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Communication		
COUNCIL:	<u>May 1/19</u>	
<u>CW</u>	Rpt. No. <u>14</u>	Item <u>11</u>

DATE: April 30, 2019

TO: Mayor and Members of Council

FROM: Nick Spensieri.
Deputy City Manager, Corporate Services

**RE: PROCEDURAL BY-LAW FOR THE CITY OF VAUGHAN
COMMITTEE OF ADJUSTMENT**
Council Meeting – May 1, 2019
(Committee of the Whole, Item #11, April 2, 2019)

Recommendation:

1. That a By-law be enacted to establish procedures for the City of Vaughan Committee of Adjustment, substantially in the form found in Attachment #1.

Background

At the Committee of the Whole meeting on April 2, 2019, the Committee recommended that the consideration of the item for the proposed Procedural By-law for the Committee of Adjustment be deferred to the Council meeting of May 1, 2019. There were questions raised about the proposed deadline for submitting comments to the Committee of Adjustment.

The draft by-law presented at the Committee of the Whole meeting included the following:

“Public written submissions on an Application shall only be received by the Secretary Treasurer until 12:00 p.m. on the day of the scheduled Meeting.”

Staff have taken into consideration the comments from Committee and reviewed the policies of other municipalities and are recommending the following revision to the draft by-law:

“Public written submissions on an Application shall only be received by the Secretary Treasurer until 4:00 p.m. on the last business day prior to the day of the scheduled Meeting.”

Staff believe this deadline will balance the opportunity for the public to submit written submissions to the Committee of Adjustment with the need to provide the Committee of Adjustment members with sufficient time to review and consider those comments. The 4:00 p.m. deadline will allow staff to circulate any comments to the members by the end of the day.



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A draft Committee of Adjustment Procedure By-law has been attached incorporating this proposed revision.

Conclusion

Staff have considered the comments from Committee and are recommending a revised deadline for public submissions. Should Council agree, the Recommendation may be adopted.

Attachments:

1. Draft Committee of Adjustment Procedural By-law

A handwritten signature in blue ink, appearing to read 'Nick Spensieri', with a long horizontal line extending to the right.

Nick Spensieri,
Deputy City Manager, Corporate Services

Copy to: Todd Coles, City Clerk
 Christine Vigneault, Manager of Development Services/Secretary Treasurer to
 Committee of Adjustment

ATTACHMENT #1

THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER XXX-2019

A By-law to establish procedures for the City of Vaughan Committee of Adjustment.

WHEREAS the Committee of Adjustment has been established by City Council on July 5, 1948 and operates under the authority of the Planning Act, R.S.O. 1990, c. P.13, as amended;

AND WHEREAS the Municipal Act, 2001, S.O. 2001, c. 25, as amended, requires that every municipality and local board shall pass a procedure by-law for governing the calling, place and proceedings of Meetings;

AND WHEREAS the Municipal Act, 2001, S.O. 2001, c. 25, as amended, requires a code of conduct for members of Council and its local boards as of March 1, 2019;

NOW THEREFORE the Council of the Corporation of the City of Vaughan hereby enacts as follows:

PART 1: DEFINITIONS

1.0 In these procedures, unless the context requires otherwise:

- a) "Act" means the Ontario Planning Act, R.S.O. 1990, c. P.13, as amended or superseded.
- b) "Agent" means any person authorized in writing by the owner(s) of any land, building or structure for which an Application is made.
- c) "Applicant" means the owner(s) of any land, building or structure for which an Application is made.
- d) "Application" means an application made to the Committee under Section 45, 53 or 57 of the Act.
- e) "Application Fee" means the applicable processing fees as approved by Council under the City of Vaughan By-law for Fees and Charges under the Act for Committee of Adjustment Applications.
- f) "Chair" means the Member elected as chair of the Committee pursuant to the Act.
- g) "City" means the Corporation of the City of Vaughan.
- h) "Committee" means the Committee of Adjustment of the City appointed by Council pursuant to the Act.
- i) "Council" means the council of the City of Vaughan.
- j) "Meeting" means a gathering of the Committee where Quorum is achieved and Members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the Committee.
- k) "Member(s)" means the person(s) appointed by Council to be a Member(s) of the Committee pursuant to the Act.

