

These rules and procedures are set out to govern the appeals process related to Property Standards By-law 28-2009 and all applicable licensing By-laws, as amended, where the City of Burlington issues business licences.

1.0 Function of the Burlington Appeals Committee

- 1.1 The Appeals Committee conducts hearings to decide whether to uphold the decision of the Director of By-law Compliance, or their designate, to issue a business licence, and/or to revoke, suspend, refuse, or have conditions imposed on a business licence issued under the various Business Licensing By-laws.
- 1.2 The Appeals Committee conducts Property Standards hearings with the specific authority granted under section 15.3(3.1) of the Building Code Act.
- 1.3 After holding a hearing, the Appeals Committee may uphold or dismiss the refusal, revocation, suspension, or impose terms and conditions on a business licence.
- 1.4 After holding a hearing, the Appeals Committee may confirm, modify, or rescind an order to demolish or repair, or extend the time for complying with an order.

2.0 Notice of Appeal of Refusal, Revocation, Suspension, or Conditions of a Business Licence

- 2.1 The Director of By-law Compliance, or their designate, may refuse to issue a business licence by issuing a Notice of refusal, revocation, suspension, or imposing conditions.
- 2.2 When the Director of By-law Compliance, or their designate, has recommended the refusal of issuing or renewing a licence, suspension, revocation of an existing licence or imposed conditions, the Director of By-law Compliance, or their designate, will send a dated recommendation to refuse, revoke, suspend, or impose conditions to the Licencee/Applicant and copy the City Clerk, which will include the grounds upon which the recommendation is being made and the final date for giving notice of appeal.
- 2.3 The Licencee or Applicant may file a Notice of Appeal. A completed Notice of Appeal form and the applicable appeal fee must be submitted within the thirty (30) day period specified in the Notice. A copy of the Notice of Appeal form is attached to this document.
- 2.4 A non-refundable appeal fee of \$450.00 must accompany the Notice of Appeal.

3.0 Notice of Appeal of a Property Standards Order

- 3.1 An Officer may issue Orders by the Municipality to demolish or repair a property that does not conform to any of the standards prescribed in the Property Standards by-law, as amended.

- 3.2 When an Officer determines a property does not conform with the standards prescribed in the Property Standards By-law, as amended, the Director of By-law Compliance, or their designate, will send a dated "Order to Comply" made under section 15.2(2) of the Building Code Act, which will include the grounds upon which the order is being made and the final date for giving notice of appeal.
- 3.3 If the party served with the notice is not satisfied with the terms or conditions of the Order, the party may appeal to the Appeals Committee by completing the Notice of Appeal online application form, sending it by registered mail, or personally delivering it to the City Clerk's Department within the prescribed fourteen (14) day period outlined in the Order.
- 3.4 A non-refundable appeal fee of \$450.00 must accompany the Notice of Appeal.

4.0 Notice of Hearing

- 4.1 Upon receipt of a Notice of Appeal from an Appellant, the City Clerk will send a Hearing Notice to the Appellant by email and/or registered mail to the last known address.
- 4.2 The Hearing Notice will include the date, time, and location of the hearing and will advise the Appellant that the matter may be heard and decided by the Appeals Committee in their absence if they do not attend the hearing.

5.0 Late, Incomplete, or Motion of a Notice of Appeal

- 5.1 Where the City Clerk determines that the Notice of Appeal is incomplete (e.g., missing reasons for the appeal or the fee), the Appellant will be contacted to complete the Notice of Appeal by the prescribed date.
- 5.2 For a Notice of Business Licence Appeal that is not completed within the prescribed timeframe, the appeal will not be accepted without the permission of the Appeals Committee.
- 5.3 For a Notice of revocation, suspension, cancellation, imposition of terms or conditions on a licence or application, the Appellant may complete a Notice of Motion form to extend the time allotted for the filing of an appeal and submit it to the Clerks Department within 5 days prior to the prescribed deadline for filing an appeal. The Chair of the Appeals Committee will be notified and may call for a vote electronically to grant or deny a request for an extension of time filing the appeal based on the circumstances. A majority of the members will determine the timeline for the extension. If the Motion is denied and the application is not received 5 days after the vote, the recommendation made in the Notice of revocation, suspension, refusal, or imposition of terms or conditions will be deemed final and binding.

