

Toronto Licensing Tribunal

Rules of Procedure

To Govern the Proceedings of the
Toronto Licensing Tribunal

Effective Date of these Rules of
Procedure: July 21, 2006
Amended and Passed: September 14, 2021

Contents

1.	DEFINITIONS	2
2.	INTERPRETATION TO ACHIEVE JUST & EXPEDITIOUS RESULT	2
3.	RULES APPLY TO ALL HEARINGS.....	3
4.	CALCULATING THE TIME REQUIREMENTS	3
5.	EXCHANGE OF DOCUMENTS	4
6.	COMMUNICATIONS WITH THE TRIBUNAL ADMINISTRATOR	5
7.	DOCUMENTS TO BE REFERENCED AT A HEARING	5
8.	FORM OF DOCUMENTS	6
9.	REQUEST FOR HEARING	6
10.	WITHDRAWING A REQUEST FOR HEARING	6
11.	DATE AND MANNER OF HEARING	6
12.	FAILURE TO ATTEND A HEARING	9
13.	ADJOURNMENT REQUESTS	7
14.	PROCEDURAL ORDERS	8
15.	PROCEDURAL CONFERENCES (formerly called PRE-HEARING CONFERENCES) ...	8
16.	FAILURE TO COMPLY WITH RULES OR PROCEDURAL ORDER.....	9
17.	HEARING QUORUM.....	7
18.	MOTIONS	9
19.	CONDUCT OF HEARINGS	10
20.	SUMMONS TO WITNESS.....	11
21.	EVIDENCE OF WITNESSES DURING A HEARING	12
22.	REVIEW OF ORDERS AND DECISION	12
23.	EFFECTIVE DATE FOR THE RULES	13

1. DEFINITIONS

1.1 In these Rules, unless the context requires otherwise:

"applicant" means a person applying for a licence or a renewal thereof pursuant to the Code;

"document" includes any handwritten or typed document or record, sound recording, videotape, file, photograph, map, and any other electronic information that can be shared;

"Code" means either Chapter 545, Chapter 546, or Chapter 547 of the City of Toronto's Municipal Code, as amended, as applicable in the circumstances being considered by the Tribunal;

"electronic hearing" is a hearing conducted by telephone or through such other electronic technology as permits all participants to the proceeding and the Member to simultaneously hear, or hear and see, one another;

"hearing" is any step in the proceeding presided over by the Toronto Licensing Tribunal, which may be conducted in person, in writing, or electronically as the Toronto Licensing Tribunal determines to be appropriate;

"licensee" means the holder of a licence issued pursuant to the provisions of the Code;

"motion" means a request for an order or decision of the Toronto Licensing Tribunal made at any stage in a proceeding;

"moving party" means a person who makes a motion to the Toronto Licensing Tribunal;

"Municipal Licensing and Standards Division" means the Municipal Licensing and Standards Division of the City of Toronto;

"Party" means an applicant, licensee, the Municipal Licensing and Standards Division, and/or any person whom the Tribunal determines shall have status as a party; and

"Tribunal Administrator" means the staff with the City's Court Services Division providing administrative assistance to the Toronto Licensing Tribunal.

2. INTERPRETATION TO ACHIEVE JUST & EXPEDITIOUS RESULT

2.1 These Rules shall receive such fair and liberal interpretation as will best ensure the most expeditious, just, and least expensive determination of every proceeding on its merits.

3. RULES APPLY TO ALL HEARINGS

- 3.1 These Rules apply to all the proceedings of the Tribunal in the exercise of its statutory power of decision, as defined in the Statutory Powers Procedure Act, R.S.O. 1990, c.S.22, as amended.
- 3.2 The Tribunal may exercise any of its powers under these Rules or applicable law on its own initiative or at the request of any party.
- 3.3 These Rules do not apply if a statute or the Code provides for a different procedure to govern proceedings of the Toronto Licensing Tribunal in the exercise of its statutory powers of decision.
- 3.4 These Rules apply to a proceeding of the Tribunal whether commenced before or after the enactment of this By-law.
- 3.5 Where procedures are not provided for in these Rules or the Tribunal determines it is appropriate to grant an exception to these Rules, the Tribunal may do what is necessary and permitted by law to justly and effectively adjudicate matters before it.