- l) "Public Notice" means the public notice of an Application as prescribed by the Act.
- m) "Quorum" means a minimum of three (3) Members required to be present at any Meeting in order for business to be conducted, where the Committee is composed of more than three (3) Members. Quorum means two (2) Members required to be present at any Meeting in order for business to be conducted, where the Committee is composed of three (3) Members.
- n) "Secretary-Treasurer" means the secretary-treasurer for the Committee appointed pursuant to the Act, or his or her delegate.
- o) "Vice-Chair" means the vice chair of the Committee as elected by the Members.

PART 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 business 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 City of Vaughan Procedural By-law 7-2011, as amended, governing Council and committees of Council, and by applicable law.
- 2.3 In the event of a conflict between this by-law and the Act, the Act prevails.

PART 3: MEETINGS - GENERAL

Calling of Meetings

- 3.1 All Meetings shall be called by the Secretary-Treasurer and notice of any Meeting shall be given in accordance with the Act and applicable regulations.
- 3.2 Except in accordance with the provisions of the Municipal Act and the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22, as amended, all Meetings of the Committee shall be open to the public.
- 3.3 A resolution to close a Meeting or part of a Meeting in accordance with the Municipal Act shall state:
 - a) The fact of the holding of the closed Meeting and the general nature of the matter to be considered; or
 - b) In the case of a Meeting described in section 3.4 of this by-law, the fact of the holding of the closed Meeting, the general nature of its subject matter and that it is to be closed under subsection 239 (3.1) of the Municipal Act.
- 3.4 A Meeting of the Committee may also be closed to the public provided that both of the following conditions are satisfied:
 - a) The Meeting is held for the purpose of educating or training the Members; and
 - b) At the Meeting, no Member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the Committee.
- 3.5 A Meeting shall not be closed to the public during the taking of a vote except as provided for in the Municipal Act.

Location of Meetings

- 3.6 The location of all Meetings shall be identified on the Public Notice required to be circulated by the Secretary-Treasurer pursuant to the Act and any applicable City by-laws.

Composition

- 3.7 The Committee shall be composed of 5 (five) Members as appointed by Council.

Election and Role of Chair

- 3.8 The Members of the Committee, annually at the first Meeting in January, shall elect one (1) Member as the Chair and one (1) Member as the Vice-Chair.
- 3.9 In the absence of the Chair, the Vice-Chair shall chair the Meeting. In the absence of the Chair and Vice-Chair, the Members shall elect an acting Chair during the Meeting and he/she shall discharge the duties of Chair during the Meeting or until the arrival of either the Chair or Vice-Chair.
- 3.10 The Chair is entitled to all rights of a Member, including voting.
- 3.11 The Chair shall preside at every Meeting and shall enforce the observance of order and decorum among the Members and other active participants.

Quorum

- 3.12 The Chair shall call the Meeting to order once a Quorum has been established pursuant to the Act.
- 3.13 If no Quorum is present thirty (30) minutes after the time appointed for a Meeting of the Committee, the Secretary-Treasurer shall record the names of the Members present and the Meeting will stand adjourned.
- 3.14 Where a conflict of interest has been declared by a Member under Section 5(1) of the Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50, as amended, the remaining number of Members shall be deemed to constitute a Quorum, provided such number is not less than two.
- 3.15 Where a Quorum cannot be met, a matter shall not be opened and shall be addressed at the next regular Meeting of the Committee where a Quorum can be achieved.

Conflict of Interest

- 3.16 A Member who has any direct or indirect pecuniary interest under the Municipal Conflict of Interest Act of any matter and is present at the Committee Meeting at which the matter is the subject of consideration, the Member shall, prior to any consideration of the matter at the Meeting, disclose the general nature of such interest; and it shall be recorded in the minutes by the Secretary-Treasurer in accordance with the provisions of the Municipal Conflict of Interest Act.
- 3.17 Any Member that discloses direct or indirect pecuniary interest shall leave the Meeting room for the duration that the matter is under consideration and shall not be visible to the Committee or the public during that time.
- 3.18 A Member who did not disclose a direct or indirect interest as required in 3.16 by reason of the Member's absence from the Meeting shall disclose the interest at the first meeting of the Committee thereafter attended by the Member.
- 3.19 As of March 1, 2019, a Member who discloses a direct or indirect pecuniary interest shall file a written statement of the Member's interest and its general nature with the Secretary-Treasurer, and the statement shall be made available for public inspection during the hours of operation of the Committee offices.
- 3.20 A Member shall not use his or her office to influence a decision or recommendation of an officer or employee of the municipality or local board where the Member has a direct or indirect pecuniary interest in a matter.

PART 4: MEETING PROCEDURES

Commencement of Meeting

- 4.1 The Chair shall:
- a) Call the Meeting to order;
 - b) Call for disclosure of pecuniary interest;
 - c) Call for adoption or correction of the minutes of an earlier Meeting;
 - d) Introduce the addendum reports;
 - e) Call for adjournments and/or withdrawals;
 - f) Call each Application in the order in which it appears on the agenda or at the discretion of the Committee; and
 - g) Put to a vote all motions that arise in the course of the proceedings and announce the result of each vote.

Introduction of Applications on the Agenda

- 4.2 The Chair will call the Applicant, the authorized Agent or the Applicant's representative to introduce himself/herself and present the Application. The Applicant, authorized Agent or Applicant's representative shall be provided with a maximum five (5) minute time period to present the nature of the Application to the Committee. However, presentations beyond the maximum time period shall be permitted at the discretion of the Chair.
- 4.3 If the Applicant, authorized Agent or Applicant's representative does not attend, the Committee may proceed in their absence to consider the Application.

Public Participation

- 4.4 The Chair shall invite any persons having an interest in the Application to come forward and express his/her interest.
- 4.5 Members of the public shall approach one person at a time, complete and sign the public deputation form and state their full name and address to the Committee before speaking. All comments shall be directed through the Chair.
- 4.6 The length of any person's public submission shall be no greater than five (5) minutes. Presentations beyond the maximum time period shall be permitted at the discretion of the Chair.
- 4.7 An interested person shall confine his/her remarks to the subject Application.
- 4.8 All personal information, as defined in the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, as amended (including but not limited to names, addresses, opinions and comments), collected in relation to an Application or a Meeting shall be made available for public disclosure, and will be used to assist the Committee and staff to process the Application. This information will be collected under the legal authority of the Act, may be disclosed in accordance with the Municipal Freedom of Information and Protection of Privacy Act, and will form the public record on an Application, where applicable.
- 4.9 The Chair shall give the Applicant, the authorized Agent or the Applicant's representative the opportunity to respond to any comments received from commenting agencies or interested parties.

PART 5: CONDUCT

Member Conduct

5.1 A Member shall not:

- a) Disobey the rules of procedure as set out in this by-law;
- b) Disturb other Members by any disruptive or distracting conduct, including private conversations or electronic communications among Members during a Meeting;
- c) Display any behaviour which may be considered disruptive, inconsiderate or disrespectful, or use profane or offensive words or insulting expressions;
- d) Set his/her cell phones and electronic devices to emit any audible sound during a Meeting.
- e) Leave his/her seat or make any noise or disturbance while a vote is being taken;
- f) Speak until recognized by the Chair;
- g) Interrupt a Member who is speaking;
- h) Leave a Meeting at any time without advising the Chair;
- i) Comment or question on matters other than those directly pertaining to the subject Application before him or her;
- j) Discuss the merits of an Application or any matter in connection with an Application with any individuals prior to the Meeting; and
- k) Use his/her status on the Committee for personal or political gain.

