

## DANGEROUS DOGS REVIEW TRIBUNAL RULES

### 1. Definitions

All terms defined in Chapter 349, Animals, of the City of Toronto Municipal Code, as amended from time to time, shall have the same meaning in the Rules, unless otherwise defined below.

In these Rules, unless the context requires otherwise, the following terms shall have the meanings indicated:

“applicant”: the dog owner who submits a notice in writing requesting a hearing for review of an order to comply issued under section 349-15 of Chapter 349.

“Chapter 349”: Chapter 349, Animals, of the City of Toronto Municipal Code.

“Confirmation of Hearing Request”: Acknowledgement of receipt by the Executive Director of the dog owner’s notice in writing requesting a hearing, which is submitted in accordance with section 349-16 of Chapter 349.

“Dangerous Dog”: A dog that has been determined to be a dangerous dog pursuant to section 349 and that determination has not been rescinded pursuant to section 349-16 of Chapter 349.

“Executive Director”: The Executive Director of the Municipal Licensing and Standards Division of the City of Toronto or any person under their authority.

“hearing”: that part of the proceeding before the Tribunal where evidence or submissions are heard:

“oral hearing” means a hearing or part of a hearing during which the parties or their representative(s) attend in person before the Tribunal.

“interested person”: means a) the person who claims to have been bitten by the dog and/or their legal guardian; or b) where a domestic animal has been bitten, the owner of the domestic animal. For greater certainty, an interested person does not have party status before the Tribunal.

“panel”: a hearing panel of the Tribunal.

“party”: includes the applicant and the respondent.

“person”: includes a corporation, partnership, agent or trustee, or other legal representatives of a person to whom the context can apply according to law, and the entities included within the meaning of a person in the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22, as amended.

“proceeding”: a matter brought before the Tribunal under Chapter 349.

“representative”: legal counsel or agent who is authorized by law to represent a person in the proceeding;

“respondent”: the City of Toronto, as represented by the Executive Director, Municipal Licensing and Standards;

“Rules”: the Rules of Procedure as set out in this document, which may be amended from time to time; and

“Tribunal”: The Dangerous Dog Order Review Tribunal of the City of Toronto.

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"Tribunal Secretary": the City Clerk or designate who sets meeting times, dates and locations, records the minute of the meeting, distributes agenda material, keeps the records of the Tribunal and provides procedural advice.

## 2. Application of the Rules of Procedure

- 2.1 The Rules apply to all proceedings before the Tribunal.
- 2.2 If these Rules do not provide for a matter of procedure that arises during a proceeding, the Tribunal may do whatever is necessary and permitted by law to enable it to effectively and completely adjudicate on the matter before it. The Tribunal may issue such direction(s) as it considers necessary for the disposition of any such matter.
- 2.3 In order to secure the just determination of any matter, the Tribunal may, at any time, waive or vary any of these Rules, including extending or abridging any time limits prescribed by these Rules, with the exception of Rule 3.3, on such terms and conditions as the Tribunal considers appropriate.
- 2.4 A failure to comply with these Rules is an irregularity and does not render a proceeding or a step, document, order, or decision in a proceeding a nullity. In such a case, the Tribunal may grant all necessary amendments or other relief, including the setting aside of a proceeding or a step, document, order, or decision in the proceeding on such terms as the Tribunal may determine.

## 3. Commencement of Processing

- 3.1 Unless otherwise provided in these Rules or in a governing statute, a proceeding must be commenced by a notice in writing which shall:
  - (i) identify the applicant by name, telephone number and address including the postal code;
  - (ii) identify the name, address and telephone number of any agent, representative, or lawyer representing the applicant;
  - (iii) contain a statement of the reason(s) for the appeal and nature of the relief sought; and
  - (iv) subject to Rule 18.2, indicate whether an interpreter is required.
- 3.2 As required by section 349-16C of Chapter 349, the notice described in Rule 3.1 must be mailed or delivered to the Executive Director within thirty (30) days after a copy of an order to comply is served on the owner.
- 3.3 The Tribunal does not have jurisdiction to hear a matter in which the notice requesting the hearing is not filed within the time limit set out in section 349-16C of Chapter 349. The Tribunal also does not have jurisdiction to extend the time limit set out in paragraph 349-16C.

## 4. Notice of Hearing

- 4.1 Notice of a hearing before the Tribunal shall be given in writing to all parties.

