

Date: 2023-03-24

Subject: **Temporary Liquor Licence Extension to Outdoor Spaces**

Secondary Title: Amendment to Administrative Authority By-law 216-2017 – To delegate authority to the City Clerk to approve requests for temporary liquor licence extensions to outdoor spaces

Contact: **Laurie Robinson, Supervisor, Business Operations, City Clerk's Office, Legislative Services Department**

Report Number: Legislative Services-2023-305

Recommendations:

1. THAT the report titled: Temporary Liquor Licence Extensions to Outdoor Spaces, dated March 24, 2023, to the City Council meeting of April 5, 2023, be received; and
2. THAT Administrative Authority By-law 216-2017 be further amended to delegate authority to the City Clerk to approve requests for temporary liquor licence extensions to outdoor spaces, as generally set out in Appendix 1 to this report.

Overview:

- **Prior to January 1, 2023, requests for temporary outdoor extension of an already liquor licensed area in a permanent establishment were granted by the Alcohol and Gaming Commission of Ontario (AGCO).**
- **As of January 1, 2023, the Government of Ontario permanently provided municipalities the ability to approve temporary outdoor extensions of liquor licensed premises.**
- **In June 2020, City Council established the Patio Brampton Program as a temporary patio extension program to make it easier for Brampton bars and restaurants to expand their patios and allow for physical distancing**

to contain the spread of COVID-19. This program ended January 1, 2023 at 3:00 am.

- **Staff are developing a new program to accommodate requests for applications for an outdoor temporary extension of an already liquor licensed area or non-licensed area in a permanent establishment.**
- **In the meantime, this report recommends an amendment to the Administrative Authority By-law 216-2017 to delegate authority to the City Clerk to approve requests for temporary liquor licence extensions to outdoor spaces.**

Background:

Prior to January 1, 2023, requests for temporary extension of an already licensed area in a permanent establishment were granted by the Alcohol and Gaming Commission of Ontario (AGCO). Temporary extensions were relegated to a period of no greater than 14 days at a time and no more than 4 times per year. Applications for temporary extension to the AGCO required that notification be provided to local Police, Fire, Public Health and Building Officials a minimum of 30 days prior to the event. Letters of approval were required from the owner or landlord of the property if applicable; and a letter of non-objection from the Municipal Clerk stating that there is no objection to the proposed extended licensed area.

In response to the COVID-19 pandemic, to assist in re-opening the economy, the AGCO permitted certain liquor sales licensees (i.e., licensed bars and restaurants) to temporarily extend their patios beyond 14 days provided they had municipal approval. Licensees were not required to apply to the AGCO or pay a fee to the AGCO for the temporary extension.

In June 2020, City Council established the Patio Brampton Program as a temporary patio extension program to make it easier for Brampton bars and restaurants to expand their patios (whether licensed or not) and allow for physical distancing to contain the spread of COVID-19. This program provided an expedited application process and made allowances to patio locations and conditions in order to support local businesses impacted by the COVID pandemic. This program has now ended and those establishments wishing to extend their liquor licence beyond the permitted area to an outdoor space may either:

- a. apply to the AGCO for a permanent outdoor liquor licence, or
- b. seek approval for an outdoor temporary liquor licence extension.

Current Situation:

As of January 1, 2023, the Government of Ontario permanently provided municipalities the ability to approve temporary outdoor extensions of liquor licensed premises, in accordance with Section 153.1 of *Ontario Regulation 746/21* under the *Liquor Licence and Control Act, 2019*. Previously, approval of all temporary outdoor extensions of liquor licences was under the authority of the AGCO and the applicant had to provide a letter of non-objection from the municipality. This applies only to outdoor extensions of licensed areas for establishments with a valid liquor licence. An extension of time to serve and consume alcohol for an already-licensed establishment remains with the AGCO for approval.

Individual municipalities now:

- Have the authority to approve temporary outdoor extensions of licensed premises for up to a total of eight months in a calendar year.
- Are permitted to create their own conditions on the municipal approval.
- Are responsible for ensuring compliance with any conditions placed on the outdoor extension approved by the municipality.

