

BURLINGTON APPEALS COMMITTEE

RULES OF PRACTICE AND PROCEDURE

BACKGROUND

Section 25.1 of the *Statutory Powers Procedure Act* authorizes the Burlington Appeals Committee to make rules of practice and procedure. The rules may be of general or particular application.

The Burlington Appeals Committee is appointed by Burlington City Council to conduct appeal hearings to decide whether to,

- confirm, modify or rescind a Business Licence Decision Notice issued under the Business Licensing By-law 42-2008, Public Vehicle By-law 20-2009, Short-Term Accommodation By-law 01-2025 or Adult Entertainment By-law 01-2008; or
- confirm, modify, rescind or extend the time to comply with a Property Standards Order issued under the Property Standards By-law 28-2009.

PART 1 – DEFINITIONS AND APPLICATION

Definitions

1.1 In this By-law,

“**Appellant**” means a licence applicant or licensee who has appealed a Business Licence Decision Notice or a property owner who has appealed a Property Standards Order;

“**Chair**” means the Chair of the Appeals Committee;

“**Member**” means a Member of the Appeals Committee;

“**Rules**” means these Rules of Practice and Procedure;

“**Clerk**” means the person assigned by City to act as the secretary of the Appeals Committee; and

“**Vice Chair**” means the Vice Chair of the Appeals Committee.

Application

1.2 The Rules are observed at all meetings of the Appeals Committee.

1.3 If a matter is not provided for in the Rules, the Appeals Committee determines the rule that applies and, in making this determination, may do whatever is necessary and permitted by law, including in accordance with the *Statutory Powers Procedure Act*, to

enable it to effectively and completely deal with the matter before it.

- 1.4 The Appeals Committee may waive any rule in these Rules as it considers appropriate to ensure that the matter before it is determined in a timely, effective and fair manner.

PART 2 – CHAIR AND VICE CHAIR

Election of the Chair and Vice Chair

- 2.1 The Appeals Committee elects a Chair and a Vice Chair at its first meeting.
- 2.2 The Chair and the Vice Chair each serve for a one-year term for a maximum of two years unless the Appeals Committee determines otherwise.

Responsibilities of the Chair and Vice Chair

- 2.3 The Chair provides guidance and leadership to the Appeals Committee in carrying out its responsibilities.
- 2.4 The Chair acts as the liaison between the Members and the Clerk on matters related to meetings, appeal hearings and the Rules.
- 2.5 The Chair ensures that the Code of Conduct for Local Boards and Committees and the Burlington Appeals Committee Code of Conduct is observed by all Appeals Committee Members.
- 2.6 The Chair presides at all meetings, ensuring,
- (1) the meetings are conducted in an efficient and timely way;
 - (2) the appeals are dealt with in a manner that is fair, transparent and consistent;
 - (3) the conduct of all participants is consistent with the quasi-judicial nature of the proceedings; and
 - (4) decorum is maintained.
- 2.7 The Chair ensures that the minutes accurately reflect what happened at a meeting.
- 2.8 The Vice-Chair supports the Chair at any meeting they both attend.
- 2.9(1) If the Chair is absent from a meeting, the Vice Chair presides and discharges the duties of the Chair during the meeting or until the arrival of the Chair.
- (2) If both the Chair and Vice Chair are absent from a meeting, the Members who are present elect an Acting Chair to preside and discharge the duties of the Chair during the meeting or until the arrival of the Chair or Vice Chair.

Resignation

- 2.10 If the Chair or the Vice Chair resigns as a Member or resigns as the Chair or Vice Chair, the Appeals Committee elects another Member as Chair or Vice Chair for the balance of

the term of the Chair or Vice Chair and until a successor is appointed.

PART 3 – MEETINGS

Scheduling meetings

- 3.1 The Clerk schedules an Appeals Committee meeting,
- (1) on the last Thursday of every month;
 - (2) when, after appropriate consultation, the Clerk considers a meeting necessary; or
 - (3) when requested to do so in writing by a majority of the Members.
- 3.2 The Clerk determines the location, date and time of a meeting.