- 5.4 Where a Notice of Revocation, Suspension, Cancellation, or the imposition of Terms and Conditions has been issued, an Appellant may withdraw their appeal by completing and submitting a Notice of Motion to the Clerk prior to the scheduled hearing date set out in the Notice of Appeal Hearing. Upon receipt, the Clerk shall notify the Chair of the Committee of the withdrawal. In such circumstances, the recommendation contained in the Notice of Revocation, Suspension, Refusal, or imposition of Terms and Conditions shall be deemed final and binding.
- 5.5 For a Property Standards Notice of Appeal that is not completed within the above-prescribed period, the Order shall be deemed to be confirmed. It shall be final and binding, requiring the party in whom the order was issued to comply with its Terms within the time and in the manner specified in the Order. An Order to Comply is not permitted to extend the time past the prescribed period.

6.0 Licensing Appeal Document Disclosure:

- 6.1 At least 20 days before the Hearing, the Appellant and the City Representative will provide a disclosure package to the City Clerk (submission of relevant materials that led to the revocation, refusal, suspension, imposed conditions, evidence that will be used at the Hearing, including photos, technical reports, and witness statements).
- 6.2 The City Representative will forward a disclosure package to the City Clerk that may include:
- A copy of the Application for a business licence
 - A copy of the business licence issued
 - A copy of inspections/orders or witness notes.
 - Notice of refusal, suspension, revocation, terms and conditions.
 - The names of all witnesses and a brief on their area of expertise
 - A copy of relevant photographs or other documents, dated and initialed by the officer in the margin.
 - A list of any additional material that may be used at the hearing.
 - A request for disclosure from the Applicant / Licencee, including a deadline date.
- 6.3 The Appellant will send a disclosure package to the City Clerk that may include:
- A copy of the photographs taken that will be used at the Hearing
 - The names of all witnesses and briefs on their expertise
 - Any relevant documents or information related to the appeal
- 6.4 If either the City Representative or the Appellant brings forward material during the hearing that has not been disclosed to the other party in advance, the Chair of the Appeals Committee will recess the hearing to allow the other party to review the material. When the hearing resumes, the other party will be given the opportunity to state any objections to the use of the material during the hearing. The Committee will decide, based on the parties' submissions, whether the material may be referred to or introduced as evidence.

7.0 Property Standards Orders Document Disclosure:

- 7.1 At least 20 days before the Hearing, both the Appellant and the City Representative will provide a disclosure package to the City Clerk (submission of relevant materials that led to the Order being issued, evidence that will be used at the Hearing, including photos, technical reports, and witness statements).
- 7.2 By-law Enforcement staff will forward a disclosure package to the City Clerk that may include:
- A copy of the title search showing ownership of the property.
 - A copy of the signed order.
 - A copy of the signed courtesy letter sent to the Appellant (if any).
 - A copy of the Property Standards Officer's notes with any personal information relating to other individuals (e.g., a complainant's name and telephone number) removed.
 - A copy of the photographs taken by the Property Standards Officer during the inspection, dated and initialed by the officer in the margin.
 - A copy of any relevant maps, drawings, or other documents that will be relied upon by the appeal hearing by witnesses who will be called.
 - The names of all witnesses and a brief on their area of expertise
- 7.3 The Appellant will forward a disclosure package to the City Clerk that may include:
- A copy of the photographs taken that will be used at the Hearing.
 - A copy of any relevant maps, drawings, or other documents that will be relied upon by the appeal hearing by witnesses who will be called.
 - The names of all witnesses and a brief on their area of expertise

8.0 Appeals Committee Agenda

- 8.1 The Appeals Committee agenda will be posted to the City of Burlington's online meeting calendar (burlington.ca/meetings).

9.0 Legal Counsel

- 9.1 The Appellant may choose to be represented by an agent (who, in accordance with the *Law Society Act* and its regulations, may provide representation), or may choose to be self-represented.
- 9.2 The Appellant must submit a completed 'Authorization to Act as Agent' form, signed by both the Appellant and the agent, before the hearing date.

