

Bylaw No. 9036

The Saskatoon Licence Appeal Board Bylaw, 2012

**Codified to Bylaw No. 9912
(July 26, 2023)**

BYLAW NO. 9036

The Saskatoon Licence Appeal Board Bylaw, 2012

Whereas under the provisions of clause 8(1)(h) of *The Cities Act*, a city has the general power to pass any bylaws that it considers expedient in relation to businesses, business activities and persons engaged in business;

And whereas under the provisions of subsection 8(3) of *The Cities Act*, the power to pass bylaws includes the power to:

- regulate or prohibit;
- provide for a system of licences, inspections, permits or approvals;
- establish fees for the licence;
- prohibit any business until a licence has been granted or an inspection performed;
- impose terms and conditions on any licence;
- impose conditions that must be met before a licence is granted or renewed;
- provide for the duration of licences and their suspension or cancellation for failure to comply with a term or condition of the bylaw or for any other reason specified in the bylaw;
- provide for an appeal, the body that is to decide the appeal and related matters;

And whereas The City of Saskatoon desires to pass a bylaw to establish an appeal body to hear appeals from the refusal, suspension or cancellation of any business licence issued by the City;

Now therefore The City of Saskatoon enacts:

Short Title

1. This Bylaw may be cited as The Saskatoon Licence Appeal Board Bylaw, 2012.

Definitions

2. In this Bylaw:
 - (a) “appeal board” means the Saskatoon Licence Appeal Board;
 - (b) “City” means The City of Saskatoon;
 - (c) “Council” means the council of The City of Saskatoon;

- (d) “Mayor” means the mayor of The City of Saskatoon; and
- (e) “person” means an individual, proprietorship, partnership, corporation, association, or other legal identity.

Appeal Board Established

- 3. (1) The appeal board is hereby established.
- (2) Council shall appoint not less than five persons to constitute the appeal board for the City.
- (3) No member of Council is eligible to sit as a member of the appeal board.
- (4) No member of the appeal board shall hear or vote on any decision that relates to a matter with respect to which the member has a pecuniary interest within the meaning of section 115 of *The Cities Act*.
- (5) Council shall prescribe:
 - (a) the term of office of each member of the appeal board;
 - (b) the manner in which vacancies are to be filled; and
 - (c) the remuneration and expenses, if any, payable to each member.
- (6) Council shall appoint a secretary of the appeal board, and prescribe the term of office and the duties of the secretary.
- (7) No member of the appeal board shall carry out any power, duty or function of that office until the member has taken an official oath in the form prescribed in Schedule “A”.
- (8) The members of the appeal board shall choose a chairperson from among themselves.
- (9) The chairperson of the appeal board may:
 - (a) appoint panels of not less than three members of the appeal board; and
 - (b) appoint a chairperson for each panel.

- (10) Each panel appointed pursuant to subsection (9) may hear and rule on appeals concurrently as though it were the appeal board in every instance.
- (11) A majority of the members of the appeal board or of a panel constitutes a quorum for the purposes of sitting or hearing or of conducting the business of the board or panel.
- (12) A decision of the majority of the members of the appeal board or of a panel is the decision of the appeal board.
- (13) The Mayor may appoint a person as an acting member of the appeal board if any member is unable to attend a hearing of the board.

Jurisdiction of Appeal Board

- 4. The appeal board shall have the exclusive jurisdiction to hear an appeal from the imposition of any condition on a licence, or the denial, suspension or cancellation of a business licence issued by the City pursuant to any City bylaw.

Appeal Procedure

- 5. (1) A licence appeal may only be taken by a person who:
 - (a) has applied for a licence and been denied, or holds a licence that has been suspended or cancelled, or holds a licence upon which conditions have been imposed; and
 - (b) believes that an error has been made by the City in the decision to deny, suspend or cancel a licence, or to issue a licence with conditions.
- (2) A notice of appeal must be in writing in the form prescribed in Schedule "B" and must:
 - (a) set out the reasons for the appeal and the material facts upon which the appeal is based; and
 - (b) include the mailing address of the appellant.
- (3) An appellant may withdraw their appeal for any reason by notifying the secretary of the appeal board at least seven days before the day on which the appeal is to be heard by the appeal board.

