



## Appeal Procedure Bylaw, 2023

### Bylaw 3279-2023

[Consolidated and printed by authority of the Corporate Officer under section 139 of the *Community Charter*. Includes amendment bylaw 3068-2024. Last amended October 22, 2024]

The Council of the City of Abbotsford, in open meeting assembled, enacts as follows:

#### Interpretation

- 1 The Interpretation Bylaw applies to this bylaw.

#### Definitions

- 2 In this bylaw
  - “appeal” means a reconsideration by Council of a decision of a City employee;
  - “appellant” means the person seeking an appeal under this bylaw and includes the appellant’s agent identified in the notice of appeal.

#### Decisions which may be appealed (B/L 3068-2024)

- 3 (1) This bylaw applies to a decision for which a right to reconsideration by Council is established by a City enactment.
- (2) Without limitation, subsection (1) includes the following:
  - (a) a decision of the city manager at stage 4 of the Customer Inquiry and Resolution Policy;
  - (b) a decision or direction of the building inspector to refuse, suspend or cancel a blasting permit under the Blasting Regulation Bylaw;
  - (c) a decision of the chief building official or building official to refuse, suspend, cancel or impose terms and conditions on a permit made under the Building Bylaw;
  - (d) a decision to refuse, suspend, cancel or impose terms and conditions on a licence made under the Business Licence Bylaw;
  - (e) a decision or direction of the inspector made under the *Good Neighbour Bylaw*;
  - (f) an decision of the mayor to refuse to schedule a delegation under the Council Procedure Bylaw;
  - (g) a decision, other than a decision of Council, not to approve an application under the Development Application Procedures Bylaw;
  - (h) an order of the fire chief made under Part 2 [Authority of the Fire Chief] of the Fire Service Bylaw;
  - (i) a suspension or cancellation of an intermunicipal business licence as defined in the Inter-Municipal Ride-hailing Business Licence Bylaw;
  - (j) a decision or direction of the city manager made under the Outdoor Special Event, Filming and Activities Bylaw;
  - (k) a decision or direction made under the Parks and Facilities Allocation Policy;

- (l) an order of the fire chief made under section 8 [order to comply with bylaw] of the Petroleum Products and Equipment Bylaw;
  - (m) a decision or direction of the chief building official or manager made under the Sound Regulation Bylaw;
  - (n) a decision by the general manager to amend, suspend or cancel a tree cutting permit made under the Tree Protection Bylaw;
  - (o) a decision of the engineer made under the Waterworks Regulation Bylaw;
  - (p) a decision made by a general manager under the Street and Traffic Bylaw;
  - (q) a decision by the engineer to deny an application made under the Sewer Regulations Bylaw.
- (3) This bylaw does not apply to
- (a) a decision of an approving officer appointed under section 77 [appointment of municipal approving officers] of the Land Title Act,
  - (b) a decision of the board of variance established under section 536 [requirement for board of variance] of the Local Government Act,
  - (c) a decision or procedure established by an election official appointed under section 58 [appointment of election officials] of the Local Government Act, or
  - (d) a decision to deny or limit compensation in respect of a legal claim against the City.

### **Notice of appeal**

- 4 (1) A decision may be appealed by filing a notice of appeal with the corporate officer.
- (2) A notice of appeal must
- (a) be in writing or in a form provided by the City for this purpose,
  - (b) identify the decision that is being appealed,
  - (c) state why the decision should be changed,
  - (d) state the outcome requested,
  - (e) contain the name, address, e-mail address and telephone number of the appellant, and if the appellant has an agent to act on the appellant's behalf in respect of the appeal, the name of the agent and an e-mail address or telephone number at which the agent may be contacted during regular business hours,
  - (f) include an address or e-mail address for delivery of any notices in respect of the appeal, and
  - (g) be signed by the appellant or the appellant's agent.
- (3) If a notice of appeal is deficient the corporate officer may allow a reasonable period of time within which the notice may be corrected.

### **General power respecting practice and procedure**

- 5 Council has the power to control its own processes and may make rules or policies consistent with this bylaw respecting practice and procedure to facilitate the just and timely resolution of appeals.

### **Time limit for appeals**

- 6 (1) An appeal of a decision to which this bylaw applies, including a decision of the city manager at stage 4 of the Customer Inquiry and Resolution Policy, must be commenced within the time specified in an applicable enactment or, if no time period is specified, within 30 days of the date the decision is issued.

- (2) Despite subsection (1), either before or after the expiration of the time, Council may extend the time for commencing the appeal on terms Council considers proper, if it is satisfied that there are serious grounds for relief, there is a reasonable explanation for the delay, and no substantial prejudice or hardship will result to the City or a person affected by the delay.

### **Representation of parties to an appeal**

- 7 A party to an appeal may be represented by counsel or an agent and may make relevant submissions.

### **Appeals involving similar questions**

- 8 If 2 or more appeals before Council involve the same or similar questions, Council may
  - (a) combine the appeals or any part of them,
  - (b) hear the appeals at the same time,
  - (c) hear the appeals one immediately after the other, or
  - (d) postpone one or more of the appeals until after the determination of another one of them.