4. CALCULATING THE TIME REQUIREMENTS

- 4.1 In calculating time under these Rules or a procedural order, except where a contrary intention appears:
 - a) all references are to calendar days;
 - b) reference to a number of days between two events shall be counted by excluding the day on which the first event happens and including the day on which the second event happens;
 - c) where the time for doing an act under these Rules or under an order expires on a holiday, the act may be done on the next day that is not a holiday; and
 - d) A document sent after 4:00 p.m. or at any time on a holiday shall be deemed to have been received on the next day that is not a holiday.
- 4.2 Where a time of day is mentioned in these Rules or in any document or order in a proceeding, the time referred to shall be the time in Toronto.
- 4.3 The Toronto Licensing Tribunal may extend or abridge any time prescribed in these Rules or established by a procedural order during a proceeding on such terms as it considers just and reasonable.

4.4 Under these Rules, holiday means;

- a) any Saturday or Sunday;
- b) New Year's Day;
- c) Family Day;
- d) Good Friday;
- e) Easter Monday;
- f) Victoria Day;
- g) Canada Day;
- h) Civic Holiday;
- i) Labour Day;
- j) Thanksgiving Day;
- k) Remembrance Day;
- l) Christmas Day;
- m) Boxing Day and;
- n) Any day on which the staff offices of the Toronto Licensing Tribunal or Municipal Licensing and Standards Division are closed.

5. EXCHANGE OF DOCUMENTS

5.1 The Tribunal may require any party or the Tribunal Administrator to provide any document to any party or person in any of the following ways, or any combination thereof:

- a) by personal service by delivering the document to the person;
- b) by regular or registered mail to the person's last known address;
- c) by courier to the person's last known address;
- d) by fax at the person's last known fax number with consent of that person;
- e) by e-mail to the person's last known e-mail address; and/or
- f) as directed by the panel.

5.2 Documents provided by personal service or by courier are served on the day that they are delivered.

5.3 If a document is sent by regular or registered mail, it is deemed to be received five (5) days after mailing.

5.4 A document may be sent by email to the person's last known email address and is deemed received on the day it is sent, subject to Rule 6.5.

5.5 The Tribunal may direct the Tribunal Administrator or any party to confirm that documents have been sent or received by the person to whom they were sent, including, if appropriate, providing proof satisfactory to the Tribunal that documents were sent or received in accordance with these Rules.

6. COMMUNICATIONS WITH THE TRIBUNAL

- 6.1 All communications with the Tribunal must include the following information:
- a) Full name of the sender, including their phone number and email address, and whether they are a party or, if not, their status or relationship to the party.
 - b) The Tribunal's Case File Number, if known, and the last name of the party, all of which should be in the subject line if the communication is by email;
 - c) The reason for the communication; and
 - d) If applicable, a list of the documents attached to the communication, including the attachment(s) file name if it is being sent electronically and a short description of the document(s).
- 6.2 Communications to the Tribunal should be copied to the other party or their representative.
- 6.3 Filing of any document by any party or person may be effected by providing the document to the Tribunal through personal delivery, by ordinary or registered mail, by fax, by courier, by email at the address indicated on the Tribunal's website, or otherwise as the Tribunal may order.
- 6.4 Where a document is filed, the date of the receipt stamp on the document shall be deemed to be the date of the filing, unless the Tribunal orders otherwise.
- 6.5 Where the Tribunal has no record of the receipt of a document alleged to have been filed, the documents shall be deemed not to have been filed unless the Tribunal orders otherwise.

