



Update on Cross-Jurisdictional Action Plan for Bars, Restaurants, and Nightclubs

Date: November 18, 2019

To: General Government and Licensing Committee

From: Executive Director, Municipal Licensing and Standards

Wards: All

SUMMARY

On July 16, 2019, City Council directed staff to report back on an inspection and enforcement action plan for problematic establishments serving alcohol. Staff in Municipal Licensing and Standards (MLS), Toronto Building, and Toronto Fire Services were asked to develop this cross-jurisdictional action plan in consultation with the Alcohol and Gaming Commission of Ontario (AGCO) and the Toronto Police Service (TPS) to respond to, manage, and resolve negative community impacts created by problematic establishments serving alcohol.

A cross-jurisdictional approach for addressing problematic establishments serving alcohol aligns with the priorities of the broader Council-approved [Toronto Nightlife Action Plan](#), which seeks to strengthen Toronto's nightlife over the next three years. This requires being able to support existing and new late-night businesses, as well as the ability to effectively address businesses that pose a risk to public safety and/or result in nuisances to the community. This is currently being done through education, awareness, and enforcement; however, there are opportunities to improve the City's approach to addressing problematic businesses, including by developing a plan for coordinated cross-jurisdictional action.

This report outlines the approach that City staff are undertaking to develop a cross-jurisdictional inspection and enforcement action plan with the AGCO and TPS. An effective plan for cross-jurisdictional action first requires an improved information-sharing process between the City and these partner organizations. Improving the information-sharing process will better inform the City and partner organizations as to which operators may require additional education and support, how to best allocate staff resources, and what enforcement actions have been taken by partner organizations. This information could then be used to develop an evidence-based cross-jurisdictional action plan.

The report also identifies additional work that will be addressed through the broader review of bars, restaurants, and nightclubs, with a full report expected at the General Government and Licensing Committee in 2020.

This report has been developed in consultation with staff in City Planning, Economic Development and Culture, Toronto Building, and Toronto Fire Services divisions, as well as the AGCO and TPS.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. The General Government and Licensing Committee direct the Executive Director, Municipal Licensing and Standards, to:
 - a. continue to engage with the Alcohol and Gaming Commission of Ontario, the Toronto Police Service, and relevant City divisions in developing a cross-jurisdictional action plan for bars, restaurants, and nightclubs; and
 - b. report to the General Government and Licensing Committee on the progress of the cross-jurisdictional action plan as part of the bars, restaurants, and nightclubs review in 2020.

FINANCIAL IMPACT

There are no financial impacts beyond what has already been approved in the current year's budget.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

On July 16, 2019, City Council adopted Item MM9.17, An Inspection and Enforcement Action Plan on Problematic Establishments Serving Alcohol, and directed staff in Municipal Licensing and Standards, Toronto Building, and Toronto Fire Services, in consultation with the AGCO and TPS, to develop and implement a cross-jurisdictional action plan to respond, manage, and resolve negative community impacts created by problematic establishments serving alcohol.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.MM9.17>

On July 16, 2019, City Council adopted, with amendments, Item EC6.8, Strengthening Toronto's Nighttime Economy and endorsed the proposed actions of the [Toronto Nightlife Action Plan](#). This included, among other directives, a request to staff in City Planning and Municipal Licensing and Standards to align the review of zoning and

business licensing regulations to clarify the requirements and provide support for venues regularly presenting live music.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EC6.8>

On April 16, 2019, City Council adopted, with amendments, Item EC3.6, Noise By-law Review - Proposed Amendments to Chapter 591, Noise, which amended the Noise By-law to improve clarity and consistency of the by-law, introduce decibel limits for amplified sound and motorcycles, and provide staff with the authority to request noise monitoring and noise mitigation plans as part of the exemption permit process.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EC3.6>

COMMENTS

As Toronto's population continues to grow, new businesses and new business models have emerged. As a result, there is a need to balance the growth of the nighttime economy with the need to ensure public safety, address nuisance issues, and respond to problematic establishments. Keeping people safe from harm or injury at night is a primary concern for everybody involved in nightlife. Many City divisions – including Municipal Licensing and Standards, Toronto Fire Services, Toronto Paramedic Services, Toronto Police Service, and Toronto Public Health – respond to health, safety, and nuisance issues that happen at night, including instances of community violence.

