

## **Recommended Amendments to Zoning By-laws for Bars, Restaurants and Entertainment Venues as part of the Night Economy Review - Final Report**

**Date:** November 16, 2023

**To:** Planning and Housing Committee

**From:** Chief Planner and Executive Director, City Planning

**Wards:** All

### **SUMMARY**

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This report recommends the adoption of zoning by-law amendments to modernize and clarify the rules for bars, restaurants and other entertainment venues as part of the City's inter-divisional Night Economy Review. For details on the proposed licensing framework and considerations in potential City support of the night economy, refer to the Municipal Licensing and Standards Division and the Economic Development and Culture Division staff reports prepared for the November 28, 2023, meeting of the Economic and Community Development Committee.

This report also provides context on how proposed zoning by-law amendments align with the Municipal Licensing and Standards (MLS) Division's proposed updates to City licensing regulations and exploratory work led by the Economic Development and Culture (EDC) Division into City steps required to support an enhanced night economy.

Staff have considered the research and input received to date and weighed this information to develop balanced regulations that intend to align with evolving business models and provide flexibility and support for businesses, while ensuring an appropriate level of regulatory oversight to mitigate potential community nuisance and public safety issues.

The current zoning by-law regime for bars, restaurants and entertainment venues is a harmonization of regulations found in the Former General Zoning By-laws, with regulations originating between the 1960's to the early 2000's. The regulations do not reflect contemporary and forward focussed expectations around these activities and land uses. Other than area-specific reviews, this policy area has not had the benefit of a comprehensive review and consultation in decades.

The proposed zoning by-law amendments complement proposed licensing regulations and broader City considerations to respond to a range of City Council directives related

to the night economy. The proposed amendments seek to support live music, align the review of zoning and business licensing regulations, support emerging entertainment areas outside the downtown core, modernize and clarify licensing and zoning regulations for restaurants, bars and entertainment venues, and address impacts of problematic establishments.

Staff recommend the following zoning by-law amendments to support the night economy:

- Increase the permitted maximum ancillary entertainment area inside eating establishments from 6% to 25%;
- Permit nightclubs outside the downtown area in certain commercial zones, subject to conditions including the requirement to be in a non-residential building;
- Reduce amusement arcade restrictions;
- Remove amusement device restrictions;
- Harmonize reductions for the calculation of interior floor area; and
- Modernize entertainment-related use definitions and align those definitions with Toronto Municipal Code Chapter 545, Licensing.

The following City Divisions, Agencies, Boards and Commissions were consulted in the preparation of this report: Municipal Licensing and Standards, Economic Development and Culture, Toronto Building, Toronto Fire, Toronto Paramedic Services, Toronto Police Service, Toronto Public Health, Transportation Services, Toronto Transit Commission and the Alcohol and Gaming Commission of Ontario.

## **RECOMMENDATIONS**

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The Chief Planner and Executive Director, City Planning, recommends that:

1. City Council amend City-wide Zoning By-law 569-2013, and all Former General Zoning By-laws, as amended, as it relates to zoning regulations for bars, restaurants and other entertainment venues substantially in accordance with the draft zoning by-law amendments as Attachments 2 to 4 of this report. The by-law amendments are to come into force and effect on January 1, 2025.
2. City Council authorize the City Solicitor to make such stylistic and technical changes to the proposed draft zoning by-law amendments as may be required.

## **FINANCIAL IMPACT**

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The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years. The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial implications as contained in the Financial Impact Section.

## **EQUITY IMPACT STATEMENT**

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The City is home to many equity-deserving groups including Indigenous Peoples, Black Communities, women, newcomers, racialized communities, persons with disabilities, 2SLGBTQ+ communities, youth, persons with low income and undocumented Torontonians. Such groups often face distinct barriers that prevent them from participating in the social, cultural, and economic life of the City and from accessing the benefits that are available to others.

A lack of employment, maintaining secure employment, or discrimination in employment is a particular barrier to equity-deserving groups fully contributing to and participating in Toronto's night economy. Increasing entertainment-related zoning permissions may provide more employment opportunities for persons in these groups.

At the time of the writing of this report, the City has 33 Neighbourhood Improvement Areas (NIA's). Residents in these areas face unnecessary, unfair, and unjust differences in five key areas: Economic Opportunities, Social Development, Healthy Lives, Participation in Decision-Making and Physical Surroundings. With the exception of Regent Park, all NIA's are located outside of the downtown area. These areas have lower access to transit, have greater proportions of racialized people, have more newcomers and have less entertainment options than the downtown area.

The recommendations of this report address equity by expanding entertainment-related uses to all commercial areas in the City so equity-deserving groups have equal access to them. By increasing permitted ancillary entertainment areas in eating establishments equity-deserving groups can have better access to entertainment spaces (both as a place to be creators of entertainment and as places to enjoy entertainment). Expanding entertainment into areas that have existing or proposed high-quality transit service will also facilitate ease of access to these groups.

## **DECISION HISTORY**

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### *Zoning Regulations and Related Business Licensing Regulations*

On December 7, 2021, the Executive Committee adopted Item EX28.15 - Framework for the Review of Licensing and Zoning Regulations for Restaurants, Bars and Entertainment Venues, to modernize and clarify licensing and zoning regulations for restaurants, bars and other entertainment venues and to prepare recommendations related to addressing impacts of problematic establishments.

<https://secure.toronto.ca/council/agenda-item.do?item=2021.EX28.15>

On November 7, 2017, City Council adopted, with amendments, Item AU10.4: A Review of Municipal Licensing and Standards Division's Management of Business Licences - Part Three: Eating Establishments and Nightclubs, which included a report from the Auditor General identifying concerns related to the lack of a clear and enforceable definition of nightclubs, resulting in a considerable amount of eating establishments operating as unlicensed nightclubs. City Council directed staff to consult with relevant

stakeholders and report back on recommendations to improve licensing categories to better reflect current nightlife, as well as ways to ensure establishments are abiding by the provisions of their current business license.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.AU10.4>

On March 6, 2017, the Licensing and Standards Committee adopted Item LS17.3: Downtown Entertainment District - Enforcement of Nightclub Moratorium, requesting staff to report to the Licensing and Standards Committee on April 18, 2017 on enforcement activities regarding restaurants operating as nightclubs and nightclubs operating outside of the "nightclub moratorium area", and what policy changes or enforcement measures can be taken to address the issue.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.LS17.3>

### *Public Health and Safety & Addressing Problematic Establishments*

On July 14, 2021, City Council adopted Item EX25.4: SafeTO: Toronto's Ten-Year Community Safety and Well Being Plan, which is a comprehensive Ten-Year Community Safety and Well-Being Plan that reimagines core elements of community safety and well-being in order to shift the City's paradigm from a reliance on reactive emergency response to a culture of proactive prevention.

<https://secure.toronto.ca/council/agenda-item.do?item=2021.EX25.4>

On January 17, 2018, the Community Development and Recreation Committee adopted Item CD25.3 - Improving Health and Safety at Entertainment Events, and directed the General Manager, Economic Development and Culture, in consultation with City Planning, Legal Services, Municipal Licensing and Standards, the Office of Emergency Management, Toronto Building, Toronto Fire Services, Toronto Paramedic Services, Toronto Police Service, and Toronto Public Health, as well as the Alcohol and Gaming Commission of Ontario, to host a free, public "Safety Summit" to be held in the second quarter of 2018.

<https://secure.toronto.ca/council/agenda-item.do?item=2018.CD25.3>

On January 31, 2017, City Council adopted Item CD17.7: Improving Safety at Large Private Electronic Dance Music Venues, requesting staff to undertake a review of the current policies and regulatory regimes related to the operation of private electronic dance music venues and to report back with a strategy and applicable recommendations to enhance public health and safety.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.CD17.7>

### *Toronto's Nighttime Economy & Live Music Venues*

On September 22, 2021, the Economic and Community Development Committee adopted Item EC24.6 - Emerging Entertainment Areas Outside of the Downtown Core, and received a report from the Interim General Manager, Economic Development and Culture for information.

<https://secure.toronto.ca/council/agenda-item.do?item=2021.EC24.6>

On October 15, 2019, the Planning and Housing Committee adopted Item PH9.6: Live Music Venues, requesting staff to undertake a review of the business licensing

requirements, Official Plan policies, and Zoning By-law permissions and definitions related to live music venues, including size, locational performance standards, and potential amendments, and consult with the Toronto Music Advisory Committee and report back with recommendations in the fourth quarter of 2020.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH9.6>

On July 16, 2019, City Council adopted, with amendments, Item EC6.8: Strengthening Toronto's Nighttime Economy, requesting the Mayor to appoint a member of Council as Toronto's Night Ambassador, and adopting the Toronto Nightlife Action Plan. Council requested staff to align the review of zoning and business licensing regulations, including consideration for noise, and to clarify requirements and provide support for venues regularly presenting live music, and report back in 2020.

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

On May 22, 2018, City Council adopted, with amendments, Item PG29.4: TOcore: Downtown Plan Official Plan Amendment, resulting in adoption of the Downtown Plan Official Plan Amendment. Council directed staff to undertake a review of the City-wide policies and zoning permissions related to live music venues and report back to the Planning and Growth Management Committee.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG29.4>

On February 13, 2017, the Toronto Music Advisory Committee (formerly called the Toronto Music Industry Advisory Council) adopted, with amendments, Item MA7.5: Measures to Protect Music Venues in Toronto - Update, requesting staff to consider, as part of the Council requested report on Item MM22.5, recognizing music venues independently of their primary license type; legitimizing the operation of live music venues by removing restrictions around floor space and seating; and re-evaluating "Employment Lands" zoning to identify potential new areas for music venues and entertainment.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.MA7.5>

On November 8, 2016, City Council adopted Item MM22.5 - Protecting Live Music Venues in Toronto, and directed the General Manager, Economic Development and Culture and the Chief Planner and Executive Director, City Planning to 1) develop a co-ordinated strategy to preserve existing live music venues in the City of Toronto; 2) designate senior staff members in the City Planning, Municipal Licensing and Standards and Toronto Building Divisions to act as liaisons with the City's Film and Entertainment Industries staff to provide advice to individuals or organizations wishing to establish music venues; 3) examine changes to regulatory frameworks to encourage the establishment of both traditional and temporary (pop-up) new live music venues in Toronto, such examination to include whether such venues could be included in employment land use categories; 4) review strategies which have been successfully used in other jurisdictions, including financial incentives, to support live music venues; 5) create an inventory of live music venues currently operating in the City of Toronto; and, 6) consult with the Toronto Music Advisory Committee and other industry stakeholders on 1 to 5 above, and report to the Toronto Music Advisory Committee and the Economic Development Committee as soon as possible in 2017.

