Night Economy Review: Proposals Summary

Proposed Amendments to the Licensing and Zoning By-laws

Municipal Licensing and Standards (MLS) and City Planning (CP)

September 2023





Land Acknowledgement

The City of Toronto acknowledges that the land we are meeting on is the traditional territory of many nations including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples and is now home to many diverse First Nations, Inuit and Métis peoples.

We also acknowledge that Toronto is covered by Treaty 13 with the Mississaugas of the Credit.

African Ancestral Acknowledgement

The City of Toronto acknowledges all Treaty peoples – including those who came here as settlers – as migrants either in this generation or in generations past – and those of us who came here involuntarily, particularly those brought to these lands as a result of the Trans-Atlantic Slave Trade and Slavery.

We pay tribute to those ancestors of African origin and descent.



Why are we holding this session?

- Purpose of this session is to:
 - Share proposed changes and solicit feedback on how bars, restaurants, and other entertainment venues – including nightclubs – can be defined, licensed, and regulated by the City of Toronto; and where they can be located
 - Answer any questions and discuss next steps
- Note: Proposals are in draft form, are subject to approval by City Council, and are for discussion purposes only
- Staff reports on licensing and zoning amendments are scheduled to be discussed at respective Committees this fall



Current State Zoning Regulations

- The Zoning By-law controls where and how entertainment related uses are permitted in Toronto. It does not control hours of operation or the provision of alcohol service.
- Entertainment uses are permitted in commercial zones with conditions
- Entertainment inside restaurants and bars is limited to 6% of the establishment
- Nightclubs are generally only permitted downtown
- "Family-friendly" activities like mini-golf and bowling are permitted in commercial zones and some industrial zones across with conditions



Current State Business Licensing

- Through the <u>Licensing Bylaw</u>, the Municipal Licensing and Standards Division (MLS) licenses businesses where there is a **municipal purpose** to do so, such as consumer protection or public safety
- A municipal licence is required for places that sell or serve food and drinks, nightclubs, places of amusement, etc.
- Specific licensing requirements are applied to different licence categories
 - For example a restaurant must submit a licence application and have their food safety reports available for review; a nightclub must have security personnel and submit a noise control plan

Categories in scope:

- <u>Eating and Drinking</u>
 <u>Establishments</u> (for example, bars or restaurants)
- Retail Food Stores
- Nightclub/Entertainment Establishment
- Places of Amusement
- Public Halls
- Billiard Hall/Pool Hall



Identified Issues

Zoning

- The limitation on entertainment in eating establishments (like restaurants and bars) limits opportunities for live music and other entertainment and is difficult to implement and enforce
- Restricting nightclubs to the downtown is part of the reason operators are not getting the correct nightclub licence
- Amusement arcade restrictions are outdated
- Zoning entertainment-related definitions are inconsistent with licensing

Licensing

- Inconsistent and unclear definitions in the Licensing bylaw and zoning by-law
- Evolving businesses do not fit within existing licensing categories
- Regulatory uncertainty resulting in some eating establishments operating as unlicensed nightclubs (noted in a 2017 Auditor General report)



Public Engagement Process

The following were conducted in Spring 2023:

- An online survey
- Seven targeted focus group meetings
- Three city-wide public consultations, plus an additional meeting for Residents Association

An information session summarizing consultation results was conducted in June 2023 – a recording of the session and the presentation are available on the City's review webpage

A detailed engagement summary will be appended to staff reports





Draft Proposals



Zoning Summary of Proposed Changes

Zoning

- Expand live music and other entertainment use permissions inside eating and drinking establishments
- Permit nightclubs outside the downtown area
- Reduce amusement arcade restrictions
- Clarify special events in parks
- Modernize entertainment definitions to better align with the Licensing By-law



Licensing Summary of Proposed Changes

Licensing

- Implement activity-based licensing to assess business activities (liquor service, hours of operation, capacity) and inform additional licensing requirements
- Enable multi-use licensing by permitting food and drink service in multiple business categories and strengthening endorsements process
- Require nightclubs secure a separate licence
- Update definitions and requirements for Eating or Drinking Establishments and Nightclubs
- Streamline amusement businesses into an Amusement Establishment category
- Redefine Public Halls as Entertainment Places of Assembly and broaden definition to capture live music venues and other performing arts spaces
- Require noise control plans for additional establishments and have two categorizations Level 1 (Basic) and Level 2 (Comprehensive)