7. DOCUMENTS TO BE REFERENCED AT A HEARING

- 7.1 If a party intends to rely on documents at the hearing, that party must provide one copy of the document(s) to all other parties and the Tribunal Administrator so that they are received no later than ten (10) days before the hearing.
- 7.2 Where a party fails to deliver copies of any documents in advance of the hearing, they may make submissions to the Tribunal at the hearing to explain why the Tribunal should consider the documents. The party should bring 5 copies of any documents it wants the Tribunal to consider or, where the hearing is being held electronically, email the documents to the Tribunal Administration and the other party (parties).
- 7.3 The Tribunal will decide whether to consider any documents submitted by a party, including any documents delivered less than ten (10) days before the hearing. The Tribunal will allow the filing of updated public records less than ten (10) days before the hearing.

- 7.4 The Tribunal may make any documents received and considered by it available to the public upon request, subject to any order of the Tribunal.

8. FORM OF DOCUMENTS

- 8.1 Every document required for a proceeding shall:

- a) contain text that is legibly written, printed, or typed and, where practicable, the document shall be double spaced and double sided and include legible page numbers for ease of reference by the Tribunal and parties; and/or
- b) if an electronic record, be delivered in a commonly available electronic format, such as PDF, jpeg or tiff, with a file name that incorporates the Tribunal's case file number and is saved as a read only file, if possible.

9. REQUEST FOR HEARING

- 9.1 Where an applicant or licensee requests a hearing before the Tribunal, the request for hearing shall be in writing.

- 9.2 A request for hearing shall include:

- a) the name of the applicant or licensee;
- b) the applicant or licensee's address, telephone number(s), email address, and, where available, fax number;
- c) the name, address, email address, telephone number, and, if available, fax number for any agent, representative, or lawyer for the applicant or licensee, if applicable;
- d) a request for special services or accommodation if required, including interpretation services and the language to be interpreted or services for the visually or hearing impaired.

10. WITHDRAWING A REQUEST FOR HEARING

- 10.1 An applicant may withdraw a request for a hearing before the Tribunal at any time.
- 10.2 The applicant must notify the Tribunal and the other parties of the withdrawal in writing and should do so as soon as possible. If a hearing has been scheduled, the Tribunal Administrator will cancel the hearing.
- 10.3 Notice of withdrawal may be provided by email, fax, regular mail, or delivered in person to the attention of the Tribunal Administrator, and should include the information required by Rule 6.1 and comply with Rule 6.2.

11. DATE AND MANNER OF HEARING

- 11.1 The Tribunal Administrator shall set the date and time of the hearing.

- 11.2 Hearings will take place on the date and in the manner determined by the Tribunal, unless the Tribunal orders otherwise.
- 11.3 Where the Tribunal has directed that the hearing be conducted in writing or electronically, any party objecting to the format directed shall provide written notice of their objection to the Tribunal Administrator within five (5) days of service of the notice of hearing or by such other date as specified by the Tribunal. The written notice must include reasons for the party's objection and state the material facts on which the party relies for its objection.
- 11.4 The Tribunal may consider any relevant factors in deciding to hold a written hearing or an electronic or in person oral hearing, including but not limited to:
- a) the convenience to the parties and the Tribunal;
 - b) the likelihood of the process being less costly and more efficient;
 - c) whether it is a fair and accessible process for the parties;
 - d) the desirability or necessity of public participation in, or public access to, the Tribunal's process;
 - e) whether the evidence or issues are suitable for an electronic or written hearing; or
 - f) whether an electronic or written hearing is likely to cause significant prejudice to any party or participant.

12. FAILURE TO ATTEND A HEARING

- 12.1 Where a person is properly served with notice of a procedural conference or hearing and does not attend at the time and place appointed, the Toronto Licensing Tribunal may proceed in that person's absence and without further notice to that person and, unless the matter has been referred to the Toronto Licensing Tribunal by the City of Toronto, may dismiss the application without a hearing.