<https://secure.toronto.ca/council/agenda-item.do?item=2016.MM22.5>

On March 31, 2016, City Council adopted, with amendments, Item ED10.7: Toronto Music Strategy: An Action Plan, approving the Toronto Music Strategy: Supporting and Growing the City's Music Sector, which states that the City should consider the needs of the music community when updating or implementing new by-laws and regulations, and wherever possible adopt progressive policies introduced in other jurisdictions to address potential conflicts between music industry stakeholders and the wider public interest. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.ED10.7>

## **RECOMMENDED PROPOSAL**

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Staff recommend zoning by-law amendments to align with evolving business models, provide flexibility and support for businesses, further enable social, cultural and recreational facilities, create complete communities that include a full range of uses including those for entertainment, create a diversified economic base, and enhance the viability of the downtown area and main streets. The proposed zoning regulations are intended to balance these objectives with the need to manage potential land use conflicts between the night economy and nearby residential uses.

Staff recommend the permitted maximum area for ancillary entertainment in eating establishments be increased from the existing 6 percent maximum of the interior floor area of the establishment, to a maximum of 25 percent. This increase would apply to the Commercial Residential (CR) Zone and the Commercial Residential Employment (CRE) Zone and all zones that permit an eating establishment in the Open Space Zone category. It will also apply to lots located along major streets in the Employment Industrial Zone category. Staff recommend that the existing 6 percent for ancillary entertainment be maintained for lands in the Employment Industrial Zone Category which are not located on major streets and on lands which are in the Commercial Local (CL) Zone.

Staff recommend nightclubs be added as a permitted use on all lands in the Commercial Residential (CR) and Commercial Residential Employment (CRE) Zones, subject to conditions, such as the requirement to be in a non-residential building, size limitations when located close to residentially zoned lands, limiting nightclubs to one per building and to keep the existing requirement for a nightclub to only be permitted on the first storey.

Staff recommend the removal of the requirement for an amusement arcade to be in a 20,000 square metre building, the requirement that access to the arcade be from the interior of the building, maximum permitted devices, minimum required space between devices, and separation requirements from other arcades and between arcades and schools.

Staff recommend the removal of the maximum permitted number of amusement devices (which are not gambling devices) in entertainment places of assembly, sports places of assembly and recreation uses.

Staff recommend entertainment-related use definitions be updated to add several common use descriptors, update terms and better align with proposed definitions in Chapter 545, Licensing ("the Licensing By-law" herein).

## **BACKGROUND**

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Since 2016, City Council has directed a range of studies and initiatives relating to the City's night economy, including supporting live music venues, addressing eating establishments operating as nightclubs, identifying entertainment areas outside the downtown core, adopting the Toronto Nightlife Action Plan (2019), and the Music Industry Strategy (2022-2026).

Municipal Licensing and Standards (MLS) and City Planning staff began reviewing licensing and zoning regulations for restaurants, bars and other entertainment venues in 2018. While this work was paused at the beginning of the COVID-19 pandemic in 2020 as public health measures and Provincial emergency orders limited operations of businesses in these industries, staff reinitiated the review to modernize rules to support businesses while balancing the need to address potential community nuisance and public safety issues in 2021.

Toronto's night economy includes a range of entertainment and employment related uses through which people both experience and support nighttime activities. The night economy includes places where people are entertained like arcades, comedy clubs, theatres, restaurants, bars and nightclubs. It includes places where people experience culture like art exhibitions, dance performances and other performing arts. Entertainment and culture are supported by artist studios, hotels, rehearsal studios, and production studios.

The night economy also includes a wide range of activity that is not directly related to entertainment including retail, recreation, shift work, emergency response - and infrastructure and services required to support this activity.

The Toronto Night Economy Review is a multi-divisional review, prepared by City of Toronto staff in the City Planning, MLS, and EDC Divisions. It is prepared in consultation with the Interdivisional Working Group (IWG) directed by City Council which includes additional City Divisions, agencies, boards and commissions.

### **City of Toronto Auditor General's Report - A Review of Municipal Licensing and Standards Division's Management of Business Licences, Part Three: Eating Establishments and Nightclubs (2017)**

In October 2017, the Auditor General released a report that identified the lack of a clear definition of nightclubs, resulting in a number of eating establishments potentially operating as unlicensed nightclubs. The report noted that licensing definitions should be amended to better delineate the difference between an eating establishment and a nightclub to provide clarity for businesses, as well as enforcement staff. City Council directed MLS to consult with relevant stakeholders and review licensing provisions and

classifications related to eating establishments and nightclubs to identify the necessary changes to support inspections and enforcement, and better reflect current nightlife in Toronto.

The Auditor General's report can be reviewed by accessing the following link:  
<https://www.toronto.ca/legdocs/mmis/2017/au/bgrd/backgroundfile-108176.pdf>

### **Toronto Nightlife Action Plan (2019)**

The Toronto Nightlife Action Plan is a three-year plan that takes a coordinated approach to questions that continue to arise about the “other 9 to 5”. It outlines the scope of nightlife, takes stock of the city's nightlife economic contribution and creative footprint, and recommends three goals for Toronto:

- Support live music, entertainment, and social culture at night that reflects the diversity of the City and enhances the global position of Toronto as a tourist destination and cultural innovator;
- Recognize and advance the importance of safety for nightlife patrons and workers, respect for residents, and sustainability of music and entertainment venues; and
- Acknowledge Toronto as a 24-hour city that harnesses the potential of the entertainment related night economy as a producer of jobs and economic growth.

In addition, the plan also directs the following actions with regard to zoning and land use in the City:

- Align the review of zoning and business licensing regulations to clarify the requirements for venues regularly presenting live music.
- Identify emerging entertainment areas outside the downtown core that can support entertainment uses at night and the future growth of nightlife in Toronto and report back to City Council on potential opportunities and approaches.

The Toronto Nightlife Action Plan can be reviewed by accessing the following link:  
<https://www.toronto.ca/legdocs/mmis/2019/ec/bgrd/backgroundfile-134955.pdf>

### **Music Industry Strategy 2022-2026**

Building on the Toronto Music Advisory Committee's (TMAC) report: "Toronto Music Strategy: Supporting and Growing the City's Music Sector (2016)", this updated strategy provides direction to the City of Toronto's Music Office from 2022 to 2027. The overall objective of the strategy is to enable the Music Office to facilitate industry growth in Toronto's vibrant yet challenged music industry, ultimately leading to increased economic activity, placemaking, and in-bound tourism.

The Strategy identifies six major strategic areas to support the music industry in Toronto, including a recommendation for the City to consider the needs of the music community when updating or implementing new by-laws and regulations, and wherever possible adopt progressive policies to address potential conflicts between music industry stakeholders and the wider public interest. The strategy identifies the following



opportunities and actions as they relate to land-use planning and zoning for entertainment-related uses:

- Develop an updated zoning and licensing framework to accurately reflect live music venue typology and operations and seek to ease the regulatory burden for existing venues, as well as support business retention and growth in the sector;
- Advance an understanding of the unique needs of the music industry in order to better streamline and adapt City processes and systems to support the industry, such as ensuring music sector input in a revamped zoning and licensing framework for bars, restaurants, and entertainment venues; and
- Increase access to events and resources for equity-seeking groups, and encourage activities outside the downtown core in Scarborough, North York, and Etobicoke.

The Music Industry Strategy (2022-2026) can be reviewed by accessing the following link: <https://www.toronto.ca/wp-content/uploads/2023/09/90a2-2022-2026EDCBrandedMusic-StrategyC5-test.pdf>

### **Pilot to Permanent Program for Amplified Live Music on CaféTO Patios**

In June 2021, City Council directed staff to develop and implement a pilot program for amplified live performances by musicians on patios in the public right of way located within Wards 9, 14 and 19, and shortly thereafter expanded it to also include Wards 4, 10, 11, 13 and 21. Staff reviewed the results of the pilot program and concluded that there were substantial positive benefits for businesses and musicians without excessive music-related complaints.

On February 7, 2023, City Council made the elements of the pilot program (e.g., live music) permanent and expanded it City-wide. The program runs from May through November and is only permitted within scheduled times from Thursdays to Sundays.

## **POLICY AND PLANNING FRAMEWORK**

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### **Planning Act**

Section 2 of the *Planning Act* establishes matters of Provincial interest to which the council of a municipality shall have regard to, including 1) the orderly development of safe and healthy communities; 2) the adequate provision and distribution of educational, health, social, cultural and recreational facilities; 3) the adequate provision of employment opportunities; 4) the protection of the financial and economic well-being of the Province and its municipalities; and 5), the appropriate location of growth and development.

### **Provincial Policy Statement (2020)**

At the time of writing this report, The Provincial Policy Statement (2020) ("PPS" herein) is in effect and provides Provincial-wide policy direction on matters of Provincial interest

regarding land use planning and development matters. The PPS is issued under Section 3 of the *Planning Act*. All decisions of Council must be consistent with the PPS.

Section 1 of the PPS: "Building Strong Healthy Communities" establishes policy for long-term prosperity, environmental health and social well-being in relation to efficient land use planning. This section contains policies to ensure that land use planning decisions promote economic development and competitiveness by providing for an appropriate mix and range of employment, institutional, and broader mixed uses to meet long-term needs. In addition, it requires planning authorities to promote economic development and competitiveness by providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and takes into account the needs of existing and future businesses. This supports long term economic prosperity by promoting opportunities for economic development and community investment readiness. Lastly, the PPS states that long-term economic prosperity should be supported by maintaining and, where possible, enhancing the vitality and viability of downtowns and main streets.

The Ministry of Municipal Affairs and Housing has introduced a proposed change to the Growth Plan (2020) and the Provincial Policy Statement (2020), to combine these Provincial policy documents into a single policy instrument, the Provincial Planning Statement. The outcome and policy implications of this initiative are not known at the time of the drafting of this report.

## **A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)**

The Growth Plan for the Greater Golden Horseshoe (2020) ("Growth Plan" herein) provides a strategic policy framework for managing growth and development while supporting economic prosperity, protecting the environment, and helping communities achieve a high quality of life within the Greater Golden Horseshoe, of which the City of Toronto forms an integral part.

Section 2.2.1 of the Growth Plan describes the application of the Plan's policies to support the achievement of complete communities, including Section 2.2.1(4)(a) that states "applying the policies of this Plan will support the achievement of complete communities that feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services and public service facilities."

The Growth Plan describes "complete communities" as "places such as mixed-use neighbourhoods or other areas within cities, towns, and settlement areas that offer and support opportunities for people of all ages and abilities to conveniently access most of the necessities for daily living, including an appropriate mix of jobs, local stores, and services, a full range of housing, transportation options and public service facilities. Complete communities are age-friendly and may take different shapes and forms appropriate to their contexts."

Bars, restaurants and other entertainment venues form part of a complete community.

The Growth Plan builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the Greater Golden Horseshoe Region. In accordance with Section 3 of the *Planning Act* all decisions of Council in respect of the exercise of any authority that affects a planning matter shall conform to the Growth Plan.

