



<b>Policy:</b>	<b><i>Municipal Board Policy</i></b>
<b>Number:</b>	<b><i>109 – Rules of Procedures for Hearings for all Committees</i></b>
<b>Legislation:</b>	<b><i>The Municipal Board Act (MBA) [ss. 16, 40, 40(5)(a), 40(5)(b), 75] The Saskatchewan Municipal Board Fee Regulations [s. 4(1)] The Local Improvements Act (LIA) [s. 26(2)] The Revenue and Financial Services Act</i></b>
<b>Created:</b>	<b><i>December 15, 1994</i></b>
<b>Revised:</b>	<b><i>June 7, 2022</i></b>

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NOTE: Rules peculiar to any committee are set out under that committee's procedure.

## **RULE 1 CITATION, PRINCIPLE AND DEFINITIONS**

### **Citation**

- 1.1 These rules may be cited as the Saskatchewan Municipal Board Rules of Procedures for Hearings for all Committees (herein called the "Rules") and shall come into effect on January 23, 2019, superseding all rules made before that date.

### **Principle**

- 1.2 These rules shall be liberally construed to secure the most expeditious determination of every matter before the Board.

### **Definitions**

- 1.3 Committee refers to any of the following committees of the Board that hold hearings:
- Assessment Appeals Committee (AAC)
  - Planning Appeals Committee (PAC)
  - Local Government Committee (LGC)
  - Municipal Boundary Committee (MBC)
  - Road Maintenance Agreement Committee (RMAC)
  - Fire Prevention Appeals Committee (FPAC)
  - Weed Control Appeals Committee (WCAC)

Board refers to the Saskatchewan Municipal Board.

BOR refers to a board of revision.

DAB refers to a development appeals board.

## **RULE 2 TECHNICAL OBJECTIONS AND NON-COMPLIANCE**

2.1 No proceeding before the Board shall be defeated or affected solely by any technical objection or by any objection based on defects in form.

2.2 The Board may, in order to secure a just determination of any matter, dispense with compliance with any rule at any time.

## **RULE 3 COMPUTATION (updated June 6, 2022)**

3.1 In the computation of time under these rules:

### **Assessment Appeals Committee**

- On-record appeals:
  - **Personal service** - Board of Revision (BOR) date of personal delivery of complete decision + 30 days + Adj
  - **Ordinary mail** - BOR date of mailing the complete decision + (5 business days or the date the person received it if they establish that through no fault of their own, the person did not receive it) + Adj + 30 days + Adj
- Direct appeals - Date of notice or bylaw + 30 days + Adj
- Omissions, neglect or refusals - December 31 of the assessment year.

### **Board of Revenue Commissioners**

- Post Master's Receipt Date of the notice + Adj + 30 days + Adj  
*Note: The Board may, in its discretion, extend the time allowed for filing the notice of appeal.*

### **Planning Appeals Committee**

- Appeals from decisions of the Development Appeals Board (DAB)
  - **Personal service** - DAB date of personal delivery of complete decision + 30 days + Adj
  - **Registered mail** - DAB date of mailing the complete decision + 3 for within municipality or four days for outside municipality + Adj + 30 days + Adj  
*Note: Unless the person to whom the DAB mailed the document proves otherwise*
- Appeals (Denial of a Subdivision application or on a Servicing Agreement, or Interim Development Control) from approving authority
  - **Registered mail** - Date of mailing the complete decision + 3 for within municipality or 4 days for outside municipality + Adj + 30 days + Adj

*Note: Unless the person to whom the approving authority mailed the document proves otherwise*

- Direct Appeals from District Planning Authority (DPA) or Regional Planning authority (RPA)
  - **Personal service** - DPA or RPA date of personal delivery of complete decision + Adj + 30 days + Adj
  - **Registered mail** - DPA or RPA date of mailing the complete decision + 3 for within municipality or 4 days for outside municipality + Adj + 30 days + Adj