Proposed Regulations for Eating or Drinking Establishments



Overview- Eating and Drinking Establishments

Zoning	Eating or Drinking Establishment	Take Out Eating Establishment	Retail Store	Licensing	Eating or Drinking Establishment	*New* Take Out or Retail Food Establishment
Summary	Amend definition to align with licensing and provide flexibility for ancillary entertainment	No changes proposed	No changes proposed	Summary Definition Change	Simplify definition and apply activity- based licensing (two licence classes)	Introduce category and definition for businesses serving take-out or prepackaged food
Updated Zoning Permissions	Increase permitted area for entertainment from 6% to 25%			Updated Requirements		



Expanded Entertainment Space

Current

In commercial and industrial zones, up to 6% of floor space can be used for entertainment purposes (for example, a dance floor) in Eating and Drinking Establishments in the Zoning Bylaw

Proposed

In commercial zones, up to 25% of floor space can be used for entertainment

Rationale

- Allows additional space for entertainment and is easier to understand and regulate
- Maintains that eating or drinking is the primary use and entertainment is secondary

In industrial zones on major streets, up to 25% of floor space can be used for entertainment

In industrial zones not located on a major street, the existing 6% applies

- Employment Areas are for things like manufacturing or other non-entertainment uses
- Eating establishments with entertainment are less appropriate in the interior of these areas



Licensing Definition for Eating or Drinking Establishments

Current

- Every place for lodging, reception, refreshment or entertainment
- Place where foodstuffs are sold
- Victualling house
- Any other place where food is served

Proposed

Premises where food or beverages are prepared and offered to patrons for immediate consumption onsite, and which may include an incidental take-out service or ancillary/limited entertainment or amusement

- Provides clearer parameters for what is typically defined as a bar or restaurant
- Aligns closely with the zoning definition
- Removes terms like "foodstuffs" and "victualling" that are outdated and difficult to interpret



Activity-based Licensing for Eating and Drinking Establishments

Category Requirements

Retain existing requirements

- Licence application (to MLS and Toronto Public Health [TPH])
- Food safety reports available for review
- Notify MLS of any change in management

In addition:

- Cleanliness and litter control
- Discretion for MLS to dispense of class-specific requirements if desired

Class-specific Requirements

	Indicators*	Additional Requirements
Class	If any indicator is bolded, must	In addition to Category
	be in Class	Requirements
	No liquor service	+ Provide Level 1 noise
1	 Hours of operation – never 	control plan
	open past 11pm	
	Liquor service	+ Provide list of persons of
	 Hours of operation - open 	authority
	past 11PM	+ Level 2 noise control plan +
_	Capacity 150+	Crowd control plan
2	Amusement, live	+ Provide copy of liquor
	entertainment, or	licence
	performance	
	5.	



New Licensing Category for Take Out or Retail Food Establishments

Current Definition

Same as
Eating or
Drinking
Establishment

Proposed Definition

Premises, or section of a premises, where food or beverage(s) are prepared and offered to patrons exclusively for consumption off-site or;

Premises that offer pre-packaged food or drink items to patrons for consumption off-site, except where such a service is insignificant to the primary purposes of the business

- Introduces licensing definition and category to capture food and drink consumption off-site (establishments that are exclusively take-out or those primarily selling pre-packaged food or drink items)
- Removes outdated terms like "foodstuffs" and "victualling"
- Reduces administrative burden by focusing on service of pre-packaged food or drink provisions that are significant to the business



Licensing Requirements for Take Out or Retail Food Establishments

Category Requirements

- General requirements, no Classes
- Consider multi-year licences given establishments are low impact

Retain existing requirements:

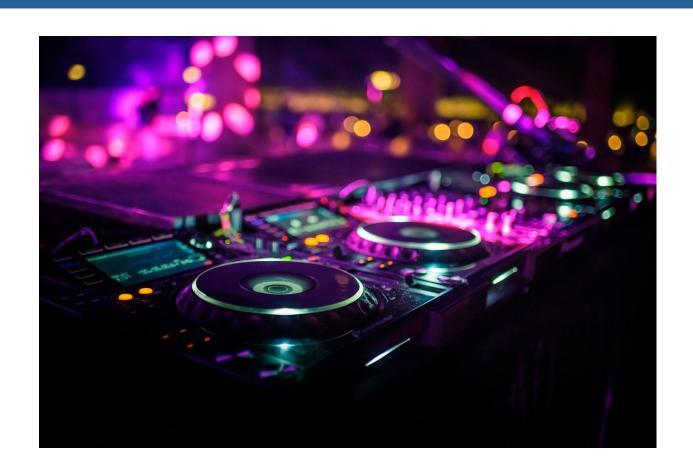
- Licence application (to MLS and TPH)
- Food safety reports available for review
- Notify MLS of any change in management