13. ADJOURNMENT REQUESTS

- 13.1 Adjournment requests should be made in writing and as soon as possible, and comply with Rules 6.1 and 6.2. The request must indicate if consent of other parties has been sought or obtained.
- 13.2 Where an adjournment is on consent, the Tribunal Administrator may reschedule the matter to another date or refer the adjournment request to the Tribunal.
- 13.3 An adjournment request should include, in addition to the information required by Rule 6.1:
- a) the date the hearing is scheduled for that the party is asking be adjourned;
 - b) an explanation of why the request is being made; and
 - c) proposed alternative dates when the party is available and to which the hearing may be rescheduled or a request that the hearing not be scheduled until after a certain point in time or event.

13.4 The other party may advise the Tribunal and the other party in writing of its support for or opposition to the request and alternative dates upon which the party is available for the hearing to be rescheduled.

13.5 In deciding whether or not to grant an adjournment, the Tribunal shall consider any relevant factors, including:

- a) the reasons for an adjournment;
- b) the interests of the parties in having a full and fair proceeding;
- c) the integrity of the Tribunal's process;
- d) the timeliness of an adjournment;
- e) the position of the other parties on the request;
- f) whether an adjournment will cause or contribute to any existing or potential harm or prejudice to others
- g) the effect an adjournment may have on parties or other persons; and
- h) the effect an adjournment may have on the ability of the Tribunal to conduct the proceeding in a just, timely and cost-effective manner.

13.6 In granting an adjournment, the Tribunal may impose such conditions as it considers appropriate.

14. PROCEDURAL ORDERS

14.1 At the request of a party or on its own initiative and at any stage of the proceeding, the Tribunal may make such procedural orders as it considers just and necessary for the conduct of a hearing.

14.2 The Tribunal may amend any procedural order at any time during a proceeding.

14.3 A procedural order shall prevail over any provision of these Rules that is inconsistent with the procedural order.

15. PROCEDURAL CONFERENCES (formerly called PRE-HEARING CONFERENCES)

15.1 At the request of a party or on its own initiative, the Tribunal may direct that a procedural conference be held in any proceeding and that the parties participate in the conference, over which the Tribunal may preside.

15.2 The purpose of a procedural conference may be to:

- a) exchange information between the parties including disclosure of particulars, physical or documentary evidence, lists of witnesses and witness statements;
- b) Identify agreed upon facts, evidence or law;
- c) provide notice of any preliminary motions;
- d) establish dates by which any steps in the proceeding are to be started or completed;
- e) determine the estimated duration of the hearing;

- f) determine any other matter that may assist in the just and expeditious disposition of the proceeding; and/or
 - g) mediate any or all outstanding issues in dispute.
- 15.3 A procedural conference may be conducted in person, in writing, or electronically at the discretion of the Tribunal or as may be agreed upon by the parties.
- 15.4 The member of the Tribunal presiding at a procedural conference shall not hear the proceeding discussed at that procedural conference unless all parties consent in writing or on the record.
- 15.5 No information shall be provided or made available to the Tribunal at the hearing with respect to any statement made at a procedural conference except as disclosed in any procedural direction issued, or as agreed by the parties.
- 15.6 A party may be represented by a lawyer or an agent at a procedural conference. Where the party is not in attendance at the conference, their lawyer or agent shall ensure that the party is available, either by telephone or by other means, to provide instructions during the conference.

16. FAILURE TO COMPLY WITH RULES OR PROCEDURAL ORDER

- 16.1 Where a party to a proceeding has not complied with any Rule or procedural order, the Tribunal may:
 - a) adjourn the proceeding until it is satisfied that such Rule or order has been complied with; or
 - b) take such other steps as it considers just and reasonable.
- 16.2 No proceeding is invalid by reason only of a defect or other irregularity in form.

17. HEARING QUORUM

- 17.1 Each Hearing will be presided over by a panel composed of at least one Member.