*Note: Unless the person to whom the DAB mailed the document proves otherwise*

#### **Fire Prevention Appeals Committee**

- Appeals against certificate
  - **Personal service** - Date of personal delivery of the certificate + 30 days + Adj
  - **Registered mail** - Date of mailing the certificate + 7 business days + Adj + 30 days + Adj
- Appeals against order of provincial inspector, fire commissioner
  - **Personal service** - Date of personal delivery of the order + Adj + 15 days + Adj
  - **Registered mail** - Date of mailing the order + 7 business days + Adj + 15 days + Adj

*Note: Unless the person to whom the certificate or order is mailed proves otherwise*

#### **Weed Control Appeals Committee**

- **Personal service** - Date of personal delivery of complete decision + 15 days + Adj
- **Registered mail** - Date of mailing the complete decision + 5 business days + Adj + 15 days + Adj

*Note: Unless the person to whom the document is mailed proves otherwise*

#### **Road Maintenance Appeals Committee**

- None

#### **Municipal Boundary Committee**

- None

#### *Notes:*

- For 30 days calculation, do not include the day of the event but do include the 30<sup>th</sup> day.
- In terms of time, the appeal is deemed delivered on time if it is received by 5:00 p.m. on the last day.
- Adj (Adjustments): If the date falls on a holiday, the time is extended to the next day that is not a holiday.

- 3.2 The Board may extend any time prescribed by these rules on such terms as the Board may determine excepting where statutory provisions apply.

## **RULE 4 FILING HEARING MATERIAL (updated June 6, 2022)**

4.01 For hearings on the record, the committee receives a copy of the record of the hearing from the BOR/DAB Secretary. Parties may make brief written submissions to:

- describe the mistake they believe the BOR/DAB made;
- state their position about why they think it is a mistake;
- identify where the mistake is located in the BOR/DAB's written decision; and
- identify discrepancies in the record of the BOR/DAB.

If a party thinks the committee does not have the authority to hear the appeal, they must address it in their submission. In these submissions, documents which are part of the record do not need to be resubmitted.

4.02 New evidence for a hearing on the record will only be considered if the following conditions are met:

- it is shown to be relevant;
- it is shown to be necessary; and
- it is shown that the reason it was not introduced before a BOR/DAB was through no fault of the party wanting to introduce the evidence.

The committee will make a decision to accept or refuse the proposed new evidence at the hearing. If it is accepted, the evidence will be assigned an exhibit number.

4.03 In the case of a direct hearing, parties may make written submissions to:

- explain their position about the reasons for the appeal;
- introduce evidence in support of their position; and
- identify witnesses they intend to bring forward at the hearing.

4.04 To qualify a witness as an expert, parties must submit a written request to the committee prior to the hearing with a copy to the other party. The request must include the witness's CV, indicate what specific matters the witness will be addressing in their testimony, and provide evidence the witness has acquired special knowledge through study or experience about those matters.

- Qualification as an expert is not automatic. The committee may put limits on what the witness can testify about.

- 4.05 To the extent that a submission relies on case law, bylaws (including approval date and signature page), or out-of-province legislation, access to complete copies must be provided to the committee and the other parties when the submission is filed. Parties will identify the specific sections that apply to the appeal when filing their submissions.
- 4.06 In the case of direct appeals, parties will deliver submissions to the director with a copy to other parties as follows:
- appellant's initial written submission at least 40 days prior to the hearing;
  - for assessment appeals, the assessor's submission including complete assessment field sheet and a written explanation of how the assessment was determined at least 30 days prior to the hearing. The explanation will identify any decisions considered in determining the assessment and a statement, with reasons, indicating whether the assessor decided to apply the decision in whole, in part, with modification, or not at all to the assessment;
  - respondent submission at least 30 days prior to the hearing; and
  - appellant's rebuttal submission at least 20 days prior to the hearing.
- 4.07 In the case of hearings on the record, parties will deliver submissions to the director and other parties as follows:
- appellant, at least 40 days prior to the scheduled hearing date;
  - respondent, at least 30 days prior to the scheduled hearing date; and
  - related or interested parties, at least 30 days prior to the scheduled hearing date.
- 4.08 If a submission is received late, the director will consult the other parties to determine if they require extra time to prepare for the hearing, and if so, how much more time they require.
- If parties indicate they do not require more time to prepare, the committee will address the late submission and consider allowing the materials during preliminary matters at the hearing.
  - If a party indicates they require more time to prepare for the hearing, the director will consult the panel chair. Depending on circumstances, a decision may be made to postpone and reschedule the hearing to an alternative date and time.
- 4.09 For all submission deadline dates, any date falling on a weekend or statutory holiday will be moved forward to the next business day.

