



POLICY NO. 11.23

May 26, 2015

TITLE: AGRICULTURAL PESTS ACT APPEAL COMMITTEE

PREAMBLE:

The Agricultural Pests Act and Regulations are provincial legislation that is delegated to local authorities to administer, direct and enforce within their jurisdiction. Under the Act and Regulation, there is provision for an appeal process that can be initiated by a person who considers themselves aggrieved by an inspector's notice. An appeal will be heard and determined by an independent Appeal Committee in accordance with the Agricultural Pests Act, Regulation and this policy.

1. APPEAL COMMITTEE

- 1.1. Council will annually establish an independent Appeal Committee to determine appeals of inspectors' notices.
- 1.2. The Appeal Committee shall be the Municipal Planning Committee.
- 1.3. Quorum of the Appeal Committee will be a minimum of three members.
- 1.4. The Appeal Committee shall hear and determine the appeal within 5 days of the receipt of the notice of appeal by the CAO.
- 1.5. The Appeal Committee may confirm, rescind or vary the inspector's notice.

2. APPEAL TO LOCAL AUTHORITY

Section 14 of the Act states:

2.1. A person who

- 2.1.1. has an interest in land as an owner or occupant, and
- 2.1.2. has an interest in livestock as an owner or person in control of livestock

and feels personally aggrieved by a notice issued by an inspector under the Agricultural pests Control Act may appeal to the local authority of the municipality with which the land or livestock is located by filing a notice of appeal under this section.

2.2. A notice of appeal shall be in writing and shall set out:

2.2.1. the name and address of the appellant,

2.2.2. a copy of the notice in respect of which the appeal is being taken,

2.2.3. the legal description of the land affected, or a description of the livestock affected and the legal description of the land on which the livestock were located and

2.2.4. the grounds for appeal.

2.3. A notice of appeal shall be served on the Chief Administrative Officer (CAO) of the municipality

2.3.1. by any of the methods set out in section 12(3) of the Agricultural Pest Act, and

2.3.2. within the time specified in the notice for compliance or within 10 days after being served the notice, whichever is less.

2.4. A notice of appeal shall be accompanied by a deposit, in accordance with section 16 of the Pest and Nuisance Control Regulation, Alberta Regulation 184/2001 under the Agricultural Pests Act.

2.5. The deposit made under section 14.4 shall be refunded if the appellant is successful in their appeal.

3. SECRETARY TO THE APPEAL COMMITTEE

3.1. The Secretary of the Appeal Committee shall be the CAO or his designate.

4. RESPONSIBILITIES

4.1. The Chief Administrative Officer

4.1.1. shall call a hearing within five days upon receipt of a notice of appeal in accordance with section 14(6) of the Agricultural Pests Act, and

4.1.2. shall send a copy of the decision together with the written reasons if any to the appellant by certified or registered mail.

4.2. The Appeal Committee Members

4.2.1. shall hear and determine an appeal within five days from the day of receipt of the notice of appeal, in accordance with section 14(6) of the Agricultural Pests Act.

4.2.2. shall confirm, rescind, or vary the notice,

4.2.3. shall remain independent.

4.3. The Appeal Committee Chairperson

4.3.1. shall preside over the hearing and ensure it is conducted fairly and in a business-like manner,

4.3.2. shall ensure the hearing takes place in the prescribed order of presentation, and,

4.3.3. shall ensure that questions are relevant and irrelevant information is minimized.

4.4. The Appeal Committee Secretary

4.4.1. compiles and provides agenda and meeting packages to members,

4.4.2. makes and keeps a record of Appeal Committee proceedings, and

4.4.3. signs orders, decisions, notices, and other items given by the Appeal Committee on its behalf.

4.5. The Inspector

4.5.1. shall provide the information, documents, details and answers to relevant questions that arise during the hearing, and

4.5.2. shall act in a professional and business-like manner during the hearing.

4.6. The Appellant

4.6.1. shall provide the information, documents, details and answers to

relevant questions that arise during the hearing, and

4.6.2. shall act in a professional and business-like manner during the hearing.

5. HEARING ORDER OF PRESENTATION

- 5.1.** Call to order
- 5.2.** Introductions
- 5.3.** Call for objections
- 5.4.** Hearing purpose and procedure
- 5.5.** Notice of appeal
- 5.6.** Pest Inspector report
- 5.7.** Appellant's statement and presentation
- 5.8.** Pest Inspector's final comments
- 5.9.** Appellant's summary or rebuttal
- 5.10.** Questions from the Appeal Committee
- 5.11.** Chair's final remarks and Hearing summation
- 5.12.** Deliberation of the Appeal Committee (in-camera)
- 5.13.** Appeal Committee's decision
- 5.14.** Adjournment

6. APPEAL COMMITTEE REMUNERATION

- 6.1.** Honorarium, travel and meals for Committee members shall be covered as per Policy 5.03

MOTION: _____

DATE: _____

Peter Kelly

Chief Administrative Officer