In addition:

- Cleanliness and litter control
- If preparing food or beverage, meet general category-wide requirements for Eating or Drinking Establishment







Proposed Regulations for Nightclubs



Overview- Nightclubs

Zoning	Entertainment Establishment/Nightclub	Licensing	Entertainment Establishment/Nightclub
Definition Change	Amended to reflect activities of the business	Definition Change	Amended to reflect activities of the business, instead of seating
Updated Zoning Permissions	Permit Nightclubs in commercial zones citywide, subject to conditions (such as the requirement to be in a non-residential building)	Updated Requirements	One general category, with strengthened and streamlined licensing requirements



Zoning Definition of Nightclub

Current

 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. A cabaret, an entertainment place of assembly, an eating establishment, or an adult entertainment use is not a nightclub.

Proposed

 means premises used to provide amplified music for patron entertainment and dancing, such as a dance hall, dance club or disco.
 Food of beverages may be offered for sale. A cabaret, an entertainment place of assembly, a place of assembly, an eating establishment, or an adult entertainment use is not a nightclub.

- Survey respondents identified a large dance area and amplified music as nightclub identifiers
- Nightclubs are not just places to dance, but to be entertained as well
- "Dance club" is an additional descriptor of nightclub
- Changes align with licensing definition for nightclub
- Distinguish from place of assembly, like a banquet hall



Permit Nightclubs Outside the Downtown Area

Current

 In the Zoning Bylaw, nightclubs are generally permitted in the downtown area only

Proposed

 Permit nightclubs in all mixed-use zones (commercial zones) in non-residential buildings only

- May reduce the clustering of nightclubs by allowing more opportunities throughout the city
- Permits a full range of entertainment in commercial zones, with conditions to address noise and nuisance issues.
- Reduces the barrier to business operators getting the correct nightclub businesses license



Update Zoning Conditions (1 of 2)

Current

- Must be on the first storey
- Must be on a lot that does not abut a lot in the residential zone

Proposed

- Must be on the first storey
- If located on a lot in close proximity to a residential zone, the nightclub is limited to 400 square metres (4,300 square feet)

- Continuing to restrict nightclubs to the first storey can reduce the effects of noise to nearby buildings.
- If the condition to prohibit nightclubs on a lot abutting a residential zone continued, then nightclubs would not be able to expand to any new areas, as most lots outside of the downtown area always abut a lot in a residential zone. The size restriction is common amongst other entertainment uses.



Update Zoning Conditions (2 of 2)

Current

- It must be the only nightclub in a building
- No requirement for an indoor entry or lineup area

Proposed

- It must be the only nightclub in the building
- A minimum of 5 percent of the interior floor area of a nightclub must be for the entry of patrons

- Avoid over-concentration of nightclubs in a single building.
- Reflects consultations
 feedback regarding nuisanc
 e issues (e.g. lineups
 and crowds on sidewalks)



Licensing Definition of Nightclub

Current

Premises, including but not limited to a dance hall or disco, used to provide dance facilities for patrons, where seating is not provided for the majority of the patrons and where food or beverage may be offered for sale as an ancillary use

Proposed

- Premises used to provide amplified music for patron entertainment and dancing and where food and beverages may be offered
- If the establishment provides bottle service or is referred to or advertised as a club, nightclub, disco, or dance hall, it shall be considered a nightclub under this Chapter

- Removes language on seating which has caused enforcement issues, requiring officers to count seats and patrons to determine "majority"
- Reflects consultation and survey feedback on what defines a nightclub
- Aligns with zoning definition and provides enforcement flexibility with a list of additional factors that describe a nightclub, like the provision of bottle service



Licensing for Nightclubs

Current

- Provision of security guards one per 100 patrons
- Each entrance equipped with a metal detector
- Provide a list of 'persons of authority' for the establishment
- Noise control plan
- Crowd control plan
- Litter must be controlled near the establishment
- Insurance policy submitted to MLS (2M)

Proposed

Only one class in this category

Retain existing requirements, with the following refinements:

- Ensure security guards are provincially licensed
- Require use of metal detectors to permit entry
- Require comprehensive Level 2 noise control plan

In addition:

- If preparing food or beverage, meet general category-wide requirements for Eating or Drinking Establishment
- Provide liquor licence
- Discretion for MLS to dispense of requirements if desired







