

Authority: Policy and Finance Committee Report No. 6, Clause No. 2,
adopted as amended, by City of Toronto Council on June 14, 15 and 16, 2005
Enacted by Council: June 16, 2005

CITY OF TORONTO

BY-LAW No. 590-2005

To amend City of Toronto Municipal Code Chapter 545, Licensing, respecting the Toronto Licensing Tribunal.

WHEREAS On August 3, 2000, City Council enacted By-law No. 574-2000, changing the name of the Toronto Licensing Commission to the Toronto Licensing Tribunal and assuming some of the powers of the Toronto Licensing Commission, pursuant to the *City of Toronto Act (No. 2)* and Ontario Regulation 214/96 (under the former *Municipal Act*); and

WHEREAS City Council has determined that further changes to and clarifications of the structure of the Toronto Licensing Tribunal are required; and

WHEREAS Pursuant to the *City of Toronto Act (No. 2)* and Ontario Regulation 214/96 (now under the *Municipal Act, 2001*), City Council may make any changes it considers advisable to the membership of the Toronto Licensing Tribunal and may dispense with the requirement that the Chair be elected by the members;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Subsection 545-3 of Toronto Municipal Code Chapter 545, Licensing, is deleted and replaced with the following:

§ 545-3. Toronto Licensing Tribunal.

- A. Name.

The Toronto Licensing Commission is renamed the Toronto Licensing Tribunal in English and Tribunal de Delivrance de Permis de Toronto in French.

- B. Mandate of the Toronto Licensing Tribunal.

- (1) The Toronto Licensing Tribunal shall conduct the hearings and perform the duties that are assigned to it under this Chapter.
- (2) City Council has delegated its decision-making powers to the Toronto Licensing Tribunal as a quasi-judicial adjudicative body to hear evidence and submissions and make independent decisions after a hearing respecting whether a licence should be issued, refused, suspended, revoked or have conditions placed upon it.

- (3) Chapter 545 of the Municipal Code sets out City Council's objectives with respect to licensing matters, and the Toronto Licensing Tribunal, through its independent adjudicative powers, shall:
- (a) Uphold the spirit and intent of the Municipal Code;
 - (b) Determine the extent to which an applicant's or licensee's individual circumstances and qualifications meet the requirements of the Municipal Code;
 - (c) Have regard for the need to balance the protection of the public interest with the need for licensees to make a livelihood;
 - (d) Ensure the hearing process is accessible and transparent and that hearings are conducted in a timely manner with due process; and
 - (e) Report on its activities through the Annual Report required by Subsection E.

C. Relationship Framework.

The Chair and members of the Toronto Licensing Tribunal shall be guided by the Relationship Framework for the Toronto Licensing Tribunal, as amended from time to time by City Council, which outlines the roles and responsibilities of the stakeholders in the licensing hearing process.

D. Business Meetings.

- (1) The Chair of the Toronto Licensing Tribunal shall convene at least two business meetings of the Toronto Licensing Tribunal every year for the purposes of:
- (a) Reviewing the operation of the Toronto Licensing Tribunal;
 - (b) Making decisions regarding administrative matters, procedural policies and the content of the Annual Report required by Subsection E;
 - (c) Discussing emerging policy issues relating to Toronto Licensing Tribunal hearings; and
 - (d) Discussing any other matters pertinent to the effective operation of the Toronto Licensing Tribunal.
- (2) All business meetings shall have a formal agenda, be recorded via meeting minutes and be open to the public.

- (3) Public notice of the Toronto Licensing Tribunal's business meetings shall be given by posting the notice on the notices page of the City of Toronto's web site for at least 10 days immediately preceding the business meeting.
- (4) A notice given under Subsection D(3) is sufficient even if there are times during the minimum notice period when the City of Toronto's web site is not accessible.
- (5) A notice given under Subsection D(3) shall contain the following information:
 - (a) A general description of the matters to be discussed at the meeting;
 - (b) The date, time and location of the meeting; and
 - (c) Instructions on obtaining additional information or attending the meeting.
- (6) Quorum for a business meeting of the Toronto Licensing Tribunal shall be 4 members.

E. Annual Report.

The Chair of the Toronto Licensing Tribunal shall report annually to the Planning and Transportation Committee or its successor, and the report shall include:

- (1) A summary of the activities of the Toronto Licensing Tribunal, including the number of hearings and hearing days, the types of hearings, and any changes made to the hearing process during the past year;
- (2) Any recommended changes to the policies and procedures of the Toronto Licensing Tribunal and any educational training proposed for the members of the Toronto Licensing Tribunal for the upcoming year;
- (3) Emerging licensing issues and observations that, in the Toronto Licensing Tribunal's opinion, should be reviewed by the City of Toronto; and
- (4) Any other matters that, in the Toronto Licensing Tribunal's opinion, impact the effective operation of the Toronto Licensing Tribunal.

F. Appointments of Members and Chair; Vacancies.

- (1) The Toronto Licensing Tribunal shall be composed of no more than six members appointed by City Council and one Chair appointed by City Council.