City staff, in consultation with the AGCO and TPS, are making efforts to strengthen the nighttime economy, improve public safety, and address nuisance concerns related to late-night businesses and/or businesses that serve alcohol. Full details about these efforts are introduced below and detailed in the corresponding sections of this report.

- 1. A plan to improve the information-sharing process:** City staff, along with the AGCO and TPS, are developing a process to better share information about establishments that hold a provincial liquor sales licence.
- 2. Toronto Nightlife Action Plan:** City staff and agencies are implementing the Toronto Nightlife Action Plan that was approved by City Council in July 2019. One priority of the plan is to "protect the night" by recognizing and advancing the importance of safety for nightlife patrons and workers, respect for residents and the long-term sustainability of music and entertainment venues.
- 3. Education and awareness:** MLS, in partnership with City divisions, regularly educates the hospitality industry on good neighbour practices. Through the Toronto Nightlife Action Plan, staff have been tasked with developing a safer venue industry guide that incorporates best practices for creating safer spaces, information on responsible consumption, and safe working environments.
- 4. Enforcement:** City divisions conduct inspections of businesses that fall under their purview, and engage partner organizations as appropriate. An improved information-sharing process is the first step in developing a comprehensive cross-jurisdictional action plan with partner organizations.

1. Improving the Information-Sharing Process

Background

In 2018 and 2019, the City of Toronto participated in the [Toronto Hospitality Zone Assessment Study](#) (RHI Study), which reviewed ways to reduce alcohol-related harm and enhance vibrancy in Toronto's nighttime economy. The study was led by the Responsible Hospitality Institute (RHI) and was funded by Diageo. Staff used the RHI Study to inform the [Toronto Nightlife Action Plan](#), pulling from the RHI analysis and recommending those aspects that fit Toronto's current fiscal and planning contexts. Two social districts in Toronto were selected for data analysis: Dundas Street West and King Street West areas.

Through the process, high-level data about these two districts was compiled; the data primarily came from Municipal Licensing and Standards and the Toronto Police Service and contained business licence-related data and crime statistics. Although limited, this data was used to inform the analysis and recommendations of the "Assure Safety" component of the RHI Study. Opportunities have been identified to further refine this program and expand it to be more applicable to the City, AGCO, and TPS.

Separate from the RHI Study, the City, AGCO, and TPS regularly participate in various information-sharing processes, including:

- Toronto Police reports are shared with AGCO to aid inspections;
- Tribunal reports submitted by MLS use information provided by Toronto Police; and
- Toronto Licensing Tribunal decisions are shared with the AGCO.

Developing a Comprehensive Information-Sharing Process

The City remains engaged with RHI, AGCO, and TPS to determine the feasibility of developing a broader data-collection and information-sharing process. Staff are in the early stages of assessing such a process but it is anticipated that, if realized, it would allow organizations to more easily and collectively identify problematic establishments and use that information to inform a data-driven, risk-based approach to addressing the issues.

This initiative is supported by the Responsible Hospitality Institute under the umbrella of their Global "Sociable City" project. This project seeks to demonstrate that a holistic approach is the most effective way to reduce high-risk drinking and related impacts on safety and disturbances. The collection and sharing of data related to public safety is a component of this project. Some examples of data that may be aggregated include:

- **Licensing:** City-issued licences/permits and AGCO-issued liquor sales licences.
- **Safety:** examples include assaults, robbery, theft, possession of drugs, weapons-related offences, and drunkenness.
- **Liquor Licence Act:** examples include instances of over-serving, serving to minors, and over-crowding.
- **Fire Code and By-law Compliance:** examples include occupancy, seating, noise management, and adherence to the Ontario Fire Code.

Establishing a process to better share information, particularly information related to public safety and enforcement efforts, will better allow partner organizations to make data-driven decisions. Some of the additional benefits that may be realized include:

- Centralized database for data related to inspections and service requests;
- More effective identification of, and intervention with, at-risk businesses to solve problems before they become chronic issues;
- Cross-training and collaboration with partner organizations;
- Improved data to inform policy and resource allocation; and
- Better insight into the complex issues surrounding the nighttime economy.

Example - A London, Ontario Pilot Project

In 2013, regulators at the provincial, regional, and municipal levels that work with bars and restaurants conducted a pilot project in London, Ontario, termed the [Open Ontario Compliance Initiative](#). This project aimed to streamline compliance inspections, create greater coordination and collaboration between regulators, support effective risk-based compliance activities, and promote less burdensome inspection processes for businesses. The intent was to focus the efforts of regulators on higher-risk businesses and reduce burdens for business operators and owners who comply with the law. The pilot emphasized compliance support and business education. Regulators worked together and with the business community to improve and streamline the inspection process to focus on areas of high-risk. This model is seen to have value and would be explored as part of the feasibility assessment for the working group in Toronto.

Considerations and Next Steps

Data governance remains a key consideration as the City moves forward with exploring any opportunities for improved information-sharing. This includes considerations such as: who will manage the data, how the data will be stored, and how any personal information will be handled. Each organization also uses a different information technology system and staff will need to determine how to most efficiently consolidate the data into a useable format (e.g. addresses, licence number(s), and business name).

Developing such an information-sharing process takes time and staff resources. Initially, it is expected that the project will be limited to the King West and Dundas West areas as a pilot approach, as these areas were the focus of the Toronto Hospitality Zone Assessment Study. City staff will review the feasibility of developing a City-wide process to improve the delivery of service and enhance the safety of those working and participating in the nighttime economy.

2. Toronto Nightlife Action Plan

City staff have been tasked with delivering the [Toronto Nightlife Action Plan](#). It includes a vision, goals, and actions for planning, protecting, and creating live music, entertainment, and social culture at night in the next three years. The action plan includes actions that cover three priorities. One of those priorities is to "protect the night" by recognizing and advancing the importance of safety for nightlife patrons and

workers, respect for residents and the long-term sustainability of music and entertainment venues.

Another priority is to "plan the night" by recognizing and anticipating the need for nightlife offerings to adapt as Toronto's population grows. This could include expanding the number of activities at night that are not alcohol-related, creating more cultural events, and encouraging cultural institutions to program past 9 p.m.

The third priority is to "create the night" by identifying and supporting emerging entertainment areas outside the downtown core that can support nightlife uses. It also means actively designing the public realm around nightlife activity to support safety and promote late-night transportation options.

Nighttime Economy Working Group

The Nighttime Economy Internal Working Group (NTE Working Group) is a cross-divisional collective created to work collaboratively to implement the goals and recommendations in the Toronto Nightlife Action Plan and Strengthening Toronto's Nighttime Economy staff report adopted by City Council in July 2019.

The NTE Working Group is chaired by Toronto's Nighttime Ambassador. On November 6, 2019, Deputy Mayor Michael Thompson was appointed as the City's Night Economy Ambassador.

The NTE Working Group is comprised of members from various City divisions and agencies and includes: City Planning, Economic Development and Culture, Toronto Building, MLS, Toronto Fire Services, Toronto Police Service, Toronto Public Health, and Transportation Services.

Bars, Restaurants, and Nightclubs Licensing Review

Current business licensing regimes have not kept pace with the evolution of nighttime culture and changing business models have blurred the lines between what is commonly taken to be a restaurant, entertainment venue, or nightclub. This has led to issues in interpretation and enforcement, resulting in uncertainty for operators and residents. The City's licensing framework needs to be reviewed to reflect these changing businesses.

One of the actions from the Toronto Nightlife Action Plan and direction from the Planning and Housing Committee (PH9.6) is for City Planning and MLS to jointly review business licensing requirements, Official Plan policies, and Zoning By-law permissions for live music venues and related uses. Municipal Licensing and Standards is also undertaking a review of regulations for bars, restaurants, and nightclubs, to streamline and modernize the licensing categories in Chapter 545, Licensing (including categories for eating and drinking establishments, entertainment establishments/nightclubs, places of amusement, public halls, and billiard halls). The aim of these reviews is to better reflect the evolution and operations of many establishments, including late-night businesses across Toronto, while considering the surrounding context and potential impacts on adjacent areas.

These reviews will determine how consistency and clarity between licensing categories and zoning terms might be improved. This will help the City manage risks and address community nuisance and public safety issues that may arise with these types of uses. It will also clarify requirements, introduce regulations that better capture the risks involved with various types of establishments, create flexibility to accommodate business and community needs as they evolve, and simplify regulations for businesses and residents. Reports on these reviews are expected in 2020.

3. Education and Awareness

The City, AGCO, and TPS routinely conduct education and awareness initiatives to educate stakeholders, including residents, businesses, and visitors, about various matters within the City. Education campaigns and training materials raise awareness about the various municipal and provincial regulations, provide information about responsible alcohol sale and consumption, and prevent alcohol-related safety and community nuisance issues. Examples include Good Neighbour Guides, Best Bar None Program training, Smart Serve Training, and by-law education initiatives.