At the time of drafting this report, the Growth Plan remains as a relevant Provincial plan, to which it is necessary to have Official Plan policies and Zoning By-law regulations conform. The Ministry of Municipal Affairs and Housing has introduced a proposed change to the Growth Plan (2020) and the Provincial Policy Statement (2020), to combine these Provincial policy documents into a single policy instrument, the Provincial Planning Statement. The outcome and policy implications of this are not known at the time of the drafting of this report.

### **Toronto Official Plan (2006)**

The City of Toronto Official Plan ("Official Plan" herein) provides for a long-term vision for growth in the city. It establishes the urban structure of the city, policies to guide decision-making based on the Official Plan's goals for the human, built, economic and natural environments and land use designations and implementation methods. The Official Plan is founded on a growth management strategy which steers growth and change to some parts of the city, while generally protecting others from more significant change.

Chapter two lays out the structure of growth in the City into the *Downtown, Centres, Avenues* and *Employment Areas*, as shown on Map 2 - Urban Structure.

The *Downtown, Centres, and Avenues* are designated both *Mixed Use Areas* and *Regeneration Areas*. Policy 4.5(1) permits a broad range of commercial uses in these areas. These uses include, by way of use permissions in the Commercial Residential (CR) Zone, amusement arcades, cabarets (dining with performance entertainment), eating establishments, entertainment places of assembly (like live music venues), nightclubs, places of assembly (banquet halls) and recreation uses (like miniature golf).

*Regeneration Areas* are areas that are in transition, usually from one predominant land use to one that includes a wide range of new uses. Policy 4.7(1) permits for a broad range of uses consistent with those permitted in *Mixed Use Areas* that intend to revitalize areas of the City that are largely vacant or underused.

Policy 2.2.4(2) outlines the direction of *Employment Areas* to be used exclusively for business and economic activities to provide work opportunities for residents of nearby neighbourhoods.

*Employment Areas* are further delineated as *Core Employment Areas* and *General Employment Areas* in the Official Plan. *Core Employment Areas* are typically located in the interior of *Employment Areas* and are generally intended for heavier industrial, and services uses. *General Employment Areas* are typically located on the exterior of *Employment Areas* along major streets. In addition to the permitted uses in *Core*

*Employment Areas, General Employment Areas* also permit restaurants as well as retail and service uses.

Policy 2.2(1)(a) aims to create a better urban environment, a competitive local economy and a more socially cohesive and equitable City through the integration and coordination of transportation planning and land use planning by attracting more people and jobs to targeted growth areas in the City that are supported by good and affordable transit services and other infrastructure.

Policy 2.2(2) states that growth will be directed to the *Centres, Avenues, Employment Areas* and the *Downtown* as shown on Map 2 in order to:

- (b) concentrate jobs and people in areas well served by surface transit and higher-order transit stations;
- (d) promote mixed use development to increase opportunities for living close to work and to encourage walking and cycling for local trips; and
- (f) facilitate social interaction, public safety and cultural and economic activity.

Policy 2.2.1 describes *Downtown* as the largest economic node in the City and the Region and as a premier employment, institutional, retail, arts and culture and entertainment centre in the Greater Golden Horseshoe.

Chapter Three contains policies to guide decision-making based on the Official Plan's goals for the human, built, economic and natural environments.

Policy 3.5.1(1)(i) states Toronto's economy will be nurtured and expanded to provide for the future employment needs of Torontonians and the fiscal health of the City by supporting employment and economic development that meets the objectives of Toronto's Workforce Development Strategy, including people-based planning and the Vision Statement on Access, Equity and Diversity and by promoting infrastructure and support programs to ensure that all Torontonians, particularly equity-seeking groups, such as racialized youth, persons with disabilities, single mothers and newcomers, especially refugees, have equitable access to employment opportunities.

## **Zoning By-laws**

City-wide Zoning By-law 569-2013 applies to most of the City of Toronto. As some lands are not covered by Zoning By-law 569-2013, other comprehensive zoning by-laws from former municipalities ("Former General Zoning By-laws" herein) remain in-effect on some lands in the city.

### **City-wide Zoning By-law 569-2013**

City-wide Zoning By-law 569-2013 primarily permits entertainment and cultural uses (e.g., eating establishments, entertainment places of assembly and nightclubs) in the Commercial Residential (CR) and Commercial Residential Employment (CRE) Zones and certain zones in the Employment Industrial and Open Space Zone categories.

Other uses that support the Night Economy, like "artist studios" (places for creating art or craft), "performing arts studios" (places for rehearsing the performing arts, including recording studios), production studios (places for producing live broadcasts, motion pictures, or audio or video recordings or transmissions), and hotels are permitted in a wide range of zones, including in the Employment Industrial Zone category. These supportive uses are permitted in many zones across the City, including in the Employment Industrial Zone category. And where these uses are permitted, they usually do not have any conditions required, making zoning compliance for these uses easy to achieve.

### *Existing Zoning Regulations for Live Music Venues and Concert Halls*

Live music venues and concert halls are considered "Entertainment Place of Assembly" in City-wide Zoning By-law 569-2013. The Commercial Residential (CR) Zone corresponds with the *Mixed Use Areas* land use designation in the Official Plan. The CR Zone is the predominant commercial zone in the City and is generally located along the City's major streets. Entertainment places of assembly are permitted on the condition that if it is located in Development Standard Sets 1 or 2 (which generally represents the downtown area and commercial main streets), and if it is located within 6.1 metres or 20 feet from a lot in the Residential or Residential Apartment Zone categories and it is limited in size to 400 square metres in size (4,300 square feet). The maximum size requirement does not apply on lands in Development Standard Set 3 (generally representing suburban commercial plazas or mall sites). Entertainment places of assembly are also currently limited to having a maximum of 12 "amusement devices" which are defined in the City-wide Zoning By-law as "a machine or electronic device used for games of skill or chance other than: (A) billiards, (B) bowling, and (C) any gaming or lottery device regulated under Province of Ontario legislation." These devices are not gambling devices.

In the Commercial Residential Employment (CRE) Zone, which corresponds with the *Regeneration Areas* designation of the Official Plan, live music venues and concert halls are also permitted and subject to the same conditions as the CR zone.

In the Institutional Education (IE) Zone, an entertainment place of assembly (e.g., live music venue or concert hall) is permitted provided it is located within a post-secondary school as an ancillary use.

In the Open Space Natural (ON) Zone, an entertainment place of assembly (e.g., live music venue or concert hall) is permitted if it is combined with a park or an agricultural use, and it may not be in a wholly enclosed building.

In the Open Space Recreation (OR) Zone, an entertainment place of assembly (e.g., live music venue or concert hall) is permitted without conditions.

### *Existing Zoning Regulations for Live Music / Entertainment as an Ancillary Use*

Section 150.100 of City-wide Zoning By-law 569-2013 permits ancillary entertainment uses in eating establishments including a dance floor, stage, teletheatre gambling, disc jockey, sound room, areas dedicated to recreational activities and any other entertainment area. These ancillary uses are permitted on the condition that the

entertainment area of the eating establishment does not exceed 6 percent of the interior floor area of the premises. This existing regulation allows live music and other entertainment to co-locate in eating establishments across the City, including in industrial zones like the Employment Industrial (E) Zone.

Eating Establishments, and any ancillary entertainment within them, are permitted in the following zones provided the conditions for each zone are met:

- Residential Apartment Commercial (RAC) Zone;
- Commercial Local (CL) Zone;
- Commercial Residential (CR) Zone;
- Commercial Residential Employment (CRE) Zone;
- Employment Light Industrial (EL) Zone;
- Employment Industrial (E) Zone;
- Employment Industrial Office Zone (EO) Zone;
- In the Institutional Education (IE) Zone; and
- In the ON- Open Space Natural Zone.

#### *Existing Zoning Regulations for Nightclubs*

City-wide Zoning By-law 569-2013 permits nightclubs in the Commercial Residential (CR) Zone and the Commercial Residential Employment (CRE) Zone. While each zone has slightly different conditions for the establishment of a nightclub, the following conditions generally apply to both zones except where noted:

- The nightclub must be located in the downtown area (they are also permitted in the Yonge Street/St Clair Avenue area and the Yonge Street/Eglinton Avenue area);
  - *Note: In the Commercial Residential (CR) Zone, this restriction is enacted by requiring that a nightclub be located on a lot where the zone label has a "c" value (which represents the permitted maximum non-residential floor space index for the lot) of 4.0 or greater. This maximum floor space index is generally only found in the downtown area;*
- Nightclubs are not permitted on a lot which abuts a lot in the Residential or Residential Apartment Zone categories;
- The nightclub must be located on the first storey of the building;
- There must only be one nightclub permitted in a building;
- In the CRE Zone, nightclubs are not permitted on lots where the front lot line or side lot line abut Spadina Avenue; and
- In the CRE Zone located west of Spadina Avenue, nightclubs must be a lot that has existed on February 14, 2006, are limited in size to 350 square metres (3,760 square feet), must be located along King Street West, Richmond Street West or Adelaide Street West, and are limited to 14 nightclubs.

#### *Existing Zoning Regulations for Physical Recreation and Games*

Games and entertainment that are based on physical recreation, like a bowling alley, billiard hall, or a miniature golf course are defined as a "recreation use" in City-wide Zoning By-law 569-2013. Recreation use is permitted in most zone categories.

Conditions for recreation uses vary based on the zone they are located in, but typically recreation uses must be located inside a building, and where they are close to a residential zone, they are limited to an interior floor area of 400 square metres (4,300 square feet).

### *Amusement Arcades*

Amusement arcades are permitted in the Commercial Residential (CR) and Commercial Residential Employment (CRE) Zones and some zones in the Open Space Zone category. They are only permitted in a building with a minimum gross floor area 20,000 square metres (215,278 square feet). In addition, amusement arcades are not permitted in buildings with residential uses, have a limit of 36 amusement devices, require a minimum interior floor area of 6.0 square metres for each amusement device provided, and they are only permitted to be accessed from the interior of the building. Amusement arcades cannot be located in a hotel with less than 100 rooms or on a lot if any part is less than 150 metres from another amusement arcade and 300 metres from a public or private school.

### *Existing Zoning Regulations for Banquet Halls and Convention Centres*

Places that are used for social, cultural, educational or trade events, like a banquet hall or convention centre, are defined as a “Place of Assembly” in City-wide Zoning By-law 569-2013. Places of Assembly are permitted in most commercial zones, the Employment Office Industrial (EO) Zone, and most zones in the Institutional and Open Space Zone Categories. Conditions for the Place of Assembly use in most zones include a restriction in interior floor area of 400 square metres (4,300 square feet) where they are located close to a lot in the Residential or Residential Apartment Zone categories, or a restriction of interior floor area to 1,000 square metres (10,765 square feet) for banquet halls that are located less than 300 metres (985 feet) from a lot in the Residential or Residential Apartment Zone categories.

