

BY-LAW 2020 - XX
Proposed amendment to by-law 2014-170

**By-law 2020-XXX A BY-LAW TO AMEND THE PROCEDURE FOR THE COMMITTEE OF
ADJUSTMENT OF THE CITY OF MARKHAM**

Whereas the Council of the Corporation of the City of Markham has passed By-law 2011-194 to constitute and appoint a Committee of Adjustment; and,

Whereas Section 238(2) of the Municipal Act, 2001, S.O. 2001, c. 25 (the “Municipal Act”), as amended, requires every municipality and local board to adopt a procedure by-law for governing the calling, place and proceedings of hearings; and

Whereas Section 5.1 and Section 5.2 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c S.22 allow for the conduct of electronic or written hearings; and

Whereas the Province of Ontario has enacted the *Hearings in Tribunal Proceedings (Temporary Measures) Act*, 2020, S.O. 2020, c. 5, Sched. 3, allowing for a Tribunal subject to the *Statutory Powers Procedure Act*, to conduct electronic and/or written hearings as it considers appropriate, to issue directions and/or orders with respect to the conduct of hearings and matters ancillary, and make any rules related thereto; and,

Whereas Section 239(1) and Section 239(5) of the Municipal Act requires all meetings to be open to the public and state that a meeting shall not be closed to the public during the taking of a vote; and,
Whereas the Committee of Adjustment for the City of Markham has been established pursuant to the Planning Act, R.S.O. 1990, c.P. 13, as amended; and,

Now therefore the Council of The Corporation of the City of Markham hereby amends as follows:

By adding the following Sections 2.5, 2.6, 2.7, and 2.8 after Section 2.4:

- “2.5 Notwithstanding 2.1, 2.3, and 2.4 above, during any period where an emergency has been declared to exist in all or part of the municipality under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, as may be amended or replaced, notice of any hearing may be given in accordance with the *Planning Act*, R.S.O. 1990, c. P.13 and its regulations, all as amended, and/or any by-laws, legislation, and/or regulations related to the declaration of an emergency, where appropriate.
- 2.6 Any modification to notice in accordance with section 2.5 above shall be authorized by the City Solicitor or their Designate.
- 2.7 Notwithstanding Section 2 above, during any period where an emergency has been declared to exist in all or part of the municipality under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, as may be amended or replaced and where permitted by law, the Committee may issue a direction related to the provision of notice for a hearing, but may not allow for no notice of a hearing to be issued.

- 2.8 Nothing in this by-law shall prevent the holding of a meeting of the Committee of Adjustment after a declaration of emergency has been lifted, where notice of the meeting was provided in accordance with section 2.5 or 2.7.”

By amending Section 3.1 as follows:

- “3.1 The location of all hearings of the Committee shall be identified on the notice of hearing referred to in Section 2.”

By adding the following Section 5.1.1 after Section 5.1:

- “5.1.1 Notwithstanding 5.1, a member of the Committee who is participating electronically in a meeting may be counted in determining whether or not a quorum of members is present at any point in time.”

By amending Section 6.1 as follows:

- “6.1 The meeting Chair shall conduct meetings in accordance with this By-law, the Policy Directives, the *Planning Act*, and the *Statutory Powers Procedure Act*, all as amended.”

By adding the following Section 6.12 after Section 6.11:

- “6.12 Notwithstanding 6.2 to 6.11 inclusive, all or portions of meetings in accordance with this By-law may be held through written means, as determined by the Committee.

- (1) Should the Committee wish to hear an application through a written hearing,
 - a. the Committee may make rules or issue directions with respect to the written hearing setting out:
 - i. the timelines for the submission of materials by the applicant;
 - ii. the posting of those materials online at www.markham.ca for public review;
 - iii. the timeline for the submission of materials by any person or party in support or opposition to the application;
 - iv. the timeline for reply submissions by the applicant.
 - b. After the matters set out in subsection (a) are complete, the Committee may make rules or issue directions with respect to the written hearing setting out:
 - i. the deliberation of the application by the Committee members;
 - ii. voting on the application by the Committee; and
 - iii. the issuance of a decision by the Committee.”

By adding the following Section 8.4 and 8.5 after Section 8.3:

“8.4 Notwithstanding 8.2 and 8.3, during any period where an emergency has been declared to exist in all or part of the municipality under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act*, all decisions shall be prepared and posted on the City of Markham’s website, and may provide notice of such decision by electronic means to the applicant and each person or public body required in accordance with Section 45(10) or 53(17) of the *Planning Act*, as amended.

8.4.1 In accordance with Section 8.4, any person who wishes to be provided notice of a decision by the Committee shall provide an electronic mail (e-mail) address to provide service. Any person who refuses to, or otherwise does not provide an e-mail address to the Secretary-Treasurer shall be deemed to have withdrawn a request for notice of the decision of the Committee.”

All other provisions of By-law 2014-170, as amended, shall continue to apply.

Read a first, second, and third time and passed on _____.