## 5. Service

- 5.1 Where any document is required to be served upon a party to a proceeding, including for commencing that proceeding, service can be made by:
- (i) Fax:
    - a. To the party's representative, if any; or
    - b. Where the party is an individual and is not represented by a representative, to that party directly where that party has provided a fax number for the purpose of service.
  - (ii) Regular, registered or certified mail to the last known address of the person or their representative.
  - (iii) Email, where the person or party receiving the document has provided an email address.
- 5.2 Service is deemed to be effective:
- (i) By fax, on the day after it was sent, unless that day is a holiday, in which case the copy shall be deemed to be received on the next day that is not a holiday.
  - (ii) By mail, on the fifth day after the document is mailed; or
  - (iii) By email, on the day after it was sent, unless that day is a holiday, in which case the copy shall be deemed to be received on the next day that is not a holiday.

## 6. Amendment of Documents

- 6.1 Unless otherwise ordered by the Tribunal or unless the parties consent, no document filed with the Tribunal may be amended after it is filed.

## 7. Disclosure

- 7.1 The Tribunal may, at any stage in a proceeding, make such orders as it considers necessary for:
- (i) the exchange of documents;
  - (ii) the exchange of witness statements;
  - (iii) the provision of particulars; and/or
  - (iv) any other form of disclosure

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- 7.2 Parties shall, no later than 14 days prior to the date of the hearing, serve on all parties a copy of every document or relevant portions of documents they intend to rely on or produce in the hearing.
- 7.3 Parties shall, no later than 14 days prior to the date of the hearing, file with the Tribunal Secretary a copy of every document or relevant portions of documents they intend to rely on or produce in the hearing.
- 7.4 Where a party fails to serve a document in accordance with Rule 7.2 or file a document in accordance with Rule 7.3, the Tribunal may still allow the document to be entered into evidence where the Panel hears submissions from the parties on such a late allowance and may make such other orders as it deems appropriate in the circumstances.
- 7.5 A party may examine any document filed with the Tribunal.

## 8. Representatives

- 8.1 Any party may appear at or participate in a hearing before the Board in their own capacity or by way of a representative.
- 8.2 Any notice that is given to a representative is deemed to have been given to the party for whom the representative acts.
- 8.3 Where a representative ceases to act for a party in the proceeding, the party or the representative shall promptly notify the Tribunal and other parties in writing.
- 8.4 The representative shall provide the Tribunal with a current business address including postal code, telephone and fax numbers, and email address for the representative.

## 9. Hearing Dates and Locations

- 9.1 The Tribunal shall hold an inaugural meeting on a date and time following the appointment of its members.
- 9.2 Hearing dates and times and location(s) will be determined by the Tribunal Secretary.
- 9.3 With the consent of all parties, the Tribunal Secretary may re-schedule or change the hearing date, time or location of a hearing which has already been scheduled.

## 10. Tribunal Chair

- 10.1 If the Tribunal chair resigns as a member of the Tribunal or resigns as the chair of the Tribunal, the Tribunal shall appoint another member as acting chair until a new chair is appointed by City Council.

## 11. Tribunal Panels

- 11.1 The Tribunal chair assigns members to hearings in panels of three.
- 11.2 For each Panel, the Tribunal chair shall designate which member shall chair the Panel (the "Panel Chair").

## 12. Quorum

- 12.1 Quorum is three members.
- 12.2 Before a hearing, if it is determined that there will not be a quorum of members at the Panel, the Tribunal chair may arrange for other members of the Tribunal to attend the hearing as substitute members and the substitute Members shall be counted for the purposes of making a quorum.
- 12.3 If no quorum is present 30 minutes after the time appointed for the commencement of the hearing, the Tribunal shall re-schedule the hearing.
- 12.4 If quorum is lost during a hearing, the hearing is adjourned for up to 15 minutes or until quorum is present, whichever is sooner. If there is still no quorum present after 15 minutes, the Tribunal Secretary records the names of the members who heard the hearing and the hearing shall be adjourned to the next scheduled hearing date where the same members will be present, or to a special hearing date where the same members will be present which is called for that purpose. Any unfinished business shall be carried forward to the next scheduled hearing date. If it is not possible to have the same members present at a subsequent hearing date, the hearing shall be scheduled for a new hearing date and the hearing shall recommence as a hearing de novo.

## 13. Hearings Open to the Public

- 13.1 All hearings, except those described in Rule 13.2, below, are open to the public.
- 13.2 In accordance with subsection 9(1) of the Statutory Powers Procedure Act, hearings will be public except where the Panel is of the opinion that,
  - (i) matters involving public security may be disclosed; or
  - (ii) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the tribunal may hold the hearing in absence of the public.
- 13.3 All documents filed with the Tribunal shall be open to the public unless the Panel orders a document sealed. The Panel may seal a document where the Panel is of the opinion that having the document remain public would disclose:
  - (i) matters involving public security; or
  - (ii) intimate financial or personal matters or other matters of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that such document remain public.