Proposed Regulations for Entertainment Places of **Assembly**



Overview- Entertainment Places of Assembly

_			
Zoning		Entertainment Place of Assembly	Place of Assembly
venues and other		concert halls, live music	Includes banquet halls or other places for social, cultural, educational or trade events
Definition Change		Additions to align with licensing	Clarify not an entertainment use
Updated Zoning Permissions		×	X

Licensing	*New* Entertainment Place of Assembly	
Summary	Redefine current 'Public Hall' category and broaden to include various entertainment uses	
Definition	Introduce definition that captures live music venues, performing arts spaces, cinemas/theatres, etc.	
Licensing Requirements	Apply activity-based licensing to categorize level of impact and regulate accordingly	



Zoning Definition of Entertainment Places of Assembly

Current

 means premises used to provide entertainment, such as a theatre, cinema, opera, concert hall or ballet. An adult entertainment use, an eating establishment, a cabaret, or a nightclub is not an entertainment place of assembly.

Proposed

 means premises used to provide entertainment and performing arts, such as a theatre, cinema, opera, concert hall, live music venue, or ballet. Food and beverages may be offered for sale. An adult entertainment use, an eating establishment, a cabaret, a place of assembly, or a nightclub is not an entertainment place of assembly.

- Addition of "performing arts" is an additional descriptor of entertainment and aligns with licensing definition
- City Council direction to clarify "live music" regulations
- Clarify these places can offer food and beverages
- Clarify that a "place of assembly" which is like a banquet hall is not an "entertainment place of assembly" which is like a live music venue.



Zoning Conditions for Entertainment Places of Assembly

Current

- When located in a commercial zone and near a residential zone, the premises is limited to 400 square metres (4,300 square feet)
- A maximum of 12
 "amusement devices" (like arcade games) are permitted

Proposed

No change

- These conditions are considered appropriate as an "as-of-right" permission, which means no special approval is required to establish them within these parameters.
- There are many areas of the City where these uses are permitted as-of-right. The Zoning By-law has not been demonstrated as preventing live music venues.



Licensing Definition for Entertainment Places of Assembly

Current

Places of Amusement: Are not defined in the Licensing Bylaw

However, the Licensing Bylaw applies to "owners or keepers of exhibitions...places of amusement, roller-skating rinks, merry-go-rounds...etc."

Proposed

Premises that primarily offers or allows any type of amusement activity, including establishments that require payment to access activities or any business that rents out space for use by other entities who provide amusement activities that are open to the public. Food or beverages may be offered.

Amusement activity includes but is not limited to any of the following – bowling alleys, video arcades, archery range, axe throwing range, carnivals, escape rooms, internet cafes, miniature golf and golf driving courses, gokart businesses, roller-skating rinks, billiards or pool halls, trampoline centres, rebound tumbling centres, and other like activities

- Creating a clear definition and associated requirements for these types of activities
- Permitting food and drink to provide flexibility and regulatory clarity to owners/operators



Activity-based Licensing for Entertainment Places of Assembly

Category Requirements

Retain existing requirements

- Good order to be maintained; sufficient staff
- Security to be provided when queues are formed to gain admittance

In addition:

- Cleanliness and litter control
- If preparing food or beverage, meet general category-wide requirements for Eating and/or Drinking Establishment
- Discretion for MLS to dispense of class-specific requirements

Class-specific Requirements

	Indicators*	Additional Requirements
Class	If any indicator is bolded, must	In addition to Category
	be in Class	Requirements
1	 Operating hours – never open past 11PM No liquor service Capacity less than 150 	Provide Level 1 noise control plan
2	 Operating hours - open past 11PM Liquor service Capacity 150+ 	Level 2 noise control plan Crowd control/patron management plan







Proposed Regulations for Places of Amusement



Overview - Place of Amusement

Zoning	Amusement Arcade	Recreation Uses
Summary	Change amusement arcade definition and reduce use conditions	No change
Definition Change	Not based on # of machines	No change
Updated Zoning Permissions	No large building requirement and no separation distance requirement	No change

Licensing	Amusement Establishment		
Summary	 Redefine Place of Amusement category and broaden to include various amusement activities Incorporate existing Billiard Hall/Pool Hall category Permit food or drink service 		
Definition Change	Captures bowling alleys arcades, billiards, etc.		
Updated Requirements	Apply activity- based licensing		



Zoning Definition of Amusement Arcades

Current

 means premises where more than 2 amusement devices are provided for patron use on the premises.