- (2) No member of City Council or a person who was a member of Council within three years of an appointment, may be appointed as a member of the Toronto Licensing Tribunal.
- (3) If a member of the Toronto Licensing Tribunal is unable to fulfil his or her duties for any reason, the Chair of the Toronto Licensing Tribunal shall notify the City Manager as soon as possible of the vacancy and, if known to the Chair, the reason for the vacancy.
- (4) The City Manager may initiate a search process to appoint a new member, and City Council may appoint a new member to fill the vacancy.
- (5) If the Chair is unable to fulfil his or her duties on a short-term basis, the Chair shall designate a current member as the Acting Chair, who, during his or her tenure as Acting Chair, shall have the powers and duties of the Chair.
- (6) If the Chair permanently vacates his or her position for any reason:
 - (a) The Toronto Licensing Tribunal shall select a Temporary Chair from among its members;
 - (b) The Temporary Chair shall notify the City Manager as soon as possible that the position of Chair has been vacated; and
 - (c) The City Manager may request City Council to initiate a search process to appoint a new Chair, and City Council may appoint a new Chair to fill the vacancy.

G. Terms.

- (1) Members of the Toronto Licensing Tribunal shall be appointed by and at the pleasure of City Council for terms coinciding with the term of City Council, and shall serve until their successors are appointed.
- (2) The Chair shall be appointed by and at the pleasure of City Council for a term coinciding with the term of City Council, and shall serve until his or her successor is appointed.
- (3) Any person appointed to replace a member or the Chair of the Toronto Licensing Tribunal before the member's or Chair's term expires shall hold office for the remainder of that term.
- (4) Members of the Toronto Licensing Tribunal are eligible for reappointment, subject to any policies adopted by City Council regarding citizen re-appointments or term limits to the City of Toronto's Agencies, Boards, Commissions and Corporations.

H. Remuneration.

- (1) The members and Chair of the Toronto Licensing Tribunal shall be paid such remuneration and expenses as may be fixed by City Council from time to time.
- (2) For greater certainty, the members and Chair of the Toronto Licensing Tribunal are not employees of the City of Toronto and are not eligible for any employee benefits or deductions.

I. Role of the Chair.

- (1) The Chair of the Toronto Licensing Tribunal shall oversee the effective and efficient operation of the Toronto Licensing Tribunal.
- (2) The duties of the Chair shall include, but are not limited to:
 - (a) Overseeing the hearing process;
 - (b) Developing procedural policies related to the hearing process and the conduct of the Toronto Licensing Tribunal members;
 - (c) Ensuring that the content of the Toronto Licensing Tribunal's web site is current, public-friendly and clear;
 - (d) Mentoring members of the Toronto Licensing Tribunal, especially new members;
 - (e) Retaining and co-ordinating the work of outside consultants that have been retained to give the Toronto Licensing Tribunal legal or other professional advice under Subsection K(1).
 - (f) Liaising with City Council, the public and the media as required;
 - (g) Preparing the Annual Report required by Subsection E;
 - (h) Reviewing the written decisions of the Toronto Licensing Tribunal for clarity only, but, for greater certainty, the Chair shall not review the rationale or outcome of any decision;
 - (i) Chairing the business meetings of the Toronto Licensing Tribunal required under Subsection D; and
 - (j) Occasionally participating in hearing panels as required or desirable.

J. Panels.

- (1) A proceeding before the Toronto Licensing Tribunal shall be considered and determined by a panel of the Toronto Licensing Tribunal.
- (2) The composition of hearing panels shall be set out in the Procedure By-law of the Toronto Licensing Tribunal.
- (3) If a member is unable to serve on the panel after having been appointed to do so but before the proceeding has commenced, the Chair or another member appointed by the Chair may serve on the panel in place of such member.
- (4) A Hearing Panel Chair shall be designated for each hearing.
- (5) Membership in a hearing panel shall be randomly assigned to maximize the rotation of members.

K. Support to the Tribunal.

- (1) The Toronto Licensing Tribunal may, in addition to the support provided by City of Toronto staff, retain persons who are not employees of the City of Toronto to provide legal or other professional advice in connection to a hearing, to assist in developing procedures or policies, or to provide adjudicative training for members.
- (2) Any person or people retained under Subsection K(1) to provide legal or other professional advice in connection to a hearing shall be independent of the parties to the hearing.
- (3) Any legal or other professional advice provided in connection to a hearing by a person or people retained under Subsection K(1) shall be made known to the parties to the hearing, and the Toronto Licensing Tribunal shall provide the parties with the opportunity to make submissions on the advice.
- (4) The Toronto Licensing Tribunal shall follow any and all relevant City of Toronto procurement practices or policies when retaining any person or people under Subsection K(1).
- (5) Administrative support to the Toronto Licensing Tribunal shall be provided by staff of the City of Toronto.

L. Written Reasons.

- (1) The Toronto Licensing Tribunal shall provide brief written reasons setting out the salient evidence and the reasons for each of its decisions.

- (2) The written reasons shall be made available to the public at no more than a nominal cost.

ENACTED AND PASSED this 16th day of June, A.D. 2005.

DAVID R. MILLER,
Mayor

ULLI S. WATKISS
City Clerk

(Corporate Seal)