### **Summary dismissal**

- 9 (1) At any time after an appeal is filed, Council may dismiss all or part of it if Council determines that any of the following apply:
  - (a) the appeal is not within the jurisdiction of Council;
  - (b) the appeal was not filed within the applicable time limit;
  - (c) the appeal is frivolous, vexatious or trivial or gives rise to an abuse of process;
  - (d) the Council was made in bad faith or filed for an improper purpose or motive;
  - (e) the appellant failed to diligently pursue the appeal;
  - (f) there is no reasonable prospect the appeal will succeed;
  - (g) the substance of the appeal has been appropriately dealt with in another proceeding.
- (2) Before dismissing all or part of an appeal under subsection (1), Council will give the appellant an opportunity to make written submissions or otherwise be heard.
- (3) If Council dismisses all or part of an application under subsection (1), the corporate officer will inform the appellant of Council's decision in writing and reasons for that decision.

### **Pre-hearing procedure**

- 10 (1) The corporate officer or city solicitor will communicate with the appellant on behalf of the City regarding the appeal.
- (2) The corporate officer will schedule a hearing of an appeal in consultation with the appellant, city solicitor and city manager.
- (3) The corporate officer will provide notice of the hearing to the appellant at least 63 days before the scheduled hearing and contact information for the city solicitor.
- (4) The appellant must provide the city solicitor written submissions, evidence and copies of authorities on which the appellant intends to rely no later than 49 days before the scheduled hearing.

- (5) The city solicitor will provide the appellant written submissions, evidence and copies of authorities on which the City intends to rely no later than 28 days before the scheduled hearing.
- (6) The appellant may provide written submissions in reply to the City's materials provided under subsection (5) no later than 12:00 p.m. on the day that is 14 days before the scheduled hearing.
- (7) The corporate officer will provide Council members with a copy of the notice of appeal and all materials exchanged under subsections (4), (5) and (6) before the scheduled hearing.
- (8) Despite anything in this section, either before or after the expiration of the time, Council may extend the time for steps required under this section on terms Council considers proper.

### **Hearings**

- 11 (1) The hearing of an appeal is open to the public.
- (2) Despite subsection (1), Council may direct that all or part of the information be received to the exclusion of the public in accordance with section 90 [meetings that may or must be closed to the public] of the Community Charter.
- (3) Council may hear and decide the appeal based on the materials distributed by the corporate officer under section 10 (7), and any further submissions or evidence admitted by Council at the hearing.
- (4) A hearing of an appeal may be adjourned by Council if it is shown to the satisfaction of Council that the adjournment is required to permit an adequate hearing to be held.
- (5) Council members may ask questions of the appellant, a City employee, or any other person appearing at the hearing.
- (6) The presiding member of Council may reasonably limit further questioning of a witness if the presiding member is satisfied that the examination or cross examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the appeal.

### **Decisions**

- 12 (1) Council must make its final decision in writing and give reasons for the decision.
- (2) The corporate officer must send the appellant a copy of Council's final decision and reasons for the decision.
- (3) Council may amend a final decision or reasons for the decision to correct any of the following:
  - (a) a clerical or typographical error;
  - (b) an accidental or inadvertent error, omission or other similar mistake;
  - (c) an arithmetical error made in a computation.
- (4) Unless Council determines otherwise, an amendment under subsection (3) must not be made more than 30 days after the final decision and reasons for the decision have been sent to the appellant.

### **Appeal to court**

- 13 (1) If a person applies for judicial review or commences a civil action in respect of a City decision for which reconsideration by Council could have been sought in accordance

with this bylaw, the city solicitor or authorized designate may apply to dismiss some or all of the proceeding on the basis that the proceeding is an abuse of process.

- (2) A final decision of Council or a City decision to which this bylaw does not apply is subject to judicial review in accordance with the Judicial Review Procedure Act.

## **Repeal**

- 14 Appeal Procedure Bylaw, 2016 is repealed.

READ A FIRST TIME on June 12, 2023  
READ A SECOND TIME on June 12, 2023  
READ A THIRD TIME on June 12, 2023  
ADOPTED on June 26, 2023

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## **Consequential Amendments**

**15 Section 2.1 (2.1.2) of the Development Application Procedures Bylaw, 2016 is amended by striking out "Approving Officer" and substituting "director".**

**16 Section 2.2 [application refusal and reconsideration] of the Development Application Procedures Bylaw, 2016 is repealed and the following substituted:**

### **Application refusal and reconsideration**

- 2.2 (1) The director will notify an applicant in writing at the applicant's last known address within 10 days of a decision by Council not to approve an application under this bylaw.
- (2) The director will provide an applicant with written reasons at the applicant's last known address within 10 days for the denial of an application for a permit, strata title conversion for a previously occupied commercial or industrial building, or a registered legal agreement appeal.
- (3) The owner of land subject to a decision to deny an application under subsection (2) may request a reconsideration by Council in accordance with the Appeal Procedure Bylaw.
- (4) A person may not submit an application within 6 months of a substantially similar application having been denied, lapsed or closed in accordance with this bylaw.

**17 Section 3 (e) of the Street Naming and Addressing Bylaw, 2015 is repealed.**