

Supplementary Report - CaféTO

Date: June 19, 2020

To: Executive Committee

From: General Manager, Transportation Services, and the Executive Director,
Municipal Licensing and Standards

Wards: All

SUMMARY

This report proposes additional staff recommendations, to be considered alongside those recommended in item EX14.1 CaféTO - Increasing Outdoor Dining Space for Toronto Restaurants and Bars.

Several CaféTO program elements have been initiated in order to ensure that Toronto's restaurant and bar operators are able to access additional outdoor space for expanded cafés as soon as possible once the Government of Ontario permits dining in the city of Toronto. The registration process, website, site visits, and communications and stakeholder engagement plans have commenced in anticipation of Council's decision.

The Government of Ontario has recently amended the regulation governing liquor licences allowing temporary licences for outdoor extensions to existing licences. The Alcohol and Gaming Commission of Ontario's (AGCO) accompanying Information Bulletin requires the City not object to these extensions. This report contains the necessary recommendations to facilitate this.

The proposed CaféTO guidelines are attached to this report.

RECOMMENDATIONS

The General Manager, Transportation Services and the Executive Director, Municipal Licensing and Standards recommend that:

1. City Council authorize the General Manager, Transportation Services, when approving a sidewalk café, curb lane/parklet café or public parklet under the CaféTO program, to confirm that the City of Toronto does not object to the temporary physical extension of liquor sales under section 97(2) of regulation 719 under the Liquor Licence Act for that approved area and to withdraw this confirmation if the operator of a sidewalk café, curb lane/parklet café or public parklet, in the opinion of the General Manager, subsequently fails to comply with the CaféTO program, applicable City by-laws or policies, or orders under the Emergency Management and Civil Protection Act.
2. City Council confirm that it does not object to the temporary physical extension of liquor sales under section 97(2) of regulation 719 under the Liquor Licence Act for an outdoor patio located on private property that is permitted under applicable zoning by-law(s) in the City of Toronto, including any temporary use zoning by-law adopted by Council.
3. City Council authorize the Executive Director, Municipal Licensing and Standards to withdraw the non-objection under recommendation 2 if the operator of an outdoor patio, in the opinion of the Executive Director, Municipal Licensing and Standards, subsequently fails to comply with applicable zoning by-law(s) (including any temporary use zoning by-law adopted by Council, applicable City by-laws or policies, or orders under the Emergency Management and Civil Protection Act.
4. City Council direct that operators of sidewalk cafés, curb lane/parklet cafés and public parklets approved under the CaféTO program:
 - a. where the café or parklet area is located on a local road, must ensure that the café or parklet is closed and cleared of customers by 11 p.m.; or
 - b. where hours of operation have been imposed previously by Community Council for an existing café or parklet area, must ensure that both the existing and the extended café or parklet areas are operated in accordance with the Community Council-imposed hours of operation despite recommendations 4.
5. City Council direct that where conditions other than hours of operation have been imposed previously by Community Council for an existing café or parklet area, operators of sidewalk cafés, curb lane/parklet cafés and public parklets approved under the CaféTO program must ensure that both the existing and the extended café or parklet areas are operated in accordance with the Community Council-imposed conditions.

FINANCIAL IMPACT

There are no financial implications beyond what has already been reported in EX14.1 CaféTO - Increasing Outdoor Dining Space for Toronto Restaurants and Bars.

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

DECISION HISTORY

At its meeting of March 27 and 28, 2019, City Council established a new harmonized bylaw and separate Toronto Municipal Code Chapter for sidewalk cafés, public parklets, and marketing displays.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EC2.3>

At its meeting of May 28, 2020, City Council authorized the installation of a Complete Streets transformation including public realm improvements and cycling infrastructure on Danforth Avenue as part of the ActiveTO Cycling Network Expansion.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC21.20>

COMMENTS

This report builds on recommendations presented in EX14.1 CaféTO - Increasing Outdoor Dining Space for Toronto Restaurants and Bars.

Several CaféTO program elements have been initiated in order to ensure that Toronto's restaurant and bar operators are able to access additional outdoor space for expanded cafés as soon as possible once the Government of Ontario permits dining in the city of Toronto. The registration process, website, site visits, and communications and stakeholder engagement plans have commenced in anticipation of Council's decision.

As of June 18, 2020, 104 completed registrations have been received and site visits in 22 BIAs are completed or in process.