In-person and electronic meetings

- 3.2 Meetings are held in-person, but, when, after appropriate consultation, the Clerk, considers it necessary, a meeting may be held as an electronic meeting or as any combination of an in-person meeting and an electronic meeting. The Clerk considers ensuring that appeal hearings are timely, effective and fair, including considering the necessity of accommodating any the Members, the parties, other participants and the public.

Notice of meetings

- 3.2 The Clerk gives notice of all meetings, and of cancelled or rescheduled meetings.
- 3.3 When an appeal will be considered at a meeting, the Clerk gives reasonable notice to the Appellant that sets out,
- (1) the location, date and time of the appeal hearing;
 - (2) the purpose of the appeal hearing; and
 - (3) that if the Appellant fails to attend the meeting, the Appeals Committee may proceed in the Appellant's absence, and the Appellant will not be entitled to further notice in relation to the appeal hearing or subsequent meetings at which the appeal hearing is considered.

Agendas and minutes

- 3.4 The Clerk prepares the meeting agendas and minutes and posts them on the appropriate page or pages on the City of Burlington's website.

Quorum

- 3.5 A quorum of the Appeals Committee is three Members, so at least three Members must be in attendance throughout a meeting. In the case of an appeal hearing, the same three, four or five members must be in attendance throughout the appeal hearing.
- 3.6 If quorum is not present 15 minutes after the time appointed for a meeting, the Clerk

may adjourn the meeting until the next scheduled meeting, or until a meeting at the call of the Clerk.

- 3.7 If quorum is lost during a meeting for a period of 15 minutes, the Clerk may adjourn the meeting and the meeting stands adjourned until the next scheduled meeting, or until a meeting at the call of the Clerk.
- 3.8 Members participating electronically in a meeting shall be counted in determining whether a quorum of members is present at any point in time.

Meetings open to the public

- 3.9 All meetings, including appeal hearings, are open to the public subject to the Appeals Committee retiring to deliberate and to the exceptions set out in the *Statutory Powers Procedure Act* and the *Municipal Act, 2001*. The Appeals Committee retires to deliberate in the absence of the public and the parties. The statutory exceptions may result in a meeting being closed to the public or to the public and to the parties to an appeal hearing.
- 3.10 Before closing a meeting, the Appeals Committee passes a motion to close the meeting and the motion states that the meeting is a closed meeting and the reasons why the meeting is closed.
- 3.11 All meetings begin and end in public.

Transcripts

- 3.12 A party may arrange, at their own expense, for the attendance of a qualified verbatim reporter for the purpose of recording testimony and submissions during an appeal hearing and preparing a transcript. Permission is not required for this, but the Appeals Committee should be informed in advance of the appeal hearing so that the meeting room can be set up to accommodate the verbatim reporter.

PART 4 – DECISIONS

Consideration of Business Licence Decision Notice or Property Standards Order

- 4.1 The Appeals Committee considers,
 - (1) a Business Licence Decision Notice and decides to confirm, modify or rescind the refusal, revocation, suspension of or imposition of conditions on a business licence; or
 - (2) a Property Standards Order and decides to confirm, modify or rescind the Order including deciding whether to extend the time to comply.

Interim/Procedural and Final Decisions

- 4.2 The Appeals Committee may give an interim/procedural decision orally only and not writing and need not provide reasons for an interim/procedural decision.
- 4.3 The Appeals Committee may give a final decision orally, followed by a written decision or may give only a written decision. The Appeals Committee provides reasons for a final decision.
- 4.4 The Appeals Committee may reserve either an interim/procedural decision or a final decision.
- 4.5 The Chair who presided at the appeal hearing signs any written decision (in ink or electronically).
- 4.6 The Clerk sends the Appeals Committee's Decision Notices to the Appellant.

PART 5 – PUBLIC INFORMATION

- 5.1 Information, including forms, documents and statements submitted to the Appeals Committee relating to an appeal, is an adjudicative record that is a public record available to parties, participants and the general public.
- 5.2 In accordance with section 27 of the *Municipal Freedom of Information and Protection of Privacy Act*, the provisions protecting individual privacy in Part 2 of the Act do not apply to any information collected in the Appeals Committee's prescribed forms and associated filings for appeals.
- 5.3 A request for relief from sections 5.1 and 5.2 may be made in writing to the Clerk who, after appropriate consultation, will determine the response to the request and inform the requestor.