### *Existing Regulations for Multiple Entertainment Uses on the Same Lot (Hybrid or Dual-Use Establishments)*

Regulation 5.10.1.10(2) of City-wide Zoning By-law 569-2013 clarifies that if a lot is used for more than one permitted use, the regulations which apply to each permitted use on the lot are applied as if each permitted use exists and operates independently of the other. Using an example, this means that if a premises was used as an eating establishment during the day, and a nightclub at night, then that premises would need to comply with zoning regulations for *both* an eating establishment and a nightclub.

### **Former General Zoning By-laws**

The Former General Zoning By-laws (pre-amalgamation zoning by-laws) permit entertainment-related uses inconsistently in comparison to City-wide Zoning By-law 569-2013. For example, the Etobicoke Zoning Code permits nightclubs in industrial zones, which is inconsistent with the *Employment Areas* land use policies of the Official Plan. In addition, the former City of North York Zoning By-law includes nightclub in its definition of “Restaurant” and nightclubs are therefore permitted in all zones where

restaurants are permitted. This means properties in Etobicoke and North York that are subject to a Former General Zoning By-law could establish a nightclub in an industrial zone where it otherwise would not be permitted under City-wide Zoning By-law 569-2013 and not be in conformity with the Official Plan.

Proposed amendments to City-wide Zoning By-law 569-2013 contained in this report will also be applied consistently to all Former General Zoning By-laws.

## **Noise By-law**

City of Toronto Municipal Code Chapter 591, Noise (referred to as "the Noise By-law" herein) regulates noise in Toronto. This by-law balances the city's vibrancy with the needs of residents and visitors and provides time restrictions and sound level limits for various types of noise. Premises that provide entertainment must comply with the Noise By-law or make an application for a Noise Exemption Permit for events or activities which exceed the provisions of the Noise By-law, and such a permit would have associated noise mitigation conditions applied to it.

## **COMMENTS**

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### **Issues Identification**

Through consultation with various City Divisions and stakeholders including business owners and operators, Business Improvement Associations, DIY ("do-it-yourself") event producers, Residents Associations and the general public including residents and visitors to the City, staff have identified the following issues associated with entertainment-related uses in City-wide Zoning By-law 569-2013 and its relation to the Licensing By-law:

#### *Restrictions on Indoor Entertainment in Eating Establishments*

Entertainment such as dancing, live music, DJ sets or karaoke are often co-located in restaurants and bars. Current zoning regulations state that entertainment-related uses within these establishments must not exceed a maximum of 6 percent of the interior floor area of that eating establishment or fifty square metres (whichever is the lesser amount). This size restriction limits the ability to host live music and other entertainment events effectively. More flexibility is desired by business owners and operators who want to offer an entertainment component as part of their business. This regulation has also resulted in interpretation challenges when By-law Enforcement Officers attend a premises to determine compliance, as determining 6 percent of the internal floor area can be difficult to visually measure. It is also difficult for the business owners themselves to measure their entire floor area and determine the compliant entertainment area. Furthermore, this regulation has presented significant challenges for live music that co-locates in these establishments to provide an area that is large enough to support artists and provide safe, adequate and accessible space for performers, venue staff, and audiences.



### *Unclear Defined Terms and Uses*

Some of the defined terms in City-wide Zoning By-law 569-2013 related to restaurants, bars and other entertainment venues are unclear, outdated, and lack clear distinctions between them. Also, City-wide Zoning By-law 569-2013 does not align with many licensing definitions in the Licensing By-law. For example, the Licensing By-law defines "nightclub" as "where seating is not provided for the majority of the patrons" while City-wide Zoning By-law 569-2013 does not refer to seating. Further, the City-wide Zoning By-law distinctly defines several entertainment uses like "Entertainment Place of Assembly", "Amusement Arcade", "Place of Assembly", "Recreation Use" and "Cabaret", while the Licensing By-law does not.

### *Regulations Do Not Accurately Capture Emerging Business Models*

Current business models are evolving and, in some cases, may overlap with several licencing or zoning definitions, or they may not completely meet any of the available definitions. Some examples include:

- An eating establishment that primarily operates as a traditional sit-down restaurant, but also hosts live music performances and/or dancing on select nights;
- A drinking establishment that does not offer seating;
- An eating and drinking establishment with table tennis and dining tables;
- An eating establishment that offers food service in association with other entertainment activities, where the entertainment portion of the premises is larger in interior floor area than the dining area.

It can be difficult for businesses to know what licence category they fall under and if they are in-compliance with zoning regulations.

### *Nightclubs are not Permitted City-wide*

City-wide Zoning By-law 569-2013 generally permits nightclubs in the downtown area only, with two smaller areas of permission in the Midtown area. This limits the full range of entertainment-related uses in major commercial areas within Etobicoke, York, North York, East York and Scarborough. This also forms part of the reason existing nightclubs operating under the "Eating and Drinking Establishment" municipal business licence are not obtaining the more appropriate "Entertainment Establishment/Nightclub" licence.

### *Pop-up Events and Entertainment Uses in Employment Areas*

People who host "do-it-yourself" or DIY events find the City's permitting system (including but not limited to zoning approval) is not responsive enough to the speed required to plan and execute pop-up events. It is difficult to accommodate DIY events in non-traditional settings, like using a furniture store for a pop-up event like a dance party or live music performance. This is because non-traditional entertainment settings may not comply with Building Code, Fire Code, or other safety requirements.

Staff heard from the City's Music Office that event organizers are also very interested in hosting events in "light industrial areas" because they are relatively close to the west

end of the downtown core where many artists and culturally engaged audiences live. Also, DIY event organizers often seek to curate unique cultural experiences. Audiences enjoy events at which there's a juxtaposition between a performance and the environment in which it's experienced –presenting music, photography, dance, and other art forms in industrial spaces not originally designed for entertainment helps organizers create memorable, exciting events. However, staff note that Provincial policy and legislation generally prohibit non-employment uses as a primary use in employment areas (or "light industrial areas") which are implemented at the municipal level through the City's Official Plan Policies and the City-wide Zoning By-law.

### *Nuisance Issues*

Zoning By-laws regulate where certain uses are permitted in the City. Nightlife and entertainment-related uses sometimes have associated nuisance issues that reduce the quality of life of people who live either within, or in close proximity to entertainment uses. Nuisance issues which can sometimes be associated with entertainment-related uses include overcrowding, public urination and vomiting, fighting, noise, litter outside the premises, vehicles idling or honking and outdoor lineups obstructing sidewalks.

### *Access, Safety and Affordability Issues*

There were also many issues identified during public consultations that are not directly related to zoning regulations. These include a perceived lack of frequent and late-night public transit availability, a lack of public washrooms, inadequate street lighting in some parts of the City or general affordability of venues and events.

Generally, it is more beneficial to have a regulatory and licensing regime that reflects economic and societal trends, balanced against a range of private and public interests, than to have an out of date regime where activities cannot be safely and appropriately managed and enforced. Safety initiatives by the City are described in more detail in the "Public Safety and Harm Reduction" section of this report.

## **Public Consultation**

In late 2018 and early 2019, staff held meetings with select external stakeholders to identify issues and discuss potential solutions with regard to developing the City's night economy. Stakeholders included the Toronto Association of Business Improvement Areas (TABIA), the Alcohol and Gaming Commission of Ontario (AGCO), Ontario Restaurant Hotel & Motel Association (ORHMA), and business owners.

In 2021, MLS, EDC and City Planning launched an engagement and information sharing campaign to advise stakeholders and the public about the Night Economy Review, and how to get involved and participate in future consultations. Staff developed a dedicated City website and provided information as well as an opportunity to provide feedback to 3,000 licensed business owners/operators, over 80 listserv subscribers, ORHMA, Restaurant Canada, and TABIA. Staff also shared information through social media channels, the MLS Monitor Councillor newsletter, the EDC BusinessTO Newsletter, and provided an update during an external Night Economy Internal Working

Group meeting. Stakeholders were invited to provide comments to inform the November 2021 Framework Report to Executive Committee.

The City undertook additional public and stakeholder consultations in Q1 and Q2 of 2023. VibeLab was retained by the City to lead the 2023 stakeholder and public consultations. VibeLab is a data-driven research and consultancy agency based in Amsterdam, Netherlands, with experience mapping and documenting nighttime, nightlife and creative space. Its "Creative Footprint" research project studies creative spaces and communities to examine the cultural value and impact of music and nightlife in the city. The study utilizes experience mapping and has been conducted in New York, Berlin, Tokyo, Stockholm, and Montréal. Among other projects, VibeLab has also prepared a Global Nighttime Recovery Plan and a nighttime governance study.

Through March and April 2023, VibeLab led a city-wide online survey, three city-wide public consultations (two virtual and one in-person) and seven focused stakeholder groups. During the VibeLab-led public consultations, City staff provided introductory remarks and background information but were not present to observe or participate in any discussions. This approach was implemented to create an environment where participants felt they could more freely discuss their views, ideas and any concerns they may have. VibeLab also conducted a demographically targeted outreach of equity-deserving stakeholders.

Major response themes from the public consultations included:

- that eating establishment owners and operators want more flexibility with how they use their premises;
- that nightclubs should be permitted outside the downtown area;
- that nightlife options help people socialize and reduce stress; and
- concerns regarding potential community nuisance issues including noise and public safety.

Respondents also expressed a range of positive experiences and benefits from the City's night economy. They described opportunities for greater social cohesion, more activities to enjoy, increased jobs and economic activity, opportunities to experience live music, increased tourism, a way to reduce stress, and providing "places to go that are not work or home."

VibeLab has comprehensively summarized the results of the city-wide online survey and public consultations in a final report prepared for the City.

**See Attachment 1: Toronto Night Economy Review – Public Consultation Report Prepared by VibeLab.**

In addition to the public consultation program overseen by VibeLab, City staff held an additional virtual public consultation session in May 2023 with residents and Community Associations. Similar views, ideas and concerns were expressed in these additional sessions as compared to the stakeholder groups in the VibeLab public consultation program.

The VibeLab public consultations outlined concerns from participants that the Night Economy Review was too focused on nightclubs and live music venues, and not enough on “family-friendly” nightlife. In response, staff reviewed regulations in City-wide Zoning By-law 569-2013 for uses that are typically associated as “family-friendly” such as “amusement arcade” and “recreation use” (which includes physical activities like bowling and mini-golf). It was found that the amusement arcade regulations had extensive use conditions which are extremely difficult to comply with, such as the requirement to be in a 20,000 square metre building, and staff identified that this should be further reviewed. For recreation uses, it was found that in most cases there are no conditions associated with implementing that use, and therefore it was determined no further review was required for recreation uses.

In June 2023, staff held a virtual information session which identified major themes from the city-wide survey and public consultations and identified next steps for the review, including that a briefing of proposed recommendations would be provided in the Fall.

