

CITY OF TORONTO DANGEROUS DOG REVIEW TRIBUNAL

Rules of Procedure

BACKGROUND

- A. As set out in section 349-16 of Chapter 349, Animals, of the City of Toronto Municipal Code, a Dangerous Dog Review Tribunal is established for the City of Toronto.
- B. The Dangerous Dog Review Tribunal (the "Tribunal") will conduct itself in accordance with the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended.
- C. Pursuant to section 25.1 of the *Statutory Powers Procedure Act*, the Tribunal adopts these Rules of Procedure (the "Rules") for governing the practices and procedures before it.
- D. The Code of Conduct for Members of Adjudicative Boards City of Toronto applies to Members of the Tribunal.
- E. The responsibilities of the Tribunal include:
 - Hearing appeals from dog owners who are served with a dangerous dog order and may:
 - a. confirm the determination of a dangerous dog; or.
 - b. Rescind the determination of a dangerous dog order and exempt the owner from compliance with section 349-15.1
- F. in deciding whether to confirm or rescind the determination of a dangerous dog, the Tribunal may consider whether the dog was acting in self-defence when the dangerous act leading to the order to comply under section 349-15 occurred.

The Dangerous Dog Review Tribunal of the City of Toronto hereby enacts as follows:

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 request for a hearing for review of dangerous dog order 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.

"Executive Director"	the Executive Director of the Municipal Licensing and Standards Division of the City of Toronto or any person under his or her authority.
"hearing"	that part of the proceeding before the Tribunal where evidence or submissions are heard: (i) "written hearing" means a hearing or part of a hearing held by the exchange of documents, whether in written form or by electronic means.
"interested person"	includes a) the person who claims to have been involved in the dangerous act committed by the dog and/or his/her legal guardian; or b) where a domestic animal has been the subject of the dangerous act, 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 <i>Statutory Powers Procedure Act</i> , 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 Review Tribunal of the City of Toronto.

2. Application of Rules of Procedure

2.1 The Rules apply to all proceedings before the Dangerous Dog Review 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 dispense with compliance with any Rule at any time.
- 2.4 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.
- 2.5 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 Application

- 3.1 Unless otherwise provided in these Rules or in a governing statute, an application must be commenced by notice in writing and 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; and
 - (iii) contain a statement of the reason(s) for the application and nature of the relief sought.
- 3.2 As required by paragraph 349-16B 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 the dangerous dog order 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 paragraph 349-16B of Chapter 349. The Tribunal also does not have jurisdiction to extend the time limit set out in paragraph 349-16B.

4. Representatives

- 4.1 Any party may participate in a hearing before the Board in their own capacity or by way of representative.
- 4.2 Any notice that is given to a representative is deemed to have been given to the party for whom the representative acts.
- 4.3 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.

4.4 The representative shall provide the Tribunal with a current business location, telephone and fax number, and email address.

5. Hearing Dates and Locations

5.1 The Tribunal shall hold an inaugural meeting on a date and time following the appointment of the Members.

5.2 Hearing dates and times will be determined, from time to time, by the Tribunal, in consultation with the Executive Director.

6. Tribunal Chair

6.1 At its inaugural meeting, the Tribunal shall elect one of its members as Chair for the term of no more than two (2) years.

6.2 When the Chair of the Tribunal is absent through illness or otherwise, the Tribunal may appoint another Member as Acting Chair.

6.3 If the Chair of the Tribunal resigns as a Member of the Tribunal or resigns as the Chair of the Tribunal, the Tribunal shall appoint another Member as Chair for the balance of the term and until a successor is appointed.

7. Panel Chair

7.1 The Tribunal Chair assigns Members to hearings. If more than one Member is assigned to a panel, the Tribunal Chair designates which member shall chair the Panel (the "Panel Chair").

7.2 In the case of a one-member Panel, as set out in Rule 8.2, that Member shall serve as Panel Chair.

8. Quorum

8.1 Subject to Rule 8.2, quorum is three Members.

8.2 The Chair of the Tribunal may decide that a proceeding be heard by one Member and assign a Member to hear the proceeding.

8.3 Before a meeting, if it is determined that there will not be a quorum of Members appointed to the Tribunal, the Tribunal 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.

8.4 If no quorum is present 30 minutes after the time appointed for the commencement of the meeting, the Tribunal shall re-schedule the meeting.