Proposed

means premises
 for amusement devices,
 such as a games arcade.
 An eating establishment,
 an entertainment place of
 assembly, or a recreation
 use is not an amusement
 arcade.

- The existing definition may create confusion with the proposed max 25 % of entertainment uses within eating and drinking establishments.
- The existing definition classifies a premises as an amusement arcade if it has more than two amusement devices, which may not support emerging hybrid business models.



Zoning Amusement Arcade Conditions

Current

- Building must be at least 20,000 m² and have no residential uses
- Only permitted to be accessed from inside the building
- Maximum of 36 machines and minimum 6 m² space around them
- Minimum distance between other arcades or schools

Proposed

- Remove the minimum building size requirement and internal access requirement
- Keep max 36 devises and minimum space around them
- Remove the distance requirement between other arcades and from schools

- minimum 20,000 m² building and only interior access effectively prohibits arcades city-wide.
- Max 36 devices is appropriate scale and minimum space ensures adequate clearway
- Minimum separation is best suited to address specific land use impacts, such as industrial operations



Activity-based Licensing for Amusement Establishments

Category Requirements

Retain existing requirements:

- Good order to be maintained; sufficient staff
- Insurance requirements
- Regulations for trampoline and rebound tumbling centres

In addition:

- Cleanliness and litter control
- If preparing food or beverage, meet general category requirements for Eating or Drinking Establishment
- Provide technical certification for devices, if applicable
- Discretion for MLS to dispense of class-specific requirements if desired

Class-specific Requirements

Class	Indicators*	Additional Requirements
Ciass	If any indicator is	In addition to Category
	bolded, must be in Class	Requirements
Operating hours – never open past 11PM No liquor service Capacity less than 60		• N/A
2	 Operating hours - open past 11PM Liquor service Capacity 60+ 	 Level 1 noise control plan Provide list of persons of authority Provide liquor licence



Licensing Definition of Amusement Establishment

Current

Places of Amusement: Are not defined in the Licensing Bylaw

However, the Licensing Bylaw applies to "owners or keepers of exhibitions...places of amusement, roller-skating rinks, merry-go-rounds...etc."

Proposed

Premises that primarily produces, presents, or conducts any type of amusement activity, including establishments that require payment to access activities or any business that rents out space for use by other entities who provide amusement activities that are open to the public. Food or beverages may be offered.

Amusement activity includes but is not limited to any of the following – bowling alleys, video arcades, archery range, axe throwing range, carnivals, escape rooms, internet cafes, miniature golf and golf driving courses, gokart businesses, roller-skating rinks, billiards or pool halls, trampoline centres, rebound tumbling centres, and other like activities

Rationale

- Creating a clear definition and associated requirements for these types of activities
- Permitting food and drink to provide flexibility and regulatory clarity to owners/operators





Additional considerations



Licensing fees and plans

Licence application and renewal fees

 Licensing and administration fees will be reviewed as part of MLS' staff report and will be based on full cost recovery and activity-based licensing approach

Crowd control plans

 Currently only required for Nightclubs, this plan will be expanded to additional entertainment venues

Noise control plans

- Currently only required for Nightclubs, two categorizations are proposed – Level 1 (Basic) and Level 2 (Comprehensive)
- Level 1 will apply to venues depending on operating hours and business activities, and will focus on best practices to mitigate noise and mediate noise issues
- Level 2 will apply to nightclubs and venues with significant noise impacts and require identification of maximum volume levels, wattage of equipment, and sound insultation methods



Implementation

- If approved, businesses may have to secure a different licence and meet new or updated requirements (depending on the activities of the business) because of the proposed changes
 - Any changes would have an extended and appropriate timeline for implementation
 - By-law changes, particularly for licensing, would have 9+ months timeline for implementation
 - Changes to the Zoning By-law will match the effective date of changes to the Licensing By-law
- Changes would not be immediate and appropriate grace periods will be proposed for licensing compliance to permit the City to implement process changes and coordinate associated work





Next Steps



Staff reports

Separate but related zoning and licensing recommendations will be submitted for Committee and Council consideration in fall 2023

Licensing Bylaw

- MLS is tentatively proceeding to the Economic and Community Development Committee with recommendations October 24, 2023
- MLS' report will also speak to enforcement strategies for problematic establishments

Zoning Bylaw

CP is tentatively proceeding to the Planning and Housing Committee with recommendations
 October 26, 2023



Stay in the know

In addition to engaging with us at our session today, there are other ways to provide feedback and be informed of future work:

