

Amendment to Delegation of Authority for the Endorsement of Temporary Liquor Licences

Date: March 7, 2023
To: Executive Committee
From: City Clerk
Wards: All

SUMMARY

As a result of changes to Provincial legislation, the permanent CaféTO program, and a need to streamline the administrative process associated with temporary liquor licensing, the purpose of this report is to amend City Council's delegation to the City Clerk's Office with regards to processing endorsements and approvals for temporary liquor licences.

RECOMMENDATIONS

The City Clerk recommends that:

1. City Council update the delegation of authority to the City Clerk to designate an event of municipal significance and/or issue a letter of non-objection to the Alcohol and Gaming Commission of Ontario for requests for Special Occasion Permits and Temporary Liquor Extensions of Hours (4 am extensions), as set out in Appendix 1 to this report.
2. City Council update the delegation of authority to the City Clerk to approve Outdoor Temporary Extensions of Premises for liquor purposes (Outdoor Patios) until 2 am for premises on major arterial roads and premises on private property, as set out in Appendix 1 to this report.
3. City Council update the delegation of authority to the City Clerk to include the approval of outdoor Temporary Extensions of Premises for liquor purposes (Outdoor Patios) until 11 pm for premises on local roads, as set out in Appendix 1 to this report.
4. City Council update the delegation of authority to the City Clerk to include changes to the administrative process as set out in Appendix 2 to this report.

5. City Council approve outdoor Temporary Extensions of Premises (Outdoor Patios) for establishments with existing liquor licences participating in the CaféTO Program.

FINANCIAL IMPACT

There is no financial impact arising from the approval of this report.

DECISION HISTORY

City Council at its meeting held on February 7 and 8, 2023 adopted a report to make the CaféTO program permanent and amend Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays, which made changes to the requirements and permissions for the permitting of curb lane cafés.

<https://www.toronto.ca/legdocs/mmis/2023/ex/bgrd/backgroundfile-233882.pdf>

City Council, at its meeting held on March 27 and 28, 2019 delegated the authority to the City Clerk to designate an event of municipal significance and/or issue a letter of non-objection to the Alcohol and Gaming Commission of Ontario for requests for Special Occasion Permits and the Temporary Extension of Liquor Licences that meet a certain criteria, including consultation with the ward Councillor.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EX3.7>

COMMENTS

City Council authorized the City Clerk to consider certain specific requests in relation to liquor licensing in 2019.

City Council's current delegation to the City Clerk allows for the City Clerk to consider requests to endorse events for liquor licensing purposes, based on Council-approved criteria, as described in Appendix 1 to this report.

The Alcohol and Gaming Commission of Ontario provides no context as to what defines an event as municipally significant. If an event fits the criteria and no objection is received from the ward Councillor within five working days of being notified by the City Clerk, or three working days before the event, then the City Clerk may endorse a request for a declaration of municipal significance or a declaration of non-objection for a temporary liquor extension of licensed hours or area. A ward Councillor may choose to object if they do not see the event as in the public's best interest.

Once a decision is made, the City Clerk advises the Alcohol and Gaming Commission of Ontario that an event is of municipal significance and that there is no objection to a Special Occasion Permit being granted, and/or an extension to licensed hours or area.

Due to changes to provincial legislation, the introduction of the CaféTO Program, and lessons learned since the delegation was put into place, several administrative changes

are needed to harmonize City Council's delegation with Provincial legislation and to streamline the administrative process for elected officials and City staff.

City Council's delegation of liquor licence management to the City Clerk has been largely successful.

Through the delegation, establishments, business improvement areas and event organizers have been better served by a streamlined process for obtaining letters of municipal significance and non-objection letters, as required by the Alcohol and Gaming Commission of Ontario for liquor licensing. Applicants are able to submit requests and receive the required endorsement on average within 10 business days, or less.

The criteria by which the City Clerk's office can process requests is useful in ensuring endorsements are issued fairly and consistently.

Since the delegation was put in place, the City Clerk's Office has worked with ward Councillors to endorse approximately 837 Special Occasion Permits (denying 10), and 729 temporary liquor extensions to premises or time (denying 41).

Changes to City Council's delegation are needed to harmonize the City of Toronto liquor licensing process and Provincial legislation in order to benefit businesses.

In November 2022, the Alcohol and Gaming Commission of Ontario announced changes to the approval process for temporary outdoor physical extensions of space (temporary patios), effective January 1, 2023.

The changes transferred the responsibility to approve an extension of space for liquor licenses for temporary patios to the municipalities including the City of Toronto. Prior to this, the Alcohol and Gaming Commission of Ontario required a non-objection letter from the municipality and the Alcohol and Gaming Commission of Ontario was the approver.