## 14. Statements

- 14.1 The Panel Chair shall read an opening statement outlining the procedures and format of the Tribunal hearing at the beginning of any oral hearing.
- 14.2 At the beginning of any oral hearing, the Panel Chair will request and entertain any statements from Panel members with regard to any declaration(s) of a conflict of interest.

## 15. Method of Hearing

- 15.1 An appeal of an order to comply in accordance with section 349-16 of Chapter 349 shall proceed by way of an oral hearing.

## 16. Oral Hearing – Procedure

- 16.1 Introduction of parties.

- (i) The Tribunal shall request the parties to identify themselves and, if they have not already done so, to register their name with the Tribunal.

- 16.2 Reading of Opening Statement by Panel Chair.

- (i) The Panel Chair shall read an opening statement in accordance with Rule 14.1.

- 16.3 Presentation by the Executive Director's representative

- (i) The Executive Director's representative shall present the order to comply issued pursuant to section 349-15 of Chapter 349 and any other evidence which forms part of the City's case.
  - (ii) The Executive Director's representative may call witnesses to provide evidence with respect to the proceeding.
  - (iii) The Panel may ask questions of the witnesses called by the Executive Director's representative.
  - (iv) After the Panel has asked questions of a witness called by the Executive Director's representative, the Applicant or the Applicant's representative may cross-examine the witness.

16.4 Presentation by Applicant

- (i) The Applicant or the Applicant's representative shall present evidence with respect to the proceeding.
- (ii) The Panel may ask questions of the Applicant to clarify any evidence presented.
- (iii) The Applicant or the Applicant's representative may call witnesses to provide oral evidence.
- (iv) The Panel may ask questions of the witnesses called by the Applicant or the Applicant's representative.
- (v) The Executive Director's representative may ask questions of the Applicant or their witnesses.

16.5 Reply from Executive Director's representative

- (i) After the presentation by the Applicant, the Executive Director's representative shall have an opportunity to respond to any new evidence raised by the Applicant.

16.6 Review of Written Documentation

- (i) The Panel will review and consider any documents regarding the proceeding which are submitted to the Tribunal and/or Panel in accordance with these Rules.

16.7 Oral Hearing – Failure to Attend

- (i) Where notice of a hearing has been given to a party to a proceeding in accordance with these Rules and the party does not attend at the hearing, the Panel may proceed in the absence of the party and the party is not entitled to any further notice for the proceeding.

16.8 Statement by interested person

- (i) The Panel may permit an interested person to provide a brief oral or written statement at a hearing.
- (ii) Panel members, through the Panel Chair, may question the interested person to clarify any evidence presented.
- (iii) The Executive Director's representative may question the interested person to clarify any evidence presented.

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- (iv) If the Applicant has a representative, the representative may question the interested person to clarify any evidence presented.
- (v) No representative
  - a. If the Applicant is not represented, any questions the Applicant may wish to ask the interested person shall be directed to the Panel.
  - b. The Panel may allow the question to be put to the interested person or rule that the question is improper or out of order.

## 17. Media Coverage of Hearings - Authorization Required Documents Open to Public

- 17.1 No person shall take or attempt to take a photograph, motion picture, audio recording, or other record capable of producing an audio or visual reproduction by electronic or other means at the hearing unless authorized by the Panel.
- 17.2 Nothing in Rule 17.1 prohibits the Panel, or a person appointed by the Panel, from recording the hearing in a manner approved by the Panel for the purpose of providing an accurate transcript.
- 17.3 Subject to Rules 13.2 and 13.3, all documents provided to the Tribunal are provided for the purpose of being publicly-available exhibits and shall be made available for inspection by members of the public.
- 17.4 The Tribunal chair is hereby designated as head of the Tribunal for the purposes of the Municipal Freedom of Information and Protection of Privacy Act.

## 18. Language of Hearings

- 18.1 The Tribunal shall conduct hearings in English or French, as appropriate.
- 18.2 If an interpreter in a language other than English or French is required in a proceeding, the party calling the witness whose evidence or submission needs interpretation must provide a certified interpreter.