In September 2023, staff held two virtual public consultations on the draft recommended Zoning and Licensing By-law amendments. While some participants expressed support for reducing regulations regarding entertainment uses, other participants expressed concerns with the proposed changes. The following issues were raised during the consultations discussing proposed Zoning and Licensing By-law amendments:

- That there was a lack of response on how DIY (“do-it-yourself”) events will be permitted. Details on exactly which part of the permitting process is an obstacle were not provided in this particular session, but in previous sessions the process has been described as not fast enough to provide the necessary approvals including but not limited to the Zoning By-law, Building Code or Fire Clearance by the time of the event. Untenable costs to pursue compliance was also an identified issue;
- There was concern live music venues might be considered as nightclubs because live music venues sometimes hold events where the focus of the event is on dancing - which aligns with the nightclub definition - but live music venues typically do not have a nightclub license;
- There was some opposition to the proposed retention of amusement arcade conditions, specifically a maximum of 36 amusement devices and space between devices, and several participants found this is not necessary;
- Business owners and operators continued to express their need for the flexible use of spaces;
- Residents were concerned that nightclub operators will continue to operate under the incorrect Eating and Drinking Establishment Business Licence;
- Nightclub operators expressed that the existing (and proposed to remain) regulation stating nightclubs must be on the first storey of the building should only be required if abutting lots do not have residential uses;
- Some residents said 10 percent of the interior floor area of eating establishments may be more a more appropriate ancillary entertainment area if they are located close to residential areas;

- Some residents were concerned the proposed framework will negatively impact people living in mixed-use buildings with such impacts including noise and vibration reaching their residential units; and
- Participants felt more entertainment should be permitted in industrial areas, and were disappointed in the explanation of Official Plan and Provincial legislation as the reason why these cannot be introduced;

The feedback received during the September 2023 consultation session was considered in preparing final recommended zoning by-law amendments.

## **Jurisdictional Review**

A jurisdictional review of zoning regulations for eating establishments, nightclubs and entertainment uses in other municipalities in North America was completed. Canadian cities included Vancouver, Edmonton, Regina, London, Waterloo, Mississauga, Ottawa, Hamilton and Windsor. Cities in the United States of America included Austin, Chicago, Detroit, San Francisco, Los Angeles, Nashville, New York and Miami.

The jurisdictional review found there is consistency across jurisdictions in the zoning structure for eating establishments. Like Toronto, in many of the cities examined it is common to require a minimum distance between a large eating establishment and a residential zone and somewhat common to specify a maximum permitted size of eating establishments. It is less common to refer to alcohol sales and noise control as zoning requirements. The requirement to state a maximum permitted entertainment area inside eating establishments is unique to Toronto.

For nightclubs, it is common to require a certain distance from residential zones and, to state a maximum permitted gross floor area. It is somewhat common to restrict the number of nightclubs in a building or to state a minimum required distance between nightclubs. The requirement to be located in the downtown area or on the ground floor is unique to Toronto.

With the exception of limiting a certain percentage of floor area within eating establishments for entertainment and restricting nightclubs to the downtown area, Toronto maintains consistent zoning regulations compared to other North American municipalities.

## **History of Entertainment-Related Zoning Permissions**

### **Origins and Intent of the Permitted Maximum Area of Six Percent for Entertainment in Eating Establishments**

The restriction of 6 percent for entertainment uses in eating establishments has its origin in former City of Toronto Zoning By-law 438-86. In the late 1980's and early 1990's, the former municipality was experiencing issues with large "accessory" entertainment areas in restaurants which were described as problematic because they had the effect of changing the use to something more akin to a nightclub with impacts on adjacent properties and residential areas. The intention of the regulation was to provide certainty for both operators and the public and to mitigate the impacts on

residential areas. A maximum of 10 percent of the interior floor area for entertainment was recommended by staff, which was reflective of business models at the time. A review of a sample of building permit floor plans found that most restaurants devoted less than ten percent of their total floor area to entertainment. The regulation was ultimately amended to 6 percent by the Ontario Municipal Board, in its Decision dated June 18, 1997 (Decision R 960063).

### **Origins and Intent of Limiting Entertainment-Related Uses to 400 Square Metres in the CR and CRE Zones**

In City-wide Zoning By-law 569-2013, eating establishments and other entertainment-related uses are subject to a maximum size restriction in most zones where they are permitted. In the Commercial Residential (CR) and Commercial Residential Employment (CRE) Zones, they are limited to 400 square metres when they are located within 6.1 metres of a lot in the Residential or Residential Apartment Zone categories. This restriction is based on interior floor area, which provides more flexibility than gross floor area, and allows for the exclusion of areas such as offices, storage rooms, and staff rooms located in the basement or on a different storey, as well as the areas typically excluded through gross floor area.

This restriction has its origin in former City of Toronto Zoning By-law 438-86. The intent of this restriction was to limit “very large” restaurants on main streets to mitigate impacts located close to residential areas. The 400 square metre size was based upon staff’s review of a sample of existing establishments, determining that the restriction would not impact most existing eating establishments.

At the time, staff also recognized that some neighbourhoods might need a more local solution, and that “identifying areas and meeting with the neighbourhood is the best method for assessing the need for restaurant size limitations.” As a result of this, many areas of the former City of Toronto had their own studies undertaken to examine restrictions for eating establishments. Most of the studies resulted in maximum eating establishment sizes that were more restrictive than the 400 square metre restriction, in addition to other restrictions such as locational restrictions and limitations on outdoor patios. Some studies resulted in restaurants and other entertainment uses being prohibited completely. Examples of neighbourhoods with area-specific restrictions include Queen Street West between Gladstone Avenue and Dovercourt Road and Ossington Avenue between Queen Street West and Dundas Street West.

### **Origins and Intent of Nightclub Restrictions**

City Council adopted the “King-Spadina Part II Plan” in April 1996 to encourage revitalization of the King-Spadina area, bounded generally by Queen Street West, Simcoe Street, Front Street West, and Bathurst Street. The area had seen a decline in its traditional manufacturing base. This plan was established to encourage flexible development of a wide variety of residential, retail, entertainment, office, and light industrial uses and it has been highly successful.

In 2004, Urban Development Services staff studied land use policies for the lands west of Spadina Avenue in the King-Spadina Part II Plan area with respect to issues

associated with Entertainment Facilities (“nightclubs”) and conflicts with residential uses.

As a result of this study, staff recommended changes to former Toronto Zoning By-law 438-86 which imposed stricter controls on the number, size, and location of nightclubs in the King-Spadina area, west of Spadina. Additionally, a separate zone along Spadina Avenue was also introduced where no nightclubs are permitted. These regulations have been carried forward to the Commercial Residential Employment (CRE) Zone in City-wide Zoning By-law 569-2013.

In City-wide Zoning By-law 569-2013, the existing Commercial Residential (CR) zone regulation requiring a commercial density value of 4.0 or greater originates from former City of Toronto Zoning By-law 438-86, with the intention of restricting nightclubs to the downtown core and small pockets near the intersections of Yonge Street and St Clair Avenue and Yonge Street and Eglinton Avenue. As a harmonization approach in developing the new City-wide Zoning By-law, it was also to address that nightclubs were permitted in former North York By-law 7625 but fell under the "restaurant" definition which offered the same permissive location provisions equally to restaurants and nightclubs. This means that nightclubs were permitted in North York in all zones that permitted restaurants.

The intention of the existing regulation that a nightclub is required to be on the first storey of a building was to address noise and capacity concerns for multi-level nightclubs. The origins of the existing regulation to not permit nightclubs on a lot abutting a residentially zoned lot are likely to address concerns regarding noise. The requirement for there only to be one nightclub per building originates from former City of Toronto Zoning By-law 438-86, with the intention of reducing potential negative effects of the concentration of more than one nightclub in a building.

### **Origins and Intent of Amusement Arcade Restrictions**

Amusement arcades have several use conditions which were carried forward from Former General Zoning By-laws. Staff reports from the former City of Toronto describe problematic amusement arcades in the area of Yonge Street and Dundas Street from the 1970s to the 1980s. Issues described within the arcades at the time included excessive noise and endangering pedestrians. In response to these issues, City Councils of former municipalities enacted arcade restrictions which have been carried forward to City-wide Zoning By-law 569-2013.

The requirement for an arcade to only be permitted in a 20,000 square metre (215, 278 square feet) building and for access to be from the inside of the building originate from the former Etobicoke Zoning Code. The Zoning Code also only permits an amusement arcade as an accessory use to commercial/recreational facilities, within hotels with at least 100 guest rooms or enclosed shopping malls with a minimum gross floor area of 20,000 square metres. These regulations have the effect of limiting arcades primarily to malls or other entertainment complexes. The Etobicoke Code also limited the number of devices (i.e., a maximum of 36 devices) and the space between devices, presumably to maintain adequate space around the machines and maintain appropriate pedestrian clearways.

The former City of North York By-law established a limit of two amusement devices and limited the use as being permitted only in accessory of another use. It also added the requirement of 5.55 square metres (60 square feet) of space per amusement device provided.

The former City of Toronto By-law established a distance requirement of 150 metres (just under one mile) between amusement arcades and 300 metres (just under 2 miles) from any public school.

## **PUBLIC SAFETY AND HARM REDUCTION**

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Residents, patrons, and operators taking part in the VibeLab consultations recognized safety as an essential element in supporting and enhancing the night economy. Concerns were expressed about issues such as late-night public transit, accessibility to spaces for communities experiencing marginalization, street lighting, police presence, and the need for community-based safety strategies and harm reduction teams.

### **SafeTO and Related Initiatives**

SafeTO is a Provincially legislated, City Council directed comprehensive community safety and well-being plan for the City of Toronto that works to build individual and community resilience, improve services and systems of care, and positively impact the lives of all Torontonians. SafeTO will advance 26 actions across seven strategic goals that provides a road map for how social systems that serve Torontonians -- including City Divisions and agencies, multi-sector partners, community-based agencies, residents, and other levels of government -- can work collaboratively to support community safety and well-being. Social Development, Finance, and Administration is coordinating the first phase of SafeTO implementation, and has presented their plan to the City Planning, Municipal Licensing & Standards, and Economic Development and Culture Divisions, and will be joining and participating in the Night Economy Internal Working Group (IWG) to provide advice on how the working group can use the SafeTO goals and actions for safety and well-being planning and leverage multi-sector partners to support implementation.

Aligning the priorities of the night economy with the SafeTO plan is critical to create a culturally vibrant and inclusive city. SafeTO is in phase one of its implementation plans which includes four prioritized actions and identifies emerging priorities. The SafeTO prioritized programs and services below will be promoted within the Good Neighbour Guide for Late-Night Businesses, at the Night Economy Town Hall, and through communication channels with operators, event producers, residents and neighbourhood associations, and additional industry stakeholders:

- **BIA involvement:** The Downtown Yonge BIA, Social Development, Finance and Administration (SDFA), and the BIA Office of EDC have partnered on the SafeTObia pilot project to explore growing challenges of community safety and well-being in BIAs, with a key goal of co-producing between the City and BIAs, a set of resources, tools, and solutions to address community specific issues. The pilot is in the



assessment phase which includes extensive consultation with businesses. City staff will continue to be engaged in the pilot.