Email Feedback

 Please email any questions you may have to <u>nighteconomy@toronto.ca</u> and send any feedback by September 15

Subscribe to updates

• Sign up for our mailing list at the bottom of the City's Night Economy Review webpage to receive updates and information. Visit toronto.ca/nighteconomy

Reports to Committee

 You can submit written feedback or depute during Committee meetings, visit the City's webpage <u>here</u> to learn more



Questions

Please add in your questions to the "Q&A" section



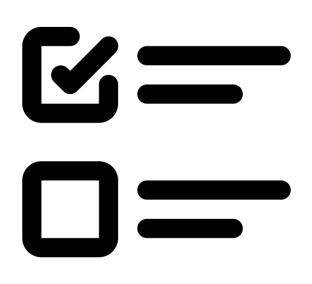


Appendix





Public Survey Results

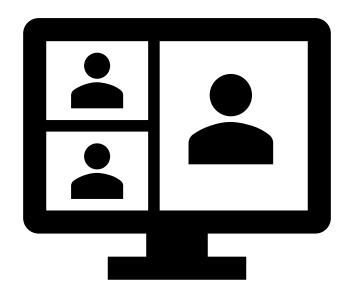


- Most people find cost, transportation, access to activities near them, and safe activities as barriers to participating in nightlife
- Business operators found an average of 34% of the interior floor area of eating establishments should be permitted for Entertainment uses
- Just over half (52%) of survey respondents reported never or rarely having a safety or nuisance concern while visiting a venue, while 48% reported frequent or occasional concerns
- Most survey respondents (80%) agreed that nightclubs should be permitted outside the downtown core



Consultation Meeting Feedback

- Operators stressed their top priorities for licensing, zoning, and other regulatory reforms: preserving as much flexibility, hybridity, adaptability and autonomy as possible
- Eating establishment operators would like the ability to use their space for entertainment, as it allows them flexibility in the face of change
- Managing conflict related to sound and noise was one of the topics most frequently discussed in consultations
 - Some residents believed that venues could violate noise bylaws without regard for the surrounding neighbourhood, while many participating operators described proactive efforts to be good neighbours





Current State – Licence Categories

Categories	Defined in Bylaw?	Definition
Billiard Hall/Pool Hall	×	Licence is required for premises with a billiard, pool or bagatelle table
Eating and Drinking Establishments		Every place for lodging, reception, refreshment or entertainment/place where foodstuffs are sold/victualling house/any other place where food is served
Nightclub		Place used to provide dance facilities for patrons, where seating is not provided for the majority of the patrons; food or beverage an ancillary use.
Place of Amusement	×	Licence is required for theatres, moving picture shows, etc.
Public Halls	×	Licence is required for public halls
Retail Food Stores	×	Licensed due to "foodstuffs" in the definition of Eating and Drinking Establishment

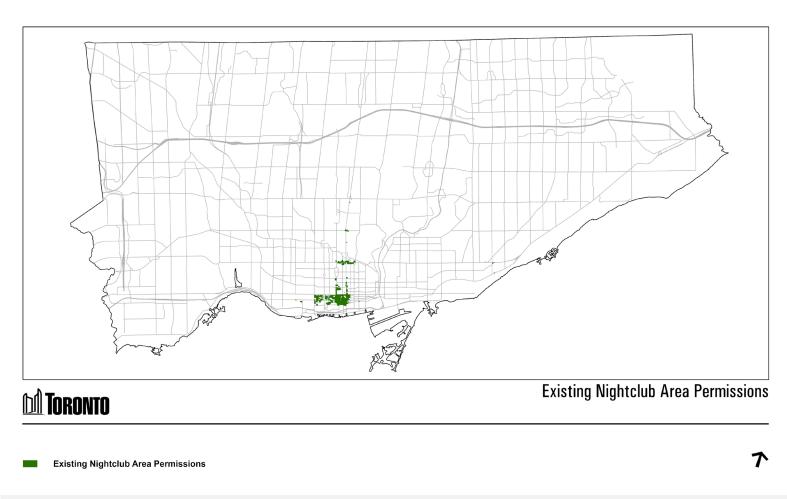


Current State – Licence Requirements

Categories	Requirements
Billiard Hall/Pool Hall	N/A
Eating & Drinking Establishment	1. Food safety reports available for review 2. Notify of change in management
Nightclub	1. Provision of security guards 2. Metal detectors 3. List of 'persons of authority' 4. Noise control plan 5. Crowd control plan 6. Litter controlled 7. Insurance policy submitