
Approved as to Form
Corporate Services (Law Branch)

Approved as to Content
General Manager
Linda Cochrane

THE CITY OF EDMONTON

BYLAW 17686

**COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE BYLAW AMENDMENT
No. 8**

Edmonton City Council enacts:

- 1 Bylaw 15166, the Community Standards and Licence Appeal Committee Bylaw, is amended by this bylaw.
- 2 Schedule “A” is deleted and replaced with Schedule “A” attached and forming part of this Bylaw.
- 3 Schedule “B” is deleted and replaced with Schedule “B” attached and forming part of this Bylaw.
- 4 Section 7(2)(b) is repealed and replaced with:
 - (b) hearing and adjudicative procedures adopted by the Committee in accordance with this Bylaw
- 5 Section 7(10) is added following Section 7(9):
 - (10) The Committee, by a majority vote of the Members present at a meeting, may adopt or amend any hearing and adjudicative procedures that will apply to any hearings and meetings of the Committee.

6 The following sections are added after Section 7.1:

7.2 (1) Notwithstanding that a meeting of the Committee has been scheduled pursuant to Section 8 or Section 13 of the Procedures and Committees Bylaw, if there are no appeals or preliminary hearing applications remaining on the agenda of the Committee by 4 p.m. of the day prior to the meeting:

(a) The City Manager may cancel the meeting by posting notification of the cancellation at both the City Room of City Hall and at the offices of the Committee; and

(b) The Adoption of the Minutes of any prior meetings will be rescheduled to take place at the next meeting of the Committee.

(2) Section 14 and 18 of the Procedures and Committees Bylaw does not apply to the cancellation of a meeting under this section.

7.3 (1) Where the City Manager receives an appeal of a Weed Control Notice, the City Manager will schedule the appeal for the next regular meeting of the Committee that is a minimum of 5 days from the date that the appeal was received.

(2) In the event that the next meeting is more than 5 days from the receipt of the appeal, the City Manager will send to the appellant a copy of Schedule "B".

7.4 Where the appellant has appealed a Weed Control Notice and the appellant and the City have reached an agreement on all matters, including an agreement relating to the refund of the fee under Section 15 of the Weed Control Regulation, the City Manager shall, without the requirement to have a hearing, refund the fee in accordance with the agreement.

Read a first time

Read a second time

Read a third time

SIGNED AND PASSED

THE CITY OF EDMONTON

MAYOR

CITY CLERK

SCHEDULE A – ORDERS OF THE DAY

Call to Order

Adoption of Minutes

Preliminary Issue Applications

Appeal Hearings

Changes to Procedure Manual

Adjournment

SCHEDULE B – WEED CONTROL NOTICE SCHEDULING LETTER

In this case a notice of appeal was received on (date) appealing a (either a debt recovery notice or a local authority notice) which was sent out on _____. (or which is dated _____)

There are various requirements in the *Weed Control Act* (WCA) SA 2008 Chap W-5.1 and the *Weed Control Regulation* (WCR) AR 19/2010 related to the timing of hearings that involve either a Local Authority Notice or a Debt Recovery Notice. To start, Section 19 of the WCA sets out the right to appeal and requires an independent appeal panel to review the matter. Section 11 and 12 of the WCR outlines the time in which the appeal must be filed and the requirements for the appeal to be valid.

Section 13(1) of the WCR states that an appeal panel shall hear and determine the appeal within 5 days of the receipt of the notice of appeal. Both the WCR and the WCA are silent about the effect of not having a hearing within that short timeframe. The short timeframe contemplated in the WCR appears to, at least on some level, contradict Section 19 of the WCA which says that a local authority shall establish an appeal panel, “at least annually”. It is likely that the short timeframe on a local authority notice is intended to have decisions made quickly so weeds do not cause any further problems on the property, and municipalities can remedy these problems quickly. It is less clear why a quick timeframe would be required on a debt recovery notice where the weeds have already been removed and there is no longer any apparent urgency.

It is important to ensure that having a hearing within a quick timeline does not interfere with the fairness of the hearing process. If the timelines to have a hearing interfere any parties ability to prepare for a hearing, or to have a fair hearing, that would be a problem.

In the City of Edmonton a process has been set up where individuals will attend an oral hearing on weed control matters, and present their position at that oral hearing. This process is found within the *Community Standards and Licence Appeal Bylaw 15166* (CSLAC). The bylaw contemplates setting a hearing date after determining an appeal is sufficient, and then having both parties make an appearance to present evidence and arguments on the issues that have been raised.

In many cases it would not be possible to have an oral hearing on this issue within the 5 day timelines since parties may not be available, a panel may not be available, or it may not be possible for a party to prepare for the hearing within that short timeframe. It appears that that short timeframe therefore will interfere with the fairness of the hearing process as a whole. Further, there does not appear to be explanation as to what happens if a hearing is not held. Does that mean the notice is struck, the appeal is struck, or a party has to get the Court to order the tribunal to have a hearing.

For these reasons, it is the view of this Committee that the short timeframes within the WCR are therefore not mandatory.

The Committee therefore directs that this matter be set down to be heard on _____ in accordance with the procedures outlined within the CSLAC bylaw.