A change to City Council's delegation to the City Clerk regarding temporary patios is needed to allow the City Clerk's Office to approve these requests instead of issuing non-objection letters.

This authority would apply to all temporary patio requests, including temporary patio extensions for festivals and those on private property where Temporary Zoning By-Law 236-2022 would apply. This by-law is in effect until December 31, 2023.

CaféTO participants with existing permanent liquor licences, should automatically receive approval for a temporary patio extension.

The exception to the approval authority described above, would be for curblane cafés participating in the CaféTO Program, operating from May 15 until October 15, each year.

Previously, establishments enrolled in the temporary CaféTO program, that had an existing permanent liquor licence, were granted a letter of non-objection to the temporary extension of their liquor licence as part of their CaféTO permit.

City Clerk's staff have consulted with Municipal Licensing and Standards staff on their role in the approval process. Now that the Alcohol and Gaming Commission of Ontario has transferred the responsibility to the municipality to approve extensions to liquor licences for temporary patios, enrollment in the CaféTO program should automatically include approval for the temporary patio extension, when the patio is adjacent to the establishment. This approval would be a part of the CaféTO permitting process through Municipal Licensing and Standards.

There is an opportunity to streamline the process for consulting with Members of Council regarding liquor endorsements.

The current administrative process requires applicants to submit requests for endorsement to the City Clerk's Office no later than three days prior to the start date of the event.

The original reasoning behind the three-day cut off point was to deter applicants from submitting last minute requests. City Clerk's Office staff have found this deterrent to be ineffective in reducing the number of last minute requests received by the City Clerk's Office, and, instead, only increases the administrative burden on ward Councillors to provide endorsement letters.

The Alcohol and Gaming Commission of Ontario has found this process to be inconsistent and results in additional questions directed to event organizers, ward Councillors, and the City Clerk's Office regarding the legitimacy of the letters.

With the elimination of the three-day limit, the City Clerk's Office can still accept the requests, but with a disclaimer that there is no guarantee that a non-objection letter will be provided in time because it is within three days of the event. This allows the regular consultation process with the ward Councillor to continue. If an event organizer has additional concerns about event timelines, they can contact their local ward Councillor to request expedited service.

Updated liquor service hours for temporary extensions of premises:

Current provincial legislation allows for the service of alcohol from 9 am to 2 am. However, the criteria under the delegation only allows for the service of alcohol on outdoor patios until 11 pm. This is inconsistent with the current 2 am service time for establishments with patios on private property, sidewalk cafés on major arterial roads, and those establishments participating in CaféTO.

This criteria also prevents the City Clerk's Office from processing requests for temporary extension of premises for large street festivals with event times of 12 am or later. These requests, which often include dozens of establishments, are referred to Community Council to be deemed municipally significant and moved to City Council for resolution.

Since the municipality is now the approver of temporary extensions to premises, if the time period was extended until 2 am, the City Clerk's Office, with the ward Councillor's approval, could process requests for an extension of premises for liquor licensing purposes, without sending them to Community Council/City Council. This change would assist festival organizers, business improvement areas, and other applicants, as well as reduce the time spent in Community Council or City Council.

Temporary Extension of Hours (4 am Extensions) on Sundays and Mondays:

Under the current delegation criteria, the City Clerk's Office cannot process requests for the temporary extension of hours (4 am Extensions) on Sundays or Mondays, unless the day is immediately followed by a statutory or a civic holiday. The Alcohol and Gaming Commission of Ontario still requires a letter of non-objection for the Temporary Extension of Hours (4 am Extensions) for liquor licensing purposes

As a number of events and festivals are a week long or more, 4 am extensions are often requested for every night of an event. As a result, the City Clerk's Office has to refer the applicant to the local Councillor for their approval and issuance of a letter from the office, or the applicant has to forgo holding events on these nights.

Authorizing the City Clerk's Office to process requests that include Sunday and Monday nights would benefit applicants and eliminate the need for them to seek a letter of non-objection from the ward Councillor, outside of the usual administrative process.

Procedurally, to ensure that requests are tied to an event, the City Clerk's Office would require a letter of support from the establishment's event partner or sponsor. The non-objection would still be at the discretion of ward Councillor who may impose a shorter time period, or refuse the application entirely, if desired.

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SIGNATURE

John D. Elvidge
City Clerk

ATTACHMENTS

- Appendix 1 - Proposed Amendments to Existing Delegation of Authority to the City Clerk for Temporary Liquor Licences
- Appendix 2 - Proposed Amendments to Administrative Procedures Regarding the Existing Delegation of Authority to the City Clerk for Temporary Liquor Licences
- Appendix 3 - Summary of Types of Liquor Licences