (member/secretary), of the Saskatoon Appeal Board for the City of Saskatoon, **do solemnly promise and declare that:**

1. I will truly, faithfully and impartially, to the best of my knowledge and ability, perform the duties of this office;
2. I have not received and will not receive any payment or reward, or promise of payment or reward, for the exercise of any corrupt practice or other undue execution of this office;
3. I am not for any reason disqualified from holding this office.

Declared before me at _____
In the Province of Saskatchewan,
this _____ day of _____, 20____

Signature of Declarant

A Commissioner of Oaths for Saskatchewan
or Notary Public
My appointment expires _____
- or - Being a Solicitor