Filing Notice of Appeal

6. (1) A notice of appeal, together with the filing fee prescribed in section 7, must be filed with the secretary of the appeal board within 30 days after the date the appellant is served or is deemed to have been served with the decision of the City.
- (2) The appellant shall give notice of appeal pursuant to this section by personal service, by registered mail or by ordinary mail.
- (3) On receiving a notice of appeal, the secretary of the appeal board shall, as soon as is reasonably practicable, provide the City with a copy of the notice of appeal.
- (4) An appeal pursuant to subsection (1) does not operate as a stay of the denial, suspension or cancellation appealed from unless the appeal board, on an application by the appellant, decides otherwise.
- (5) If an appellant fails to file an appeal within the time prescribed by subsection (1), the secretary of the appeal board shall refuse to file the notice of appeal, unless the appeal board, on application by the appellant, extends the time for filing the notice of appeal.

Fees

7. (1) An appellant who files a notice of appeal shall, at the time of filing the appeal, pay a fee of \$50.00 in respect of each notice of appeal.
- (2) A notice of appeal shall not be considered as having been filed unless the notice of appeal and the applicable fee have been received by the secretary of the appeal board within the time prescribed in subsection 6(1).
- (3) The fees referred to in this section are non-refundable and may not be waived or reduced under any circumstances.

Notice of Hearing

8. (1) The secretary of the appeal board shall set the date, time and location for the hearing before the appeal 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 appeal board shall, at least 30 days before the hearing, serve on the appellant and the City a notice stating:

- (a) the date, time and location of the hearing; and
 - (b) that, if the appellant fails to appear at the hearing, the hearing may proceed in the appellant's absence, at which time the appeal may be dismissed.
- (3) The secretary of the appeal board may give notice pursuant to this section by personal service, by registered mail, or by ordinary mail to the appellant:
- (a) at the address for service indicated on the notice of appeal; or
 - (b) if no address is given in the notice of appeal, at the address entered on the appellant's licence application.
- (4) After notice has been served pursuant to subsection (3), the appellant, the City and the secretary of the appeal board may agree to an earlier hearing date for the appeal, if necessary.
- (5) The secretary of the appeal board shall not set a hearing date for an appeal unless, in the secretary's opinion, the appellant has complied with all the requirements set out in section 5.
- (6) If, in the opinion of the secretary of the appeal board, the notice of appeal does not comply with section 5, the secretary shall:
- (a) notify the appellant of the deficiencies in the notice of appeal; and
 - (b) grant the appellant one 14-day extension to perfect the notice of appeal.
- (7) If the appellant does not comply with the notice given pursuant to subsection (6), the secretary of the appeal board may refuse to file the notice of appeal, which action is deemed to be a refusal by the appeal board to hear the appeal.

Disclosure of Evidence

9. (1) If an appellant intends to make use of any report, document, record or other written evidence on the hearing of an appeal, at least 20 days before the date set for the hearing, the appellant shall:
- (a) file a copy of the materials with the secretary of the appeal board; and
 - (b) serve a copy of the materials on the City.

- (2) If the City intends to make use of any report, document, record or other written evidence on the hearing of an appeal, at least 10 days before the date set for the hearing, the City shall:
 - (a) file a copy of the materials with the secretary of the appeal board; and
 - (b) serve a copy of the materials on the appellant.
- (3) If an appellant intends to make use of any report, document, record or other written evidence on the hearing of the appeal in response to materials served on the appellant pursuant to subsection (2), at least five days before the date set for the hearing the appellant shall:
 - (a) file a copy of the materials with the secretary of the appeal board; and
 - (b) serve a copy of the materials in response on the City.
- (4) If a party does not comply with any of subsections (1), (2) or (3), the appeal 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.
- (5) At least 10 days before the date set for the hearing, the City shall file with the secretary of the appeal board and serve on the appellant:
 - (a) a copy of the appellant's licence, if any; and
 - (b) a copy of the notice from the City informing the appellant that their licence had been refused, suspended or cancelled, or that the licence has been issued conditionally.
- (6) The time limits referred to in subsections (1), (2) and (3) shall apply only to documentary evidence, and nothing in this section shall preclude a party from filing a written submission, including legal argument, with the appeal board at the beginning of or prior to the hearing of the appeal.

Public Hearings

10. (1) Subject to subsections (2), (3) and (4), the appeal board shall conduct its hearings in public.

- (2) The appeal 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 which, if disclosed, could result in an invasion of privacy that clearly outweighs the public interest in disclosure.
- (3) The appeal board may deliberate and make its decisions in meetings closed to the public.
- (4) If the appeal board closes a hearing to the public, it may also make all or any of the following orders:
 - (a) an order that personal information for an individual licensee that forms part of a report, study, transcript or decision be purged or masked before the report, study, transcript or decision is released to the public; or
 - (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 Appeal Board

11. (1) The appeal 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 appeal 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 appeal board hearing the appeal.
- (4) The appeal board may make rules to govern its proceedings that are consistent with *The Cities Act*, this Bylaw and with the duty of fairness.