#### 4.10 Submission guidelines:

- Submission format:
  1. *Title page*
  2. *Table of Contents*
  3. *Introduction*
  4. *Issues and Analysis*
  5. *Request*
  6. *Appendices*
  7. *Table of Authorities/Case Law*
- Parts 3 to 5 of the submission (i.e., excluding the Title Page, Table of Contents, Table of Authorities/Case Law and any appendices) **must not exceed**:
  - Appellant/Respondent: 5 pages per issue or a total of 40 pages, whichever is lower.
  - Last word document/rebuttal (written submission hearing/first instance hearings/consolidated assessment appeals): No more than 10 pages.
- Formatting guidelines:
  - Font: Calibri or Helvetica
  - Font size: 12 point
  - Line spacing: 1.5 line spacing, except for quotations from authorities, which must be indented and single-spaced
  - Margins of no less than 3.0 centimetres or 1.5 inches
- All non-conforming submissions will be refused by the staff and parties will be given an opportunity to perfect the submissions within two business days.
- In terms of time, the submission is deemed delivered on time if it is received by 5:00 p.m. on the day the submission is due.

### **RULE 5 BOARD DOCUMENTS** (updated December 10, 2020)

- 5.1 Any person can make a formal request to examine any official document of the Board not to be considered confidential subject to any act. Subsection 8(1) of *The Saskatchewan Municipal Board Fees Regulations*, RRS c M-23.2 Reg 3 [*Regulations*] defines document, report, regulation, decision, order or record from the hearings or inquiries or appeals of the Saskatchewan Municipal Board as an “official document.”
- 5.2 They may request a copy of the document or portion thereof in writing to our general inquiry email ([info@smb.gov.sk.ca](mailto:info@smb.gov.sk.ca)) outlining which portions of the document they require. Once the Board receives the request, a quote will be provided. If the person agrees to the quote and when the payment is received, the request will be processed and sent by email/regular mail unless an act, an order of the court or an order of the Board provides otherwise.
- 5.3 Subsection 8(2) of the *Regulations* sets out the cost as follows: “Subject to subsection (3), every person requesting an official document shall pay a fee of \$0.50 per page of the

document requested.” Please note the cost of \$.50 per page will be charged for **both** electronic and hard copy documents with an additional cost for postage where required.

5.4 Where any part of the materials provided for use in any matter before the Board is confidential, the material shall be placed in a secured location. Confidential material shall not be examined by or provided to any person except in accordance with relevant legislation and established procedures.

5.5 Committee members will be advised when they are given confidential materials and advised of the penalties for releasing this material. Committee members will be asked to return this material in an appropriate manner when decisions are released.

## **RULE 6 FILING IRREGULARITY**

6.1 Where it appears there is an irregularity in the filing of an appeal (e.g., outside the legislated timeframe), the validity of the appeal will not be determined without benefit of a jurisdiction hearing.

## **RULE 7 FILING FEE**

7.1 Collection of Fee

Collection of appeal fees shall be in accordance with fees established by regulation [s. 75 of the *MBA*].