5.2 The Committee Members as appointed by Council and at the start of their term, shall sign a formal declaration that they will abide by the Committee of Adjustment Code of Conduct as approved by Council.

Public Conduct

5.3 Attendees at a Meeting shall maintain order and quiet 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.

5.4 Any person who disrupts a Meeting shall be asked by the Chair to stop the disruptive behaviour and if the person persists they shall be asked to leave the Meeting.

5.5 If a person refuses to leave the Meeting upon being requested to do so by the Chair, the Chair may recess the Meeting and may direct the Secretary-Treasurer to seek the appropriate assistance from corporate security or the York Regional Police Service.

5.6 All cell phones and electronic devices shall be turned off or otherwise set to not emit any audible sound during a Meeting.

PART 6: DECISIONS

6.1 At each Meeting, the Committee shall render a final decision to approve, refuse or adjourn an Application.

6.2 Prior to making a decision the Chair shall:

- a) Call for a motion with respect to the Application and request a seconder;

- b) Permit discussions on the motion;
 - c) Call for a vote by the Committee on the motion; and
 - d) Announce the decision of the Committee and summarize any dissenting decisions orally.
- 6.3 No decision of the Committee on an Application is valid unless it is concurred in by the majority of the Members that heard the Application, and the decision of the Committee, whether granting or refusing an Application, shall be in writing and shall set out the reasons for the decision, and shall contain a brief explanation of the effect, if any, that the written submissions made to the Committee before its decision and the oral submissions that were made at the public Meeting had on the decision. The Committee's decision shall be signed by the Members who concur in the decision.
- 6.4 The Committee may impose condition(s) of approval on a decision provided that the condition(s) are advisable, specific, enforceable and related to the Application.
- 6.5 A copy of the Committee's signed written decision to approve or refuse an Application will be issued in accordance with the provisions of the Act.

PART 7: MOTIONS & VOTING

- 7.1 Every motion put to a vote shall have a mover and seconder.
- 7.2 A motion shall fail on the following two counts:
- a) The motion does not receive a seconder; or
 - b) The motion does not receive majority support.
- 7.3 If a motion fails under Section 7.2, the Chair shall announce that "the motion has failed" and shall call for a new motion to be placed on the floor.
- 7.4 All voting shall be done by a show of hands.
- 7.5 The Committee, where appropriate, may hear related Applications together and vote on the approval of all related Applications under one motion provided that reference to all applicable Application numbers and the subject land is included as part of the motion.
- 7.6 Members, including the Chair, may not abstain from voting unless they have disclosed a pecuniary interest or unless otherwise permitted by this by-law. A refusal to vote for any other reason will be deemed to be voting in the negative.
- 7.7 When the Committee is comprised of an even number, the Chair may refrain from voting to preclude a tie vote if Quorum is still maintained.
- 7.8 A tie vote will be deemed a refusal as the majority of the Members did not concur.

PART 8: PUBLIC ORAL & WRITTEN SUBMISSIONS

- 8.1 Public written submissions on an Application shall only be received by the Secretary Treasurer until 4:00 p.m. on the last business day prior to the day of the scheduled Meeting.
- 8.2 Reference to public written and oral submissions considered by the Committee, and a brief explanation of the effect, if any, that the written and oral submissions had on the decision are to be included in the decision of the Committee to approve or refuse an Application.

PART 9: GENERAL

Site Visits

- 9.1 Members may conduct site visits prior to the Meeting where an Application is to be considered by the Committee.
- 9.2 Members shall not discuss amongst themselves or with the Applicant or other interested individuals, any merits of the Application or any matter in connection with the Application during site visits.
- 9.3 Upon submission of an Application to the Committee, the Applicant or authorized Agent shall grant permission to the Members, City of Vaughan staff, and their Agents to enter upon the subject lands for inspection purposes.