See Attachment 1 for the proposed CaféTO guidelines.

City Approval of Liquor Licence Extensions

On June 8, 2020, the Government of Ontario made an amendment to Regulation 719 under the Liquor Licence Act (LLA) to authorize the AGCO to approve a temporary physical extension that is adjacent to the premises to which a licence to sell liquor applies for a period that ends no later than 3 a.m. on January 1, 2021. The AGCO has outlined the following criteria of eligibility for the extended liquor service:

- The physical extension of the premises is adjacent to the premises to which the licence to sell liquor applies;

- The municipality in which the premises is situated has indicated it does not object to an extension;
- The licensee is able to demonstrate sufficient control over the physical extension of the premises;
- There is no condition on the liquor sales licence prohibiting a sidewalk café or patio; and
- The capacity of any new sidewalk café or patio, or extended sidewalk café or patio space where the licensee has an existing licensed sidewalk café or patio, does not exceed 1.11 square metres per person.

The AGCO also announced that it will not require liquor licensees to apply or pay for the temporary extensions. These extensions will be permitted from the time that sidewalk café or patios are allowed in the region, until January 1, 2021.

Prior to the regulatory changes, temporary physical extensions of a licensed area could only last for 14 days and required an application to the AGCO. Restaurants and bars seeking temporary liquor licence extensions must have a letter of non-objection from the City. City Council on March 27 and 28, 2019 delegated authority to the City Clerk to issue letters of non-objection to the AGCO for temporary liquor licences for events that meet administrative criteria (EX3.7), in consultation with the ward Councillor. This delegated authority only applies to requests for extensions for certain events, such as special/recognized sports or performing arts events. Requests to serve alcohol outdoors earlier than 9:00 am or later than 11 pm must be reviewed and approved by Community Council and City Council.

To allow for a streamlined approach to the implementation of CaféTO for the 2020 café season, this report recommends authorizing the General Manager, Transportation Services to confirm that the City of Toronto does not object to the temporary physical extension of liquor sales under section 97(2) of regulation 719 under the Liquor Licence Act when approving extended or new sidewalk or curb lane/parklet cafés or public parklets on City lands as part of the CaféTO program. This non-objection extending liquor licences to areas approved under the CaféTO program will reduce the administrative burden on licensees and eliminate the need to seek Community Council approval for the 2020 sidewalk café/parklet season, ensuring efficient roll-out of the program.

This report also recommends that the City of Toronto not object to the temporary physical extension of liquor sales under section 97(2) of regulation 719 under the Liquor Licence Act for patios operating on private property, provided that they comply with applicable zoning bylaws. A forthcoming report to the July 13, 2020 Planning and Housing Committee will propose a temporary use zoning bylaw to further enable patio extensions for businesses operating patios on private property.

Community Council Conditions and Permitted Hours of Operation

This report recommends that operators of sidewalk, curb lane/parklet cafés and public parklets, approved under the CaféTO program be required to meet any conditions previously imposed by Community Council on their existing sidewalk, curb lane/parklet cafés or public parklets in any approved extended areas, including those for hours of

operation. This requirement will ensure that the decisions made by Community Council where neighbourhood-specific conditions were considered apply to both existing and extended or new sidewalk or curb lane/parklet cafes and public parklets.

It is also recommended that operators of sidewalk, curb lane/parklet cafés and public parklets located on local roads and approved under the CaféTO program be required to close by 11:00 p.m. unless Community Council has imposed different hours of operation. This will ensure that café extensions are minimally disruptive in residential areas, and reduce potential nuisances, such as late night noise.

CONTACT

Elyse Parker Director, Policy & Innovation Transportation Services Tel: 416-338-2432
Email: Elyse.Parker@toronto.ca

Fiona Chapman Director, Business Licensing & Regulatory Services Municipal
Licensing and Standards Tel: 416-392-3070 Email: Fiona.Chapman@toronto.ca

Michael Mizzi Director, Zoning & Secretary-Treasurer Committee of Adjustment City
Planning Tel: 416-392-0888 Email: Michael.Mizzi@toronto.ca

SIGNATURE

Barbara Gray
General Manager, Transportation Services

Carleton Grant
Executive Director, Municipal Licensing & Standards

ATTACHMENTS

Attachment 1 - Proposed CaféTO Guidelines