For the purposes of section 4(1) of the *Regulations*, fees shall be collected:

- (a) where a single property is appealed, (one lot or one quarter section) on the basis of the assessed value of the land, improvements, or the assessment of which is being appealed; and
- (b) where more than one property is appealed (multiple legal descriptions); and the property is located in the same municipality; and the parties to the appeal (appellant/respondent) are the same; (and the grounds of the appeals are the same;) on the basis of the total assessed value of the land and improvements, the assessment of which is being appealed;

7.2 Local Improvement Adjudications

With respect to requests for adjudication filed pursuant to subsection 26(2) of the *LIA*, no fee shall be charged until such time as the appellant and the respondent have attempted to enter into an agreement and indication is subsequently received from the appellant that no agreement has been reached.

### 7.3 Refunds (updated December 10, 2019)

Where an appeal fee has been collected, it will be refunded within 30 days in the following circumstances:

- (a) When the appeal is withdrawn at least 45 days prior to the beginning of the hearing; unless a subsequent protective appeal was filed, then the appeal fee will be applied to that appeal.
- (b) Upon recommendation from a committee and approval by the Board.
- (c) For assessment appeals, when certain properties to the appeal are withdrawn, the fee will be recalculated and any overpayment will be refunded.
- (d) For assessment appeals, when the appellant is successful in whole or in part or when parties reach an agreement resolving all matters on appeal. As it relates to this rule, an assessment appeal is deemed successful only if the subject property or properties assessment, classification or taxable status is altered as a result of the Committee's decision.

## **RULE 8 POSTPONEMENTS AND ADJOURNMENTS**

8.1 Postponements and adjournments are not a matter of right and accordingly will not be automatically granted.

8.2 Adjournments will not be granted on the basis of non-preparedness when a minimum of 60 days' notice has been given prior to hearing.

## **RULE 9 PRE-HEARING CONFERENCE**

9.1 At the request of a party to the appeal or on the initiative of the panel members, the committee chair may call a pre-hearing conference. The circumstances that will be considered in the chair's decision are the complexity of the appeal and the estimated length of the hearing. The purpose of the conference may be to achieve any or all of the following:

- (a) identify and clarify the basis for the appeal;
- (b) possibly settle any or all of the matters under appeal;
- (c) establish procedures that will be fair to both parties while at the same time expediting the hearing;



- (d) impose terms and conditions with respect to the exchange of documents or briefs that either party will rely on at the hearing;
- (e) discuss and thence decide on a request for a summons;
- (f) determine the validity of a summons that has been issued with respect to the subject appeal; and
- (g) any other matter that may assist in the just and expeditious disposition of the proceedings.

9.2 A record will be made of any facts or issues agreed to at this conference with copies of same made available to the parties.

## **RULE 10 SUMMONS/SUBPOENA**

10.1 Where a party to the appeal requires the attendance of an individual to give evidence or produce documents, a request may be made to the Board for issuance of a summons.

Responsibility for drawing and serving a summons rests with the party requesting same as does responsibility for providing the person named therein with conduct money (attendance and travel expenses).

10.2 The timeframe that must be considered by the person requesting the summons should reflect:

- (a) the amount of information being requested;
- (b) the amount of time required to produce/retrieve the information; and
- (c) the distance to be travelled to attend the hearing.

10.3 The Board will, on behalf of a party to an appeal, issue a summons providing the Board is satisfied the evidence and/or documents will assist the Board in making a determination of the matter under appeal. To assist the Board in determining relevancy, the following information/documentation must accompany the request:

- (a) a copy of the summons/subpoena;
- (b) a statement to the effect the witness possesses evidence and will not appear voluntarily or will not voluntarily produce the documentation;
- (c) a statement the information/documentation is not available from other sources; and
- (d) an explanation of why the evidence sought is relevant and necessary.

10.4 The Board reserves the right to amend or quash a summons it has issued where subsequent to such issuance, information is received that warrants such action.

## **RULE 11 NON-ATTENDANCE AT HEARING**

11.1 If a party does not appear at the hearing in person or by agent, the Board or committee members present may, after consulting with the party in attendance: adjourn the hearing to another date; dismiss the appeal outright; or proceed with the hearing in the party's absence.