8.5 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 taking the steps set out in this Rule 8.5, the Tribunal shall take down the names of the Members who are present and the meeting is adjourned to the next scheduled hearing

date, or to a special hearing date called for that purpose. Any unfinished business shall be carried forward to the next scheduled hearing date.

9. Method of Hearing

9.1 A review of the notice issued under section 349-16 of Chapter 349 shall proceed by way of a written hearing.

10. Written Hearing – Procedure

10.1 The Tribunal will review any and all submissions, including written comments and photographs, of the Applicant, the Executive Director, and any Interested Person.

11 Hearings Open to the Public

11.1 For all written hearings, in accordance with subsection 9(1) of the *Statutory Powers Procedure Act*, members of the public will, upon request, have reasonable access to the documents submitted.

12. Panel Decision

12.1 All Tribunal decisions shall be in writing and shall provide reasons.

12.2 Within fifteen (15) days of the hearing date, the Tribunal will forward a copy of its decision and written reasons to the Applicant and the Executive Director.

12.3 Notice of the decision and written reasons may be sent by:

- (a) Fax;
- (b) Email; or
- (c) Regular or registered mail.

12.4 It is the sole responsibility of the Applicant to ensure that the Tribunal has an accurate and current record of the necessary contact information.

13. Typographical or Clerical Errors and Minor Omissions

13.1 The Tribunal 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.

13.2 No proceedings before the Tribunal shall be defeated or affected solely by any technical objection or by any objection based on defects in form.

14. Power to Review

14.1 The Tribunal shall consider a party's request for review of a decision or order if the party files the information set out in Rule 15.2. A request for review does not automatically stay the effect of the original decision or order unless the Tribunal so orders.

14.2 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, fax number, and e-mail address (if any);
- (ii) the full name, address, telephone 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.

14.3 Initial Screening of Complaint

The Tribunal shall not consider a request for review where the request is filed thirty (30) days after the date of the Tribunal's written decision unless the Tribunal determines that a valid and well-founded reason exists to extend the time.

14.4 Filing and Serving a Response to a Request for Review

A party that files a request for review may be directed by the Tribunal to serve the request and all supporting material on all other parties to the original hearing. The Tribunal may require any or all other parties to provide, by a specific date, a response to the request. The Tribunal 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.

14.5 Power of the Tribunal Chair to Dispose of the Request

Subject to Rule 14.6, the Tribunal Chair may exercise his/her discretion to grant a request for review, in whole or in part, and may order a rehearing of the proceeding or other appropriate relief. In the event the request for review is granted, the Tribunal will set a hearing date and will notify all of the parties. The Tribunal Chair may assign a different Member or panel to conduct the rehearing. The Tribunal Chair may also dismiss the request, in which case the decision, approval or order remains in force and effect.

14.6 Exercise of the Tribunal Chair's Discretion

The Tribunal Chair may exercise his/her discretion to grant a request and order a rehearing of the proceeding to review the decision only if the Tribunal Chair 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;
- (iii) made an error of law or fact such that the Tribunal would likely have reached a different decision;
- (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 could have affected the result.

14.7 The Tribunal Member(s) who conducts the review hearing shall rehear the application, in whole or in part, as directed by the Tribunal Chair, and may review, rescind, change, alter or vary any decision or order made by the Tribunal.

14.8 The Tribunal Chair may initiate a request for review and exercise his/her discretion under Rule 14.6 upon notice with reasons to all parties to a proceeding and within a reasonable time after the Tribunal decision or order is made.

15. Notice

15.1 Where these Rules or a decision or order of the Tribunal requires that notice be given, it shall be given in writing.

15.2 The Tribunal may direct a party to give notice of a hearing to any person or class of persons who may have an interest in the matter and may direct the manner of giving such notice.

16. Service

16.1 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) Personal delivery.
- (iv) Courier.
- (v) Email, where the person or party receiving the document has provided an email address.

16.2 Service is deemed to be effective:

- (i) By fax, on the day after it was sent.
- (ii) By mail, on the fifth day after the document is mailed.
- (iii) By personal delivery, before 4:00 p.m., on the day of delivery, and after that time, on the next day.
- (iv) By courier, on the second day after the document was given to the courier.
- (v) By email, on the day after it was sent.