- **TTC response:** The TTC is collaborating with the City's Shelter, Support and Housing Administration (SSHA) and SDFa divisions, TPS, TPH, and community partners to advance SafeTO goals and actions and improve community safety and well-being on public transit. An embedded TTC staff within SDFa is coordinating strategies to enhance mental health and vulnerability support services by mobilizing Community Safety Ambassadors, mental health support services, addiction and harm reduction outreach and supports, and life stabilization efforts for unhoused transit users are provided by Streets to Homes. These strategies are complemented by enhanced security patrols by TTC special constables, aided by the presence of third-party security. To support this integrated approach, TTC enhanced and expanded de-escalation training for employees, and the SafeTO Collaborative Analytics and Learning Environment launched a TTC Safety Dashboard to ensure transparency and accountability. VibeLab's public survey revealed that safety concerns related to late-night transport service are geographically widespread and this initiative is intended to help address that issue.
- **Toronto Community Crisis Service (TCCS) launch:** TCCS is a new, alternate approach to crisis response that focuses on health, prevention, and well-being. The service provides an alternative to police response; creating a community-based, client centred, trauma-informed response to non-emergency crisis calls made to 911 or 211. The service is currently available 24 hours a day, seven days a week in four pilot areas, with plans to expand citywide. TCCS responds directly to VibeLab participant feedback identifying a need for community-based care and alternative approaches to reduce pressures and reliance on traditional policing.
- **Community Crisis Response Program (CCRP) promotion:** CCRP works across Toronto providing support and resources to communities impacted by violent and traumatic incidents. By providing immediate supports, the CCRP mobilizes local resources to address individual/group needs, coordinates community responses, and facilitates information sharing to support communities with the recovery and healing process. Long-term supports offered by the program include establishing training and education sessions, facilitating community safety audits, and fostering the development of innovative, community safety projects.

## **Harm Reduction**

Harm reduction was a recurring topic throughout the VibeLab consultations. Examples include requests for industry staff to partake in mandatory harm reduction training and the need for more harm reduction resources. Toronto Public Health (TPH) has developed *Our Health, Our City: A Mental Health, Substance Use, Harm Reduction and Treatment Strategy for Toronto*, a comprehensive city-wide strategy to reduce the health and social impacts of substance use related harms and promote the mental health and wellbeing of every Torontonians (forthcoming Q4 2023).

The strategy offers several recommendations of interest to businesses and organizations focused on the night economy, such as expanding and supporting

continuous and comprehensive harm reduction outreach in entertainment spaces, including electronic dance parties, raves, events, festivals, clubs, and bars as well as strengthening community connections through art programming, festivals, and other community-led initiatives. Once the strategy has been released, EDC will support TPH to connect with entertainment spaces and cultural producers within the night economy. The strategy will also be promoted within the Good Neighbour Guide for Late-Night Businesses.

## **Regulatory and Implementation Framework Supporting Public Safety and Harm Reduction**

The proposed Zoning and Licensing By-law amendments will reduce regulatory burden by outlining clear and modernized regulations for bars, restaurants, and entertainment establishments, align zoning and licensing rules, and support SafeTO priorities by embedding transparent and accountable monitoring and reporting practices that will help to mitigate community nuisance and safety issues.

Through 2024-25, the IWG will continue to advance the implementation of SafeTO, Toronto's Community Safety & Wellbeing Plan, and Toronto Public Health's Harm Reduction Strategy, safety on public transit and supporting local community safety response strategies.

## **RECOMMENDATIONS**

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### **Expanding and Modernizing Permitted Ancillary Entertainment in Eating Establishments**

Staff recommend increasing the permitted maximum area an eating establishment can be used for entertainment to 25 percent of the interior floor area of the premises up to an absolute maximum of 250 square metres. This new maximum is recommended to apply in the following zones:

- Commercial Residential (CR) Zone;
- Commercial Residential Employment (CRE) Zone;
- Open Space Recreation (OR) Zone;
- Open Space Golf (OG) Zone;
- Open Space Marina (OM) Zone;
- Employment Light Industrial (EL) Zone;
  - *Note: only when located on a lot abutting a major street, otherwise the existing 6 percent maximum applies;*
- Employment Industrial (E) Zone;
  - *Note: only when located on a lot abutting a major street, otherwise the existing 6 percent maximum applies;*
- Employment Office Industrial (EO) Zone;

- *Note: only when located on a lot abutting a major street, otherwise the existing 6 percent maximum applies;*

The 25 percent limit is consistent with the upper range of minor variances to zoning by-laws requested at the Committee of Adjustment since 2013. It is also consistent with the permissions found in former City of York By-law 1-83. A maximum permitted entertainment area of 25 percent maintains that the entertainment use is to remain ancillary to the primary eating establishment use. The proposed maximum is easier to understand, implement and enforce. It is also easier to communicate as a standard within the entertainment industry. The increased space reasonably responds to the desire for a more flexible use of space that business owners and operators expressed during public consultations. An expanded entertainment area inside eating establishments will support live music, cultural event producers, DIY event producers and other entertainment, where it is optimal to co-locate in an existing premises on a short-term or recurring basis.

Staff recommend keeping the existing permitted maximum entertainment area of 6 percent to a maximum of 50 metres squared for eating establishments in the EL, E and EO Zones where they do not abut a major street. The intention of this is to reduce potential increases of pedestrian and vehicular traffic into the interior of *Employment Areas* which are often designated as *Core Employment Areas*, and where heavier manufacturing uses are intended to be located. Staff also recommend keeping the existing permitted maximum entertainment area of 6 percent to a maximum of 50 metres squared for eating establishments for lands designated *Neighbourhoods* in the Official Plan which are in the Commercial Local (CL) Zone and the Residential Apartment Commercial (RAC) Zone (which has a maximum of 12 square metres applied).

In addition, staff recommend the list of permitted ancillary entertainment uses in Section 150.100 be revised and modernized to better reflect emerging hybrid entertainment models. Staff propose the list be amended to also include amusement arcade, standing audience area, disc jockey area, sound room or karaoke room, and recreation use. "Amusement Arcade" and "Recreation Use" are defined terms found in Chapter 800 of City-wide Zoning By-law 569-2013. These proposed amendments will enable emerging hybrid-entertainment models inside eating establishments, like arcade games, bowling, table tennis, and mini-golf courses which will be permitted as ancillary.

These recommendations support Toronto's Nightlife Action Plan, Music Industry Strategy, complete communities, and enable reasonable increases to entertainment opportunities in appropriate land use designations in the Official Plan, such as *Mixed Use Areas* and *Regeneration Areas*. In addition, expanding the permitted maximum entertainment area in eating establishments offers greater opportunities for DIY ("do-it-yourself") event producers to access space for events on short notice.

## **Expanding Permitted Nightclub Areas Beyond Downtown**

Staff recommend expanding the permissions for nightclubs city-wide in the Commercial Residential (CR) and Commercial Residential Employment (CRE) Zones, subject to

conditions. These lands are designated *Mixed Use Areas* and *Regeneration Areas* in the Official Plan and are places where people expect to see livelier land uses.

#### *Non-residential Building Requirement*

Staff recommend a new condition that nightclubs only be permitted in a non-residential building. This is in response to concerns heard during public consultations that the continuous noise in a nightclub, including vibratory effects noise throughout mixed-use buildings (buildings with both commercial and residential uses) can negatively impact the peaceful enjoyment of one's home. Lawfully existing nightclubs that currently exist in mixed-use buildings will continue to be permitted. Staff have undertaken research on existing nightclubs and have determined that the majority of existing legal nightclubs already exist in non-residential buildings. The proposed increase of 25% for an ancillary entertainment area in an eating establishment will also provide opportunities for dancing and patron entertainment within mixed-use buildings across the City.

#### *Permitted Maximum Interior Floor Area and Distance Based Requirements*

Staff also recommend the removal of the existing restriction that nightclubs are not permitted on a lot that abuts a lot in the Residential or Residential Apartment Zone categories. Instead, staff recommend a new condition that would restrict a nightclub to an interior floor area of 400 square metres (or 4,300 square feet) if it is located within 6.1 metres of a lot in the Residential or Residential Apartment Zone categories. The determination of 6.1 metres from a lot in the Residential or Residential Apartment Zone categories is based upon the existing distance-based requirement for all entertainment uses that are already restricted to 400 square metres of interior floor area in the CR (SS1 and SS2 representing the downtown area and commercial main streets) and CRE Zones.

If a nightclub is located on a lot further than 6.1 metres of a lot in the Residential or Residential Apartment Zone categories, staff do not recommend a size restriction on the nightclub, which is consistent with other entertainment-related uses in the CR and CRE Zones.

During public consultations, some residents expressed nightclubs should not be permitted within a certain distance (generally) to a residential or mixed-use building. A separation-based approach is not recommended because entertainment uses in City-wide Zoning By-law 569-2013 are based on Official Plan land use designations, and the zone that applies to a lot. Appropriate building setbacks from lot lines are regulated based on the performance standards of each zone. Further, a building containing a nightclub should contain noise within the building and maintain compliance with the Noise By-law, regardless of the nightclubs distance to a nearby residential or mixed-use building.

Existing regulations state that a nightclub must be on a lot that does not abut a lot in the Residential or Residential Apartment Zone categories. It is primarily only in the former City of Toronto area that this condition can be complied with, as this area has public lanes of approximately this size separating commercial zones from residential zones. Maintaining this restriction would effectively continue restricting nightclubs to only the

downtown area and nightclubs would not be permitted City-wide. Therefore, this requirement is proposed to be removed and instead be replaced with the size restriction of 400 square metres of interior floor area as noted above.

#### *First Storey of the Building Requirement*

Staff recommend maintaining the existing requirement that a nightclub only be permitted on the first storey of the building. The purpose of limiting nightclubs to the first storey of a building, even when located in a non-residential building, is to help ensure that noise from upper levels of the building do not travel to nearby residential or mixed-use buildings. This condition also allows ease and speed of access/egress to the street.

To promote flexible use of space within the first storey requirement, staff propose permitting a mezzanine floor, which is sometimes called a "half-storey" on the first floor to not be considered a second storey. Staff also propose permitting associated offices, storage rooms, and staff rooms for a nightclub in the basement or on a different storey in alignment with proposed changes to interior floor area reductions (See: "Flexible and Temporary Use of Space" section). Permitting these areas on a different storey provides more space on the first storey for the more active nightclub use, while allowing for the quieter parts of a nightclub the flexibility to be on a different storey.

#### *One Nightclub per Building Requirement*

Staff also recommend maintaining the existing limitation of one nightclub per building. With expanded permissions to establish nightclubs on all lands in the Commercial Residential (CR) and Commercial Residential Employment (CRE) Zones, maintaining this limit is an appropriate as-of-right City-wide condition. This prevents clustering of nightclubs in a single building and responds appropriately to nightclub permissions in building types that are more common in strip-commercial plazas and malls found more often in Etobicoke, North York and Scarborough. Clustering of nightclubs in a single building may result in overcrowding, excess noise, and entry lineups overflowing onto other lots or the public right-of-way or blocking entry to adjacent premises.