Good Neighbour Guide

There are areas in the city where neighbourhoods have both residential buildings and a vibrant nightlife. In 2017, the City of Toronto, in partnership with the Ontario Restaurant, Hotel, and Motel Association, Toronto Association of Business Improvement Areas, AGCO, and TPS, developed a Good Neighbour Guide for operators of bars, restaurants, and nightclubs. The guide outlines mandatory requirements and "good will" measures that can be taken to help the industry comply with regulations and operate in harmony with its neighbours, including residents. MLS will explore opportunities to further disseminate this guide to relevant licensed businesses (this includes through the licence application process and during inspections or investigations).

Developing a Best Practices Guide

As part of the Toronto Nightlife Action Plan, staff, in consultation with Toronto nightlife leaders and residents, will develop a safer venue industry guide that incorporates safer spaces best practices, information on responsible consumption and safe working environments. This work will be informed by consultations with internal and external working groups. In addition, staff have been asked to create a list of good neighbour principles for late-night businesses.

Best Bar None Program

The Best Bar None program is an international accreditation and award licensee program aimed at improving liquor service standards. This program has been implemented in the Entertainment District, led by the Ontario Restaurant, Hotel, and Motel Association and endorsed by the AGCO. It promotes the highest standards for the sale and service of alcohol, as well as the importance of businesses maintaining good relationships with the local community and neighbouring hospitality partners.

Smart Serve Training

Anyone who sells, serves, or handles alcohol in Ontario must complete the Smart Serve Certification course before their first day of work. This training program instructs staff on responsible service techniques and on how to recognize signs of intoxication. It emphasizes the importance of responsible service and is meant to serve as a guiding tool for hospitality professionals for acceptable alcohol serving practices. The program encourages those who sell, serve, or handle alcohol to take precautions to prevent intoxication. For example, promoting responsible service and moderate alcohol consumption, assigning staff to monitor the door to ensure the safety of patrons, and ensuring that over-crowding does not happen.

Example: Noise By-law Education and Awareness

In 2019, City Council adopted amendments to the Noise By-law, which came into effect on October 1, 2019. The amendments clarify regulations, improve consistency, and introduce quantified noise level limits for some types of noise, including amplified sound. Throughout the multi-year review, MLS engaged residents and stakeholders, including representatives from the entertainment and nightlife culture industries, to educate stakeholders and identify concerns and opportunities to inform the review. MLS continues to engage with stakeholders to improve awareness of the new regulations - for example, on October 29, 2019, MLS partnered with Economic Development and Culture, Music Ontario, and the Canadian Live Music Association to present an overview of the amended Noise By-law to over 50 stakeholders from the music industry.

4. Enforcement

City divisions, such as Toronto Fire Services, Toronto Public Health, and MLS, conduct regular inspections of licensed businesses to fulfill their mandate. Throughout the course of an inspection conducted by any City division, potential issues outside the scope of the inspection are communicated to the appropriate City division, the Toronto Police Service, and/or any other relevant organizations for further action.

When necessary, the City will work with TPS and/or AGCO to address issues that are brought to the City's attention concerning licenced businesses. Joint inspections with MLS, AGCO, and TPS, as well as other City staff, are done to ensure compliance with the legislation that each agency or division is responsible for.

Responsibilities of City Divisions and Partner Organizations

Each City division and partner organization has a specific scope of work and area of expertise as it relates to their operations. For example, Municipal Licensing and Standards issues business licences, conducts enforcement of business licensing, property standards, noise, and the zoning by-law. However, issues such as misconduct, sexual assault, and public drunkenness are addressed by Toronto Police Service, and issues including serving alcohol to minors, instances of over-serving, and over-crowding are addressed by the AGCO. The role of each City division and partner organization is provided in Table 1.