18. MOTIONS

- 18.1 Where a party or other person intends to bring a motion before the Tribunal, it shall provide notice of the motion to all other parties at least ten (10) days in advance of the hearing date or as soon as practical, and comply with Rules 5 and 6 as applicable.
- 18.2 The notice of motion shall be in writing and may be in the form provided by the Tribunal or in another written form as long as the notice includes:
 - a) a description of the order being requested and why it is being sought;
 - b) any evidence to be relied upon at the hearing of the motion and, if oral evidence will be relied upon, the names of any witness(es) and a summary of the anticipated oral evidence;

- c) references to any statutes, by-laws or cases being submitted in support of the motion, if applicable; and
 - d) a statement notifying the responding party that, if they wish to oppose the motion, they may do so by delivering written material and filing it with the Tribunal Administrator.
- 18.3 If a responding party opposes the motion, they shall provide written submissions that may be in the form provided by the Tribunal or in another written form so long as the submissions include:
- a) a description of why the order is being opposed;
 - b) any evidence to be relied upon and, if the party will seek to rely upon oral evidence, the names of any witness(es) and a summary of the anticipated oral evidence. If the responding party's evidence and summary do not dispute the evidence and summary relied on by the moving party, the Tribunal may deem the responding party to have agreed to the moving party's facts and proceed accordingly; and
 - c) references to any statutes, by-laws or cases relevant to the motion, if applicable.
- 18.4 The responding party's written submissions shall be provided to all other parties no later than two (2) business days prior to the date set for hearing the motion, and comply with Rules 5 and 6 as applicable.
- 18.5 The person bringing the motion and any responding party shall each file with the Tribunal Administrator a copy of the documents provided for the motion at the same time as the documents are provided to the other person or party.
- 18.6 Prior to or at the hearing of the motion, the Tribunal may modify the motion requirements, including to:
- a) abridge the time required for notice of the motion to have been delivered;
 - b) permit oral evidence and/or cross examinations at the hearing of the motion; or
 - c) direct that the motion will be considered by way of an oral or written hearing; and/or
 - d) otherwise as it considers just and necessary for the fair determination of the issue.

19. CONDUCT OF HEARINGS

- 19.1 The Tribunal shall control the conduct of the hearing, including the order of presentation of evidence and submissions.
- 19.2 A hearing shall be conducted in the following order of presentation, unless the Tribunal directs otherwise:
- a) Counsel for the Municipal Licensing and Standards Division may make an opening statement and, subject to clause, shall then present evidence;
 - b) An applicant or licensee may make an opening statement immediately after the opening statement of counsel for the Municipal Licensing and Standards Division

and before counsel for the Municipal Licensing and Standards Division presents any evidence;

- c) When the evidence being called on behalf of the Municipal Licensing and Standards Division is concluded, the applicant or licensee may make an opening statement, unless he or she has already done so pursuant to clause, and may then present his or her evidence;
- d) When the presentation of the evidence of the applicant or licensee is concluded, counsel for the Municipal Licensing and Standards Division may present any proper reply evidence;
- e) After all of the evidence has been presented by all parties to the proceeding, counsel for the Municipal Licensing and Standards Division may make a closing statement, followed by the closing statement of the applicant or licensee, if he or she decides to do so; and
- f) Where there are two or more applicants or licensees, the order of presentation shall be as directed by the Toronto Licensing Tribunal.

19.3 The Tribunal may stipulate the time permitted for any hearing or part of a hearing.

19.4 The Tribunal may limit further examination or cross-examination of a witness where the Tribunal is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the matters at issue.

19.5 Where a hearing is conducted electronically, all the parties and the members of the Tribunal participating in the hearing must be able to hear, or hear and see, one another and any witnesses throughout the hearing.

19.6 Where a hearing is conducted in writing, all parties shall receive every document that the Tribunal receives in the hearing prior to the commencement of the hearing.