#### *Clarifying the Boundary of Entertainment-District Regulations*

In City-wide Zoning By-law 569-2013, regulation 50.10.20.100(3)(E) applies conditions to nightclubs in the Commercial Residential Employment (CRE) zone "west of Spadina Avenue", which is an incomplete area description. This could present an interpretation issue if the (CRE) Zone is applied to other areas of the City.

Staff propose to complete the area description to align the boundary reference with the area in the former City of Toronto Zoning By-law 438-86 which is the origin of this boundary. Staff proposed to replace "west of Spadina" with "west of Spadina Avenue, north of Front Street West, south of the public lane located north of Richmond Street West and east of Bathurst Street."

## **Amending Area-Specific Entertainment Regulations for Nightclub Omissions**

As determined through area-studies lead by staff in Community Planning, there are several areas in the Toronto East York District that have restrictions on the size, quantity and permission of entertainment-related uses. However, since nightclubs have generally been restricted to the downtown area only, many of these area-specific by-laws do not include regulations for nightclubs or entertainment facilities. Accordingly, staff propose to add the term "nightclub" (if the area-specific by-law is implemented through City-wide Zoning By-law 569-2013) or "entertainment facility" (if the area-specific by-law is implemented through former City of Toronto Zoning By-law 438-86) to area-specific by-laws.

Some of these area-specific restrictions have been in-effect for many years and will be re-evaluated by Community Planning in consultation with the surrounding community when appropriate.

## **Reducing Conditions for Amusement Arcades**

During public consultations lead by VibeLab, participants expressed a desire for more "family-friendly" activities in the City. Many of these types of activities, like mini-golf or bowling are captured under the "Recreation Use" definition in City-wide Zoning By-law 569-2013, and these activities are widely permitted across the City with very few zoning conditions associated with establishing their use. However, amusement arcades (as previously described) have significant use conditions applied to them effectively making it an extremely difficult use to establish in the City.

Staff recommend removing the requirement that an amusement arcade be in a building that is at least 20,000 square metres (215,278 square feet) of gross floor area and the requirement that an amusement arcade must be accessed from the interior of the building. These regulations prevent an amusement arcade from locating in most areas of the City. The requirement to locate within a 20,000 square metre building effectively requires that arcades only be located in buildings like a mall.

Access to gaming has significantly changed due to technological advancements, game consoles, and arcade device design (e.g., access to games on the internet) since the issues identified in the Yonge Street and Dundas Street area between the 1970's to 1980's, and permitting amusement arcades to have external access and be permitted in more areas of the city is not anticipated to create the nuisance issues that caused concern during the 1970's and 1980's.

Staff also recommend permitting amusement arcades in mixed use buildings. An amusement arcade does not have the same type of persistent noise that a nightclub typically has and should not also be subject to the same requirement to be in a non-residential building.

Staff recommend removing the requirement for amusement arcades to be a minimum distance from schools and from other amusement arcades. With the change in access

to gaming as described in the previous paragraph, a distance-based requirement from schools is no longer required.

Staff propose removing the restriction that an amusement arcade may not be in a building with a hotel with less than 100 guest rooms. There have not been any issues with amusement arcades located inside hotels regardless of the number of guest rooms. Further, as previously clarified, "amusement devices" as defined in City-wide Zoning By-law 569-2013 are not gambling devices.

Participants expressed during public consultations for proposed amendments to the Zoning By-law that they found maintaining the restriction on maximum number of amusement devices and space between amusement devices was not necessary. While a maximum number of devices and space around them can facilitate better movement throughout the premises, it also arbitrarily adds a condition that is not applied to other entertainment uses in the City-wide Zoning By-law. In response, staff propose removing the restriction of a maximum of 36 amusement devices and the requirement for a minimum of 6 square metres of interior floor area per amusement device provided in the premises.

Staff recommended *adding* "amusement arcade" to the list of uses that are restricted to 400 square metres of interior floor area in the Commercial Residential (CR) and Commercial Residential Employment (CRE) Zones where those uses are within 6.1 metres of a lot in the Residential or Residential Apartment Zone categories. This change harmonizes amusement arcades with the existing restrictions for other entertainment uses, providing consistent and easily understood regulations for amusement arcades in relation to other entertainment-related uses.

### **Removing Maximum Amusement Devices in other Entertainment Categories**

Staff recommend removing the permitted maximum amusement devices for entertainment place of assembly, sports place of assembly or recreations uses in the Commercial Residential (CR) and Commercial Residential Employment (CRE) Zones. Currently, these uses are permitted a maximum of 12 amusement devices, and these devices are not permitted to be located in a hallway, lobby or other pedestrian area if the amusement devices are in the same building as one of these uses.

Staff heard during public consultations from business owners and operators about the need for increased flexibility for the use of their space. Amusement devices that are not gambling devices are not a concern from a land use planning perspective. Further, entertainment place of assembly and sports place of assembly are only permitted in the CR and CRE Zones, which generally correspond to the *Mixed Use Areas* land use designation in the Official Plan, and these are appropriate areas for premises that contain these devices. Recreation Use is permitted in more zones than the CR and CRE Zones, such as the Employment Light Industrial (EL) Zone, but the restriction of amusement devices for recreation use is not a condition applied to the use in other zones.

## **Flexible and Temporary Use of Spaces**

A strong theme in public consultations was the need for flexible use of spaces. City-wide Zoning By-law 569-2013 already provides for flexible use of spaces, specifically in zones where multiple entertainment-related uses are permitted (e.g., the CR and CRE Zones). Multiple uses of a single premises are permitted if the conditions for each of those uses are met independent of each other use. Staff do not recommend any changes to these permissions.

Permitting temporary uses that are not normally permitted in a zone must either be permitted by a Minor Variance Application to the Committee of Adjustment or a Temporary Use Zoning By-law. Upon a complete application to the Committee of Adjustment for a minor variance to the Zoning By-law, an application will typically proceed to a hearing by panel members no more than 9 weeks from receipt of the complete application. A Temporary Use Zoning By-law, which permits uses for up to three years, may take longer (up to a year). Staff heard through consultations that DIY organizers are interested in holding quick events and do not operate with advanced planning to accommodate this approval timeline. Therefore, staff recommend changes to increase the permitted entertainment area within eating establishments to enable opportunities for DIY ("do-it-yourself") events to be able to happen more quickly.

Event spaces in "light industrial areas" are often sought for quick DIY events. Flexible and temporary use of spaces must comply with the Ontario Building Code. Not all buildings in areas sought-after by both DIY event organizers and bricks-and-mortar entertainment entrepreneurs are appropriate or safe spaces, and that is why verification of compliance with the Ontario Building Code for these types of events and spaces is critical.

Staff in Toronto Building have retained a consultant to examine the Ontario Building Code (OBC) as it relates to flexible event space for buildings used to hold music and entertainment events in non-traditional settings and on a temporary basis. This includes buildings which are installed for such events on a temporary basis as well as existing buildings which are temporarily converted to hold such events.

The proposed recommendation to increase the permitted maximum area of an eating establishment for entertainment uses to 25 percent of the interior floor area of the premises increases opportunities for more premises to establish themselves across the City as places where flexible and pop-up entertainment can quickly co-locate without extensive municipal approval. Under the proposed combined zoning and licensing framework, if an eating establishment receives all required municipal approvals (such as Zoning, Building Code and Licensing approval), then the entertainment area within the eating establishment will be available for various entertainment going forward and no further municipal approvals would be required.

## **Harmonizing the Calculation of Interior Floor Area Reductions for all Eating and Entertainment-Related Uses**

In City-wide Zoning By-law 569-2013, both the Commercial Residential (CR) and Commercial Residential Employment (CRE) Zones, when located in Development



Standard Sets 1 or 2, restrict the interior floor area of eating and entertainment-related uses on a lot within 6.1 metres of a lot in the Residential Zone Category or Residential Apartment Zone category to 400 square metres. Current regulations allow for the calculation of interior floor area to be reduced by a broad range of non-entertainment areas, such as washrooms located in the basement. However, only eating establishments and take-out eating establishments are permitted to reduce the calculation of interior floor area for associated offices, storage rooms and staff rooms located in the basement or on a different storey.

Staff propose that the calculation of interior floor area be consistently applied to all eating and entertainment-related uses so that associated offices, storage rooms, and staff rooms located in the basement or on a different storey are not included in the calculation of interior floor area for amusement arcades, cabarets, clubs, entertainment places of assembly, nightclubs, places of assembly and recreation uses (in addition to eating establishments and take-out eating establishments).

This permits more flexible use of space and is easier to understand by applying the existing interior floor area restriction on more active eating or entertainment-related areas of a premises and removing the interior floor area restriction from quieter areas of a premises like offices, storage rooms or staff rooms.

## **Live Music**

City-wide Zoning By-law 569-2013 permits live music venues under the "Entertainment Place of Assembly" use which is permitted in the Commercial Residential (CR), Commercial Residential Employment (CRE), Institutional and Open Space Zone categories. In the CR and CRE Zones, the only condition for this use are a maximum interior floor area of 400 square metres (4,300 square feet) when located in the CRE, CR SS1, and CR SS2 Zones (generally the downtown area and commercial main streets) and located within 6.1 metres of a lot in the Residential and Residential Apartment Zone Categories. There is also a limit of 12 amusement devices. If a live music venue is located in the CR SS3 (generally non-street related retail, like a mall site) or on any lot located further than 6.1 metres from a lot in the Residential or Residential Apartment Zone categories, no size restriction applies. During the public consultations, staff did not hear concerns that the existing size restriction was a barrier to permitting live music. Staff do not recommend any amendments to the size restriction for entertainment places of assembly (live music venues).

The existing interior floor area restriction aligns with all other entertainment uses in these Zones and are proposed to benefit from the same interior floor area calculation reductions. As previously mentioned, staff recommend removal of the limit of 12 amusement devices.

In response to the identified issues with regard to accommodating live music in eating establishments where entertainment areas cannot exceed 6 percent of the floor area of the premises, as previously mentioned, staff propose increasing this maximum to 25 percent to enable live music to quickly and easily co-locate in eating establishments across the City, including on lots in the Industrial Zone category located along major streets.

## Place of Assembly

During public consultations, staff did not hear concerns with existing regulations for places of assembly (like banquet halls). Except for the change to the defined term of "Place of Assembly" noted previously, staff do not recommend any amendments to the conditions for this use.

## Updating Entertainment-Related Definitions and Harmonizing with the Licensing By-law

Staff propose amending several definitions in City-wide Zoning By-law 569-2013 to add common use examples, clarify the serving of food and beverages, add examples of what a use *is not*, and to better align with proposed definitions in the Licensing By-law.