## **RULE 12 CONDUCT OF HEARING (updated October 26, 2017)**

12.1 Hearings before the Board shall be held at any times and places as the Board deems to be most convenient for its affairs.

12.2 All Board hearings shall be open to the public except where the Board determines that a matter should be heard in the absence of the public.

### **Procedure at a Hearing**

12.3 In each and every case before it, it is incumbent upon the panel to raise the issue of jurisdiction where:

- (a) the matter has been brought to the parties' attention through a letter previously advising of the perceived irregularity;
- (b) a prior review of the record by the panel reveals a jurisdictional issue; or
- (c) it becomes apparent, during the hearing, that the Board/committee's jurisdiction to entertain all, or a portion of the appeal, may be in question.

12.4 With the exception of appeals launched pursuant to section 16 of the *MBA*, the presiding member will, at the beginning of the hearing, indicate the procedure that will be used. Unless varied by the presiding member of the committee, the hearing shall be conducted in the following manner:

- (a) the hearing of an appeal is open to the public;
- (b) everyone who gives evidence before the committee is required to take an oath or affirm that the evidence they give will be the truth:
  - i. All persons presenting evidence at a hearing, including the parties to the appeal, as well as their appointed representative, must be sworn in.
  - ii. Lawyers do not need to be sworn in as they are already under oath and have a duty to be truthful during all proceedings in accordance with their license to practice law.
  - iii. Sequestering Witnesses

- a) In regular BRC appeals, we canvas the appellant and respondent to determine if they request the witnesses to leave the room (we have not asked the witnesses (i.e., auditor and business owner) to leave the room).
  - b) In complex appeals, witnesses should be excluded from the hearing room until they are called to testify (in the past we have canvassed the appellant and respondent to determine if witnesses should leave the room and who that would include, i.e., auditors).
  - c) Expert witnesses have training and experience that enable them to offer their own considered opinions as testimony and, therefore, are not required to leave the room. The presiding Chair must qualify expert witnesses by reviewing their credentials at the hearing by allowing them to be subjected to cross-examination as to their credentials (is there anything we should be doing at the pre-conference hearing to ensure we have the appropriate information about the expert witnesses);
- (c) the hearing will be conducted in an orderly manner with only one person speaking at a time;
  - (d) the appellant always proceeds with his/her case first. It may be desirable at the outset if the appellant makes a brief opening statement outlining the main issues. Following the opening statement, the appellant may then proceed to introduce evidence. Subsequent to this the witness may be questioned (cross- examined) by the other party to the appeal or by committee members;
  - (e) the respondent may then proceed in the same manner with the appellant being given the opportunity to cross-examine;
  - (f) the appellant will have an opportunity to respond to any new matters raised in the respondent's case;
  - (g) summation of evidence and argument of appellant;
  - (h) summation of evidence and argument of respondent; and
  - (i) final rebuttal by appellant.
- 12.5 The committee may, at any time during the presentation of the case by any party, ask questions to clarify issues or facts, or ask questions in the nature of direct examination or cross-examination.
- 12.6 The committee may require any party to submit written arguments within a specified time period. This material must be exchanged with the other party to the appeal.

## **RULE 13 COST IN PROCEEDINGS BEFORE THE BOARD**

- 13.1 The costs of and incidental to any proceeding before the Board, except as otherwise provided in this or any other act, regulation or rule, shall be at the discretion of the Board:

- (a) Costs will be awarded by the Board whenever the sitting panel members by majority agree that:
- The person by whom any costs are payable has significantly and deliberately acted in a manner which caused unnecessary costs to a party to the hearing.
  - The person against whom the costs are ordered has been unsuccessful.
- Examples of cause for awarding costs are: repetitious hearings wherein no new evidence or argument has been introduced in the latest hearing; failure to allow the expeditious proceeding of a hearing without cause; failure to appear without notice and without acceptable reason (generally as a repeat offence).
- (b) Costs may be ordered in respect to any hearing regardless of whether or not a party has requested costs. Decisions will always include a decision as to costs whenever costs have been requested by a party to the proceedings.
- (c) Under no circumstances will requests for costs be considered after the conclusion of the hearing.
- (d) If costs are requested and detailed the Board may award any or all of the items in the request. If there is no request for costs or the request for cost does not specify rates or charges, any or all of the following costs may be awarded by the Board:
- Meals - at the current provincial government rate;
  - Transportation - at the current provincial government rate per kilometre or travel costs supported by receipt;
  - Accommodation - at the current provincial government rate or as supported by receipt;
  - Remuneration - based on the current part-time Board member per diem rate;
  - Reproduction of documents - as contained in section 8 (official documents) of *The Saskatchewan Municipal Board Fee Regulations*; and
  - Incidental costs - as determined by the Board.
- (e) Costs may be awarded to any person who is a party to the hearing of the Board.

## **RULE 14 RECORDINGS AND TRANSCRIPTS**

- 14.1 No person, other than the Board, shall take or attempt to take a photograph, motion picture, audio recording or other record capable of producing an oral or visual reproduction by electronic or other means at a hearing.
- 14.2 Upon application, the secretary shall release its recording of the hearing to a transcriber, approved by the Board, to prepare a transcript at the applicant's expense of all or any part of the testimony recorded at the hearing. The original of any transcript along with the recording shall be sent to the Board.

**RULE 15 CHANGES MADE TO ORDERS/DECISIONS/PROCEEDINGS/  
APPROVALS (updated January 4, 2018)**

- 15.1 Where a party requests a review of the Board decision, order, or approval pursuant to subsection 40(5)(b) of the *MBA*, it must do so by way of application, such application to include, in detail:
- (a) the information alleged to be incorrect; and
  - (b) the reason why the alleged incorrect information was not successfully challenged at any initial hearing/review.
- 15.2 Where a clerical error or mistake in calculation is revealed pursuant to subsection 40(5)(a) of the *MBA*, which affects the decision, and is confirmed incorrect, the Board shall issue a revised decision reflecting the necessary correction.
- 15.3 Where an order, decision, proceeding or approval of the Board or any of its committees, or the Board of Revenue Commissioners, is rescinded, changed, altered or varied pursuant to the provisions of section 40 of the *MBA, The Revenue and Financial Services Act*, or any other act, regulation or policy, the following shall apply:
- (a) any request to rescind, change, alter or vary an order, decision, proceeding or approval shall be submitted to a meeting of the governing Board for approval; and
  - (b) any order, decision, proceeding or approval that is rescinded, changed, altered or varied shall be reissued under the signature of the chair of the Board, or her/his designate, to indicate the governing Board's consent.

**RULE 16 DECISIONS REMITTED FOR RECONSIDERATION (revised February 16, 2022)**

- 16.1 Where a decision by a committee of the Saskatchewan Municipal Board is remitted by a higher court for reconsideration, the matter will be heard by a Reconsideration Committee composed of Panel members (including a Panel chair), as appointed by the Board Chair.
- 16.2 The direction of the higher court will be strongly considered in making a revised decision.
- 16.3 After accessing previous Court remittals and upon review of the Hearing Book and any other pertinent information from the initial hearing, the Reconsideration Committee will

determine how to proceed. They may reconvene the hearing, request written submissions, make a decision based on the information from the initial hearing material or any other process they deem appropriate to make a decision in compliance with the direction of the Court.

16.4 A decision of the majority of the members present is the decision of the Reconsideration Committee.

16.5 All members present at the hearing shall vote on all matters.

## **RULE 17 PROVIDING NOTICE OF ASSESSMENTS (added June 14, 2018)**

17.1 For all assessment appeals, the appellant shall provide a notice of assessment for the properties under appeal. In the absence of a notice of assessment, a formal document that shows the assessment information will be accepted.