19.7 All oral hearings of the Tribunal are digitally recorded by the Tribunal. A copy of the recording may be requested by any person, who shall receive it after paying the required fee unless a statute, a court order, or an order of the Tribunal provides otherwise.

20. SUMMONS TO WITNESS

20.1 A party who wishes to compel a person in Ontario to attend before the Tribunal to appear as a witness may serve a summons on that person to attend a hearing to:

- a) give relevant and admissible evidence under oath or affirmation; and
- b) produce any relevant and admissible document or thing.

20.2 A party who wishes to summons a witness shall make a request in writing to the Tribunal setting out the reasons why the witness's attendance is sought.

20.3 If the Chair of the Tribunal or their designate is satisfied with the information provided in the request to summons, the summons shall be signed and issued by the Tribunal and sent to the requesting party for service upon the person to be summoned.

- 20.4 A summons shall be served on the witness by personal service.
- 20.5 Where requested by the witness, attendance money shall be paid, in accordance with the Rules of Civil Procedure.
- 20.6 A party who has served a summons upon a witness shall immediately provide a copy of the request to summons and the summons to every party and file a copy with the Tribunal Administrator.
- 20.7 A witness who is subject to a summons may object to the summons by bringing a motion to the Tribunal to have it cancelled or varied. The motion must include an explanation in support of the witness's request for cancellation or variance of the summons.
- 20.8 A summoned witness shall attend a hearing of the Tribunal at the time and place stated in the summons or as otherwise arranged with the party serving the summons. A witness shall bring with them all documents and things within their possession required by the terms of the summons.

21. EVIDENCE OF WITNESSES DURING A HEARING

- 21.1 Unless the Tribunal directs otherwise, witnesses at an in person or electronic hearing shall be examined orally and the examination may consist of direct examination, cross examination, and re-examination.
- 21.2 The Tribunal shall ensure that there is no undue harassment or embarrassment of the witness as they are giving evidence and may disallow a question put to the witness that is vexatious or irrelevant to any matter that may be properly inquired into at the hearing.
- 21.3 The Tribunal may at any time during a hearing direct that a witness be recalled for further examination.
- 21.4 Where a witness appears unwilling or unable to give answers to the questions being posed, the Tribunal may permit the party calling the witness to examine them by asking leading questions.
- 21.5 Where a proceeding is conducted in writing, the evidence of a witness shall be given by affidavit or as directed by the Tribunal.

22. REVIEW OF ORDERS AND DECISION

- 22.1 The Tribunal may at any time correct a typographical error, error of calculation or other similar error made in a decision or order.
- 22.2 The Chair of the Tribunal may, at the request of a party if the request is made within 30 days of the date of the decision or on his or her own initiative, reconsider any decision of the Tribunal.

- 22.3 A request for reconsideration from a party must be served on all other parties and the Tribunal Administrator.
- 22.4 A request for reconsideration must include:
- a) reasons for the request, specifying applicable criteria under Rule 22.5; and
 - b) remedy or relief sought.
- 22.5 A request for reconsideration will not be granted unless the Tribunal is satisfied that one or more of the following criteria are met:
- a) the Tribunal acted outside its jurisdiction or violated the rules of natural justice or procedural fairness;
 - b) the Tribunal made a significant error of law or fact such that the Tribunal would likely have reached a different decision;
 - c) the Tribunal heard false or misleading evidence from a party or witness, which was discovered only after the hearing and would have affected the result; or
 - d) There is new evidence that could not have reasonably been obtained earlier and would have affected the result.
- 22.6 The Tribunal shall not grant a request for reconsideration without providing all parties an opportunity to make written submissions.
- 22.7 Upon consideration of a request for reconsideration, the Tribunal may:
- a) Dismiss the request; or
 - b) After providing all parties an opportunity to make submissions,
 - i. confirm, vary, or cancel the decision or order; or
 - ii. order a rehearing on all or part of the matter.

23. EFFECTIVE DATE FOR THE RULES

- 23.1 This by-law shall come into force on the date of its enactment.