## 19. Panel Decision

- 19.1 The Panel may announce its decision orally or reserve its decision.
- 19.2 Notwithstanding Rule 19.1, all decisions shall be in writing and shall provide reasons.
- 19.3 Further notwithstanding Rule 19.1, within fifteen (15) days of the hearing date, the Tribunal will forward a copy of the Panel's decision and written reasons to the Applicant and the Executive Director.
- 19.4 Notice of the decision and written reasons may be served on the parties in accordance with Rule 5.



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- 19.5 It is the sole responsibility of the Applicant to ensure that the Tribunal has an accurate and current record of the Applicant's contact information necessary to serve notice of the decision in accordance with Rule 19.4.
- 19.6 Other persons interested in viewing a copy of the decision and written reasons may attend in-person at 146 The East Mall, Toronto, Ontario M8Z 5V5. Reasonable access to the decision and written reasons will be made during business hours.

## 20. Typographical or Clerical Errors and Minor Omissions

- 20.1 The Panel may at any time and without prior notice correct a typographical error, error of calculation, misstatement, ambiguity, technical error or other similar error made in its decision or order.
- 20.2 No proceedings before the Tribunal shall be defeated or affected solely by any technical objection or by any objection based on defects in form.

## 21. Power to Review

- 21.1 A Non-sitting Member shall consider a party's request for review of a decision or order if the party files a request for review as set out in Rule 21.2. A request for review does not automatically stay the effect of the original decision or order unless the Tribunal so orders.
- 21.1.1 For the purposes of this rule, a "Non-sitting Member" means a member that did not sit on the Panel during the original hearing for a matter.
- 21.2 A party making a request for review shall file notice of such request with the Tribunal within thirty (30) days of the Tribunal's written decision. Such notice shall include:
- (i) the party's full name, address, telephone number, fax number, and e-mail address (if any);
  - (ii) the full name, address, telephone number and fax number and e-mail address (if any) of the party's representative (if any);
  - (iii) the party or representative's signature;
  - (iv) the reasons for the request;
  - (v) the desired result of the review (such as a change or alteration to the decision or a rehearing of the proceeding); and
  - (vi) any documents that support the request, including copies of any new evidence that was unavailable at the hearing.

### 21.3 Initial Screening of Request

- (i) The Tribunal shall not consider a request for review where the request is filed more than thirty (30) days after the date of the Tribunal's written decision.

### 21.4 Filing and Serving a Response to a Request for Review

- (i) A party that files a request for review must serve the request and all supporting material on all other parties to the original hearing. The Non-sitting Member may require any or all other parties to provide, by a specific date, a response to the request. The Non-sitting Member may identify the issues to address in the response. The response to a request for review shall include the reasons for the response and any supporting documents. The response shall be served on the other parties and filed with the Tribunal by a specific date set by the Non-sitting Member.

### 21.5 Power of the Non-sitting Member to Dispose of the Request

- (i) Subject to Rule 21.6, the Non-sitting Member will consider a request for review. The Non-sitting Member may consult with the other Non-sitting Member in making their decision. The Non-sitting Member may do the following:
  - (A) The Non-sitting Member may grant the request for review, in whole or in part, or grant other appropriate relief. In the event the request for review is granted, the Tribunal Chair will assign a Panel to conduct the review hearing and will notify all of the parties and provide direction for notice. The Panel assigned by the Tribunal Chair will be comprised of the Tribunal Chair and the two Non-sitting Members. The Tribunal Chair will also direct the Tribunal Secretary to set a hearing date for the review hearing.
  - (B) The Non-sitting Member may alternatively dismiss the request, in which case the decision remains in force and effect.

### 21.6 Exercise of the Non-sitting Member's Discretion

The Non-sitting Member may exercise their discretion to grant a request for review, in whole or in part, and order a rehearing of the proceeding to review the decision in whole or in part only if the Non-sitting Member is satisfied that the request for review raises a convincing and compelling case that the Tribunal:

- (i) acted outside its jurisdiction;
- (ii) violated the rules of natural justice or procedural fairness, including those against bias;

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- (iii) made an error of law or fact such that the Tribunal would likely have reached a different decision but not for that error;
  - (iv) heard false or misleading evidence from a party or witness which was discovered only after the hearing and would have affected the result; or
  - (v) should consider evidence which was not available at the time of the hearing, but that is credible and would have affected the result.
- 21.7 The Panel which conducts the review hearing shall rehear the appeal, in whole or in part, as directed by the Non-sitting Member, and may review, rescind, change, alter or vary any decision or order made by the Tribunal.
- 21.8 The Non-sitting Member may initiate a request for review and exercise their discretion subject to Rule 21.6 upon notice with reasons to all parties to a proceeding and within a reasonable time after the Tribunal decision or order is made.