AGCO pre-conditions for a temporary outdoor liquor licensee municipal approval request include:

- The physical extension of the premises must be adjacent to the premises to which the licence to sell liquor applies.
- The licensee is able to demonstrate sufficient control over the area to which the extension would apply.
- There is no condition on the licence prohibiting a patio.
- The capacity of the area to which the extension would apply allows for at least 1.11 square metres per person.
- The licensed premises would not be subject to a temporary outdoor physical extension for more than a total of eight (8) months in a calendar year.

The applicant/licensee:

- Will be required to notify the AGCO of any temporary outdoor extension approved by their municipality and any conditions imposed by the municipality.
- Must continue to comply with AGCO's requirements for permanent indoor and outdoor extensions and temporary indoor extensions, i.e., hours of service.
- Must also continue to comply with the *Liquor Licence and Control Act, 2019* (LLCA), its regulations, the Registrar's Interim Standards and Requirements for Liquor as well as any other conditions on the licence that have been imposed on the outdoor temporary extensions by the AGCO.

Staff are currently working to create a comprehensive program that will include aspects of the former COVID-related Brampton Patio Program, apply to all temporary outdoor

patio requests with or without a liquor licence, and consider additional provisions including:

1. On-line application tool with automated workflow for comment
2. Criteria and conditions for approving requests
3. Possible fees, i.e., inspections, compliance, occupancy of parking spaces, lane closure, site-plan review
4. A stand-alone by-law to facilitate temporary liquor licence extensions to outdoor spaces

Any request for a permanent outdoor patio area or structure will require appropriate review through the City's Building Division and Development Services Division for possible building permits and/or site plan approval.

Until a fulsome program is developed, staff will utilize the following process for consideration of temporary outdoor patio requests:

1. City Clerk's Office will remain the point of contact for an applicant, with the request submission including:
 - a. Establishment Details – name, address
 - b. Applicant name and contact information, plus secondary contact
 - c. Event details including date and time range, nature of the event
 - d. Attachments, i.e., written approval of landlord/property owner or property manager
 - e. Detailed sketch or plan showing exact dimensions of the proposed extended outdoor licensed area, including entrances/exits
2. City Clerk's Office will circulate request for comment/objection/non-objection to:
 - a. Affected Ward Councillor(s)
 - b. Enforcement & By-law Services
 - c. Building Division
 - d. Zoning Division
 - e. Fire & Emergency Services – Fire Prevention
 - f. Accessibility Office
 - g. Traffic Services
 - h. Development Services – site-plan approval (if applicable)
 - i. Economic Development
 - j. Tourism & Special Events
 - k. Peel Regional Police
 - l. Region of Peel Public Health
3. City Clerk's Office will provide to the applicant a letter of approval, subject to various conditions, including but not limited to:
 - a. applicant notification of local residents/businesses of the temporary patio with a contact name/number for complaints
 - b. provision of an appropriate level of security as may be required by the Peel Regional Police

- c. any other permits, inspections, conditions and/or approvals deemed necessary by the City, **or**
4. City Clerk's Office will provide to the applicant a letter denying the application/request, based on written reasons, including but not limited to:
 - a. based on zoning (i.e., use not permitted), removal of accessible parking spaces, fire safety non-compliance, past behaviour (neighbour complaints, by-law infractions)
5. Collect the current and approved fee of \$25 payable to the City.

An amendment to Administrative Authority By-law 216-2017 is proposed to authorize the Clerk to make such administrative decisions, with regular reporting to Council of the exercise of such delegated authority. A copy of the proposed by-law amendment is included as Appendix 1 to this report.

As staff develop a more robust application, review and approval program, a further report will be presented to Council to formalize and authorize the temporary outdoor patio program.

Corporate Implications:

Financial Implications:

No new financial implications at this time.

Other Implications:

Term of Council Priorities:

This report aligns with the strategic directions that Brampton is a Mosaic and a Well-run City by enabling and supporting local businesses in their service delivery to the public.

Conclusion:

This report recommends an amendment to the Administrative Authority By-law 216-2017 to delegate authority to the City Clerk to approve requests for temporary liquor licence extensions to outdoor spaces, given such authority has now been given to the municipalities by the AGCO.

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Attachments:

Appendix 1 – Draft By-law to Amend Administrative Authority By-law 216-2017

Appendix 2 – Legislative Extract - Section 153.1 of *Ontario Regulation 746/21* under the *Liquor Licence and Control Act, 2019*