Table 1: Partner Organizations and Responsibilities

ORGANIZATION	RESPONSIBILITIES AS THEY RELATE TO ESTABLISHMENTS THAT SERVE ALCOHOL
Alcohol and Gaming Commission of Ontario	Licenses and regulates in accordance with the principles of honesty, integrity and in the public interest.
Municipal Licensing and Standards	Sets policies related to business licensing and undertakes enforcement of zoning, business licence requirements, property standards, and nuisance issues.
Toronto Building	Reviews zoning and other applicable laws through its review of permits to construct and change the use of a building. A permit review verifies that design elements such as access and exiting requirements, fire protection systems, accessibility, occupancy loads and structural sufficiency are in conformance with the Ontario Building Code. Building inspectors verify that the construction is consistent with the issued permits. Provides comments to the AGCO on Liquor Licence requests with respect to compliance with zoning by-laws and status of construction for establishments with active building permits.
Toronto Fire Services	Conducts fire safety inspections in accordance with the Fire Protection and Prevention Act (FPPA) and addresses any noted violations of the Ontario Fire Code or other fire safety hazards within the authority of the FPPA and accompanying Regulations and Fire Marshal Directives.
Toronto Police Service	Maintains files, data, and occurrences as they relate to licensed premises. Conducts inspections, provides education, and enforces applicable laws as required. Liaises with the AGCO and Municipal Licensing and Standards.

Example: Noise Service Request Prioritization and Enforcement

For establishments that serve alcohol, noise-related complaints are one of the most common types of service requests that the City has jurisdiction over. MLS is implementing priority responses for specific service requests, where appropriate. For example, the new dedicated Noise Team is the first to adopt a new priority response model, with incoming service requests being assigned different priorities according to urgency, frequency and impact. This will enable the City to better respond to complex, recurring noise issues. The different priority levels have different service standards for customers; this helps manage expectations while ensuring that officers are more responsive to higher-priority issues.

Developing a Cross-Jurisdictional Action Plan

A cross-jurisdictional approach for addressing problematic establishments serving alcohol aligns with the priorities of the broader Council-approved Toronto Nightlife Action Plan, which seeks to strengthen Toronto's nightlife over the next three years. Doing this requires the ability to support existing and new late-night businesses as well

as the ability to effectively address businesses that pose a risk to public safety and/or result in nuisances to the community. This is currently being done through education, awareness, and enforcement; however, there are opportunities to improve the City's approach to addressing problematic businesses, including by developing a plan for coordinated cross-jurisdictional action.

An effective plan for cross-jurisdictional action first requires an improved information-sharing process between the City and partner organizations, such as the AGCO and TPS, to identify problematic businesses and cooperatively develop an approach to address the underlying issues. Although the current process of one-off information-sharing can be helpful in certain circumstances, it does not provide the robust aggregate data required to meaningfully inform enforcement efforts.

Expanding the information-sharing process would provide additional opportunities to address problematic businesses. As discussed above, sharing this information would better inform organizations as to which operators may require additional education, how to best allocate staff resources, and what enforcement action has been taken by partner organizations. This information could then be used to develop an evidence-based cross-jurisdictional action plan.

Cross-jurisdictional approaches to enforcement, also sometimes called joint forces operations, have been successfully used in other jurisdictions. New York City, for example, has a Mayor's Task Force that has been used to address issues related to public nuisance and consumer protection. Advantages of these models include increased communications (both to the operator and within the partner organizations), sharing of intelligence, and consolidation of enforcement powers. The feasibility of developing a more comprehensive cross-jurisdictional action plan will be considered as the City moves forward with developing an information-sharing process between organizations, fulfilling the Toronto Nightlife Action Plan, and reviewing the licencing regulations for bars, restaurants, and nightclubs.

Next Steps

City staff will continue to work with RHI, the AGCO, and TPS on realizing this improved information-sharing process, which is necessary to develop an effective cross-jurisdictional action plan. This work is still in its early stages. MLS, along with relevant City divisions, will continue to engage with the AGCO and TPS to further this important work and will report back to the General Government and Licensing Committee as part of the review of bars, restaurants, and nightclubs.

Creating a best practices guide and good neighbour principles are expected to be developed throughout 2020 and finalized in early 2021. They will reflect the work done by the NTE Working Group, the consultation processes with industry and residents, and any changes to business licensing.

Staff will also continue to advance the development of a cross-jurisdictional action plan through the Toronto Nightlife Action Plan and both the live music venue review and the review of bars, restaurants, and nightclub licensing. Throughout this process, staff in MLS will consult with relevant City divisions, including City Planning, Social

Development, Finance, and Administration, and Economic Development and Culture.
These reviews are expected to be completed in 2020.

CONTACT

Ginny Adey, Director, Policy and Strategic Support, Municipal Licensing and Standards,
416.338.5576, Ginny.Adey@toronto.ca

SIGNATURE

Carleton Grant
Executive Director, Municipal Licensing and Standards