### *Amusement Arcade*

The "Amusement Arcade" definition is proposed to change by removing reference to "more than 2 amusement devices." This change is necessary to align with the proposed change to increase permitted ancillary entertainment in eating establishments to a maximum of 25 percent of its interior floor area. This change clarifies that an eating establishment with more than two devices does not become an amusement arcade use. Most defined terms in City-wide Zoning By-law 569-2013 include a statement clarifying what a use *is not*, and this has been applied as a proposed amendment to the amusement arcade definition to clarify that a premises that is primarily an eating establishment, entertainment place of assembly or recreation use with a few amusement devices is not an amusement arcade.

The proposed amendment to the "Amusement Arcade" definition in City-wide Zoning By-law 569-2013 is compatible with the proposed "Amusement Establishment" definition in the Licensing By-law as a premises that permits amusement activity.

Land Use	Existing Definition (By-law 569-2013)	Proposed Definition
Amusement Arcade	means premises where more than 2 amusement devices are provided for patron use on the premises.	means premises for entertainment with amusement devices, such as arcade games. An eating establishment, an entertainment place of assembly, or recreation use is not an amusement arcade.

### *Entertainment Place of Assembly*

Staff propose adding to the "Entertainment Place of Assembly" definition a common descriptor of "performing arts" to clarify the use includes a range of cultural

entertainment. The use example of "live music venue" is proposed to be added as an example of an entertainment place of assembly in response to City Council's direction to clarify live music regulations. City Planning staff in consultation with staff in the Music Office heard that the existing term of "concert hall" is widely understood to be a venue of a significant size, frequently providing specific ticketed seats for all patrons, whereas live music venues are widely understood to be small to medium size venues that may or may not provide full seating. Retaining both "concert hall" and "live music venue" in the definition clarifies that both venue types are contained within the entertainment place of assembly defined use.

Staff also recommend adding "food and beverages may be served" to clarify that these venues may also serve food and beverages, and that by doing so it does not make the venue an eating establishment.

In the list of what a use *is not*, staff propose to add "Place of Assembly" to the list. This clarifies that a premises operating primarily as a banquet hall which sometimes has activities incorporating loud music and dancing (like a wedding reception or birthday event) are not entertainment places of assembly for zoning purposes.

The proposed licensing definition combines elements of the "Place of Assembly" and proposed "Entertainment Place of Assembly" definitions in City-wide Zoning By-law 569-2013. This means that premises applying under either of these categories in Zoning By-law 569-2013 are likely to fall under the "Entertainment Place of Assembly" definition in the Licensing By-law, unless otherwise noted. The proposed amendments in both City-wide Zoning By-law 569-2013 are compatible with the Licensing By-law as they both refer to performing arts and live music and have consistent common use examples.

Land Use	Existing Definition (By-law 569-2013)	Proposed Definition
Entertainment Place of Assembly	<p>means premises used to provide entertainment, such as a theatre, cinema, opera, concert hall or ballet.</p> <p>An adult entertainment use, an eating establishment, a cabaret, or a nightclub is not an entertainment place of assembly</p>	<p>means premises used to provide entertainment and performing arts, such as a theatre, cinema, opera, ballet, concert hall, live music venue. Food or beverages may be offered for sale.</p> <p>An adult entertainment use, a cabaret, an eating establishment, a place of assembly, or a nightclub is not an entertainment place of assembly</p>

## Nightclub

Staff propose adding to the "Nightclub" definition a description to "provide amplified music for patron entertainment." This is in response to the public consultation online city-wide survey where respondents described a large dance area, limited food service and loud music as the top three indicators of a nightclub. The existing definition already refers to dance facilities and staff recommend that this be retained.

Similar to the proposed changes to the "Place of Assembly" definition, in the list of what a use *is not*, staff propose to add "Place of Assembly" to the list. This clarifies that a premises operating primarily as a banquet hall which sometimes has activities incorporating loud music and dancing (like a wedding reception or birthday event) are not nightclubs.

Proposed amendments to the defined term of "Nightclub" in City-wide Zoning By-law 569-2013 align with proposed changes to the Licensing By-law to the greatest extent possible. Under the *Planning Act*, land use definitions in zoning by-laws are limited in describing activities within a premises. The Licensing By-law can provide an opportunity to help clarify the activities associated with a land use, such as the provision of bottle service, how a premises advertises itself to the public or provision of limited seating.

Land Use	Existing Definition (By-law 569-2013)	Proposed Definition
Nightclub	<p>means premises used to provide dance facilities for patrons and where food or beverages may be offered for sale, such as a dance hall or disco.</p> <p>A cabaret, an entertainment place of assembly, an eating establishment, or an adult entertainment use is not a nightclub</p>	<p>means premises used to provide amplified music for patron entertainment and dancing, such as a dance hall, dance club, or disco, and where food and beverages may be served.</p> <p>A cabaret, an eating establishment, an entertainment place of assembly, a place of assembly, or an adult entertainment use is not a nightclub</p>

## Place of Assembly

Staff propose adding to the "Place of Assembly" definition a list of what the use *is not* to clarify that this use which is generally for banquet halls and convention centres is not the same as "Entertainment Place of Assembly" or "Nightclub." This clarifies that a premises operating primarily as a banquet hall which sometimes has activities

incorporating loud music and dancing (like a wedding reception or birthday event) are not nightclubs or entertainment places of assembly.

Land Use	Existing Definition (By-law 569-2013)	Proposed Definition
Place of Assembly	means premises used for social, cultural, educational or trade events, such as a banquet hall, convention or trade centre, or a hall used for bingo or other lottery events licensed by the City of Toronto for charitable purposes.	means premises used for social, cultural, educational or trade events, such as a banquet hall, convention or trade centre, or a hall used for bingo or other lottery events licensed by the City of Toronto for charitable purposes.  A cabaret, an eating establishment, an entertainment place of assembly, or nightclub is not a place of assembly.

### Amendments to Former General Zoning By-laws

Many of the areas identified in the report titled "Emerging Entertainment Areas Outside the Downtown Core" are located on lands subject to a Former General Zoning By-law and are not subject to City-wide Zoning By-law 569-2013. In Etobicoke, these areas include Long Branch, Mimico, The Queensway and Etobicoke Centre. In North York, these areas include Downsview and North York Centre. In Scarborough, they include Cliffside, Scarborough Centre and the Woodbine Mall lands. In the former City of Toronto area, they include Dupont Street between Ossington Avenue and Kendal Avenue and St. Clair Avenue West between Bathurst Street and Keele Street.

To ensure a consistent city-wide implementation of the recommendations proposed in this report, a stand-alone amendment to the Former General Zoning By-laws is proposed (see Attachment 3 of this report). The purpose of the amendment is to permit existing and proposed entertainment-related zoning regulations from City-wide Zoning By-law 569-2013 consistently across all Former General Zoning By-laws. An exception to this consistency is that the stand-alone amendment to the Former General Zoning By-laws will apply a requirement for certain entertainment uses in commercial zones to be on a lot which abuts major street, while City-wide Zoning By-law 569-2013 would not normally have this requirement in a commercial zone. The reason for this application is that the placement of some commercial zones in the Former General Zoning By-laws are in the *Neighbourhoods* designation of the Official Plan. Applying a requirement for

the entertainment use to be on a lot that abuts a major street means the commercial zone in the Former General Zoning By-law will be in a *Mixed Use Area* or *Regeneration Areas* land use designation in the Official Plan.

## **Implementation of Regulatory Framework**

### **Zoning Regulations in Relation to Proposed Activity-based Licensing Framework**

Staff propose the recommended zoning by-law amendments not come into effect until the enhanced business licensing requirements come into effect (recommended for January 1, 2025), which feature requirements such as Noise Control Plans and Patron Management Plans. Creating a one-year implementation period through 2024 also allows time for the advancement of associated initiatives lead by other Divisions and Agencies including the SafeTO program lead by staff in the Social Development Finance and Administration Division, harm reduction efforts lead by Toronto Public Health, The Downtown Yonge BIA safety pilot, enhanced safety on the Toronto Transit Commission (TTC), the Toronto Community Crisis Service (TCCS) and the Community Crisis Response Program (CCRP).

The recommended changes to business licensing and zoning regulations complement each other by recognizing that there are varying levels of entertainment in establishments, including in eating establishments. The recommendations respond to the reality that some business operators will choose to establish a business that is entirely dedicated to dancing like a Nightclub, while others will choose to establish a business that is primarily dedicated to serving food and beverages, but with an ancillary entertainment area for their customers.

In the proposed activity-based licensing framework, eating establishments will have different requirements depending upon their operating hours, capacity and provision of entertainment. Eating establishments that are open late or provide entertainment will have additional requirements, such as a Noise Control Plan. This is an enhancement from the current licensing system which considers all eating and drinking establishments under the same category. This enhancement particularly responds to concerns from residents in mixed-use buildings where more lively eating establishments, some operating as illegal nightclubs, have been established and where noise, vibration and other nuisance concerns have been an issue for residents living above these establishments.

## **CONCLUSION**

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This report responds to a range of City Council directives and initiatives related to the City's night economy. The proposed zoning by-law amendments seek to modernize and clarify the rules for bars, restaurants and other entertainment venues as part of the Inter-divisional Night Economy Review. The proposed amendments seek to support live music, align the review of zoning and business licensing regulations, and support emerging entertainment areas outside the downtown core. In addition, the recommended changes seek to modernize and clarify licensing and zoning regulations

for restaurants, bars and entertainment venues, and address impacts of problematic establishments through an appropriate level of regulatory oversight to mitigate potential community nuisance and public safety issues.

Staff recommend the following zoning by-law amendments to support the night economy:

- Increase the permitted maximum ancillary entertainment area inside eating establishments from 6% to 25%;
- Permit nightclubs outside the downtown area in certain commercial zones, subject to conditions;
- Reduce amusement arcade restrictions;
- Remove amusement device restrictions;
- Harmonize reductions for the calculation of interior floor area; and
- Modernize entertainment-related use definitions and align those definitions with Toronto Municipal Code Chapter 545, Licensing.

The recommendations in this report support Toronto's Nightlife Action Plan, Music Industry Strategy, enable the creation of *Complete Communities* in conformity with the Provincial Growth Plan (2020), are consistent with the Provincial Policy Statement (year), and increase entertainment opportunities in conformity with the Official Plan. Lastly, the recommendations represent good planning and have regard for matters of Provincial interest such as the adequate provision of social, cultural and recreational facilities, creating complete communities that include a full range of uses including those for entertainment, creating a diversified economic base and enhancing the viability of the downtown area and main streets.

## **CONTACT**

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## **SIGNATURE**

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Gregg Lintern, MCIP, RPP  
Chief Planner and Executive Director,  
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## **ATTACHMENTS**

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Attachment 1: Toronto Night Economy Review – Public Consultation Report Prepared by VibeLab

Attachment 2: Amendment to City-wide Zoning By-law 569-2013 with respect to bars, restaurants and other entertainment venues

Attachment 3: Amendment to all Former General Zoning By-laws with respect to bars, restaurants and other entertainment venues

Attachment 4: Amendment to former City of Toronto Zoning By-law 438-86, with respect to adding entertainment facilities as a prohibited use or a use with conditions to area-specific by-laws