Absenteeism & Vacancy

- 9.4 If a Member is absent from Meetings of the Committee for three (3) consecutive regularly scheduled Meetings, or in the opinion of the Committee if any Member's absenteeism jeopardizes the objectives of the Committee, the Committee may pass a resolution requesting Council to appoint a replacement Member.
- 9.5 In the event of a vacancy on the Committee, Council may appoint another eligible person for the unexpired portion of the term, as soon as reasonably possible after the vacancy occurs.

PART 10: ADMINISTRATION

Application Submission

- 10.1 The Secretary-Treasurer may refuse to accept or further consider an Application until the information and material prescribed in the Act has been submitted by the Applicant along with the required fee.

Fees

- 10.2 All Applications are subject to the City of Vaughan By-law for Fees and Charges under the Planning Act for Committee of Adjustment Applications, as amended.
- 10.3 Upon withdrawal of an Application, and the submission of a written request to refund the consent and/or minor variance Application fee by the Applicant and/or authorized Agent, the Secretary-Treasurer may approve the following:

Request	Refund (% of Application Fee)
If request for Application withdrawal is received prior to staff/agency circulation (typically 5-7 days after submission):	90%
If request for Application withdrawal is received after staff/agency circulation but prior to Public Notice being issued:	70%
If request for Application withdrawal is received after issuance of Public Notice but prior to the scheduled Public Meeting:	25%
After Public Meeting:	0%

- 10.4 The Secretary-Treasurer shall only be authorized to approve a refund of the consent or minor variance Application fee in accordance with Section 10.3 of this by-law.
- 10.5 The adjournment and/or recirculation fee is not applicable provided that the Applicant and/or authorized Agent provides a written request to adjourn an Application to the Secretary-Treasurer prior to the issuance of Public Notice.

- 10.6 The adjournment fee may be waived by the Secretary-Treasurer when adjournment is being requested by the Committee or staff after the issuance of Public Notice.

Errors

- 10.7 The Secretary-Treasurer may at any time and without prior notice correct a typographical error, error of calculation or similar error made in the minutes or in a decision.

Inactive Files

- 10.8 An Application may be deemed inactive if a public Meeting is not scheduled within six (6) months from the date the Application is received by the Secretary-Treasurer. In the event that a public Meeting is adjourned, the Application may be deemed to be inactive if the public Meeting in which the Application is decided upon is not held within six (6) months after the first adjournment.
- 10.9 At least thirty (30) days in advance of closing the Application, the Secretary-Treasurer shall provide a written notice to the Applicant, authorized Agent or Applicant's representative of the intent to close the inactive Application.
- 10.10 If, in the reasonable opinion of the Secretary-Treasurer, no reasonable response is received from the Applicant, authorized Agent or Applicant's representative within thirty (30) days from the date of the written notice, the inactive Application will be closed at the discretion of the Secretary-Treasurer. After an Application has been closed, the Applicant will be required to submit a new Application including updated documents and the Application Fee in effect at the time for a matter to be considered by the Committee.

Minutes & Records

- 10.11 The Secretary-Treasurer shall keep on file minutes and records of all Applications including decisions and all other official business of the Committee.
- 10.12 The Committee shall approve the minutes of a Meeting at the next regular Meeting or at an approved alternate date in order to accommodate revisions, if required.
- 10.13 The Chair and the Secretary-Treasurer shall authenticate the approved Meeting minutes by signature.

Remuneration

- 10.14 Remuneration of the Members shall be paid in accordance with the honorarium rates established by Council.

Enacted by City of Vaughan Council this day of , 2019.

Hon. Maurizio Bevilacqua, Mayor

Todd Coles, City Clerk

Authorized by Item No. ____ of Report No. ____
of the Committee _____
Adopted by Vaughan City Council on _____