Witnesses

12. (1) A party to an appeal may testify, and may call witnesses to testify, at the hearing before the appeal board.

- (2) For the purposes of a hearing before the appeal board, a party may request the secretary of the appeal board to issue a subpoena to any person:
 - (a) to appear before the appeal board;
 - (b) to give evidence; and
 - (c) to produce any documents and things that relate to the matters at issue in the appeal.
- (3) The party requesting the secretary of the appeal board pursuant to subsection (2) to issue a subpoena shall serve the subpoena on the person to whom it is directed.
- (4) For the purposes of subsection (3), service of a subpoena is to be effected by:
 - (a) personal service on the person to whom it is directed; or
 - (b) registered mail sent to the address of the person to whom it is directed.
- (5) Subject to subsection (6), 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 testify or produce documents as required under the subpoena.
- (6) If a person who is not a party 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, attendance money calculated in accordance with the rules of the Court of King's Bench is paid or tendered to the person.
- (7) Unless the appeal board otherwise orders, the party responsible for service of a subpoena is liable for payment of attendance money pursuant to subsection (6).

Evidence

13. Any party to an appeal shall tender all of the evidence on which the party relies at the appeal board hearing.

Failure to Appear

14. If an appellant fails to appear either personally or by agent at the appeal 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

15. (1) On application made by an appellant appearing before it, an appeal board may, by order, grant leave to the appellant to amend their notice of appeal so as 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 and conditions that the appeal board considers appropriate.
 - (3) An order made pursuant to subsection (1) must be in writing.

Decisions

16. (1) Subject to subsection (2), after hearing an appeal, the appeal board may, as the circumstances require and as the board considers just and expedient:
 - (a) confirm, revoke or vary the City's decision to impose conditions or to refuse, suspend or cancel a licence; or
 - (b) substitute its own decision for the decision appealed from.
- (2) In determining an appeal under subsection (1), the appeal board:
 - (a) is bound by the provisions of the bylaw pursuant to which a licence is refused, suspended, cancelled or issued conditionally; and
 - (b) may confirm, revoke or vary the City's decision only if the appeal board's decision would not:
 - (i) contradict the purpose and intent of the licensing bylaw;

- (ii) grant the appellant a special privilege inconsistent with the restrictions on other persons under the same licensing bylaw; or
 - (iii) amount to a relaxation of the provisions of the licensing bylaw so as to contradict the purposes and intent of the licensing bylaw.
- (3) After a decision is made pursuant to subsection (1), the secretary of the appeal board shall, by ordinary mail, send a copy of the decision together with written reasons, if any, for the decision to each party in the appeal.
- (4) Every decision of the appeal board is final and not open to question or review in any court, and no decision of the appeal board shall 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.

Service of Documents

- 17. (1) Any notice or other document that is given or served personally is deemed to have been given or served on the date of actual service.
- (2) Any notice or other document dealing with an appeal that is given or served by registered or ordinary mail is deemed to have been given or served on the fifth business day after the date of its mailing unless the person to whom the notice or other document was sent 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.

Consequential Amendments

- 18. (1) Bylaw No. 6066, *The License Bylaw* is amended:
 - (a) by repealing section 8; and
 - (b) by repealing section 13 and substituting the following:

“13. The denial, suspension or cancellation of a license issued under this bylaw may be appealed to the Saskatoon Licence Appeal Board, pursuant to the provisions of The Saskatoon Licence Appeal Board Bylaw, 2012.”

(2) Bylaw No. 8075, *The Business License Bylaw, 2002* is amended by repealing subsection 16(3) and substituting the following:

“(3) The denial, suspension or cancellation of a license issued under this Bylaw may be appealed to the Saskatoon Licence Appeal Board, pursuant to the provisions of *The Saskatoon Licence Appeal Board Bylaw, 2012.*”

Coming Into Force

19. This Bylaw shall come into force on the day of its final passing.

Read a first time this 18th day of June, 2012.

Read a second time this 18th day of June, 2012.

Read a third time and passed this 18th day of June, 2012.

“Donald J. Atchison”

Mayor

“Janice Mann” “SEAL”

City Clerk

Schedule "A"

Declaration of Member of Saskatoon Licence Appeal Board

I, _____, having been appointed to the office of
 _____ of the Saskatoon Licence Appeal Board for The City of
(members/secretary)
 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 _____)
 _____, Saskatchewan,)
 this _____ day of _____, 20____)
 _____)
 _____)

Signature of Declarant

A Commissioner for Oaths/A Notary Public
 in and for the Province of Saskatchewan
 My appointment expires _____
 - or - Being a Solicitor