10.0 Deferral of Hearing

- 10.1 The Appeals Committee may, on its own initiative or at the request of a party, where the Committee is satisfied that the deferral is required to permit an adequate hearing to be held, defer a hearing to such time and place, and on such terms as the Committee deems to be just.
- 10.2 In deciding whether to grant a deferral of a hearing, the Committee may consider the following factors:
- The sufficiency of the reasons advanced for the request to defer.
 - the timeliness of the request
 - the resources of the Committee
 - any prejudice to any party
 - whether any deferrals have been granted previously
 - the consent of the parties; or
 - any other relevant factor.
- 10.3 Where no deferral has previously been granted, the Clerk, in consultation with the Committee Chair, may grant a deferral of a hearing for a maximum of 60 days if:
- all the parties' consent to the deferral in writing, and;
 - The deferral request is made to the Clerk no less than 5 days before the scheduled date of the hearing.

11.0 What to Expect

- Dress code business casual.
- When making submissions, the parties address the Committee even when presenting their case and asking questions (cross-examining) any witness-e.g., "Through the Chair I ask the Witness to..."
- Parties do not talk among themselves during a hearing.
- Meeting attendees must abide by the rules of procedure and public conduct policy at meetings. All interactions will be conducted politely and respectfully. Hearing attendees must maintain order and refrain from engaging in unreasonable or offensive conduct, including using insulting language or speaking disrespectfully during a meeting.
- Address all of the participants by their full names, e.g., Mr. Hubbard, Ms. Gander
- Remote participants are reminded to remain mute when not speaking, use headphones for the best audio, and use the raise hand feature for questions.

12.0 Hearings

- 12.1 The Chair will call the meeting to order and ask Committee members to declare any conflicts of interest. The Chair will notify the Committee of any changes to the agenda before it is approved.
- 12.2 Hearing attendees will not talk amongst themselves during the hearing. The Chair will act as the presiding officer over the conduct of the meeting, including the preservation of order and decorum and will remove individuals from the hearing or adjourn the meeting if needed.
- 12.3 All participants will address their questions, comments, and remarks through the Chair.
- 12.4 The Chair will ask the City Representative if there are any requests for adjournment or matters proceeding on consent of both parties. The Committee will deal with these matters first.
- 12.5 The Chair will state the name of the Appellant for whom the hearing is being held.
- 12.6 Appeals Committee meetings are open to the public. Meeting participants (e.g., Appellant, City Representative) who provide information about intimate personal or financial matters during the hearing will advise the Committee Chair at the start of the hearing. The Committee will decide, in consultation with the Clerk and considering both the interests of any person affected and the principle that hearings be open to the public, whether the hearing, or part of it, will be open or closed to the public.
- 12.7 The City Representative will have a maximum of 10 minutes to present their case first and provide their evidence to the Committee.
- 12.8 The City of Burlington Representative will call their witnesses. Once called, witnesses will come forward to be affirmed.
- 12.9 After the testimony of each of the City Representative's witnesses, the Appellant and then the Committee Members may ask questions (two at a time) of the witness(es) directly related to the matter under consideration.
- 12.10 After the City Representative has called all their witnesses, the Appellant will have a maximum of 10 minutes to present their case and provide their evidence to the Committee.
- 12.11 The Appellant will call their witnesses, who may be the Appellant themselves and/or other witnesses. Again, once called, a witness will come forward to be affirmed.
- 12.12 After the testimony of each of the Appellant's witnesses, the City Representative and then the Committee Members may ask questions (two at a time) of the witness(es), directly related to the matter under consideration.
- 12.13 The Appellant and then the City Representative will have a maximum of 10 minutes to make final submissions. The final submissions should clearly state what each party is requesting of the Committee with respect to issuance, suspension, revocation, or conditions imposed on the business license.
- 12.14 The Chair may ask for comments from the Committee members.

13.0 Decisions

- 13.1 The Committee renders its decision on the matter in the public hearing. If the Committee determines that additional information is required to render a decision, it may adjourn the matter to a future meeting date.
- 13.2 In its decision, the Appeals Committee may uphold or dismiss the decision to refuse to issue a business licence, and/or revoke, suspend, or impose conditions on the business licence.
- 13.3 In its decision, the Appeals Committee may uphold, rescind, confirm, or modify an Order on the Property.
- 13.4 A copy of the decision and the written reasons for the decision of the Appeals Committee will be sent to the Appellant by email and registered mail.
- 13.5 All decisions rendered by the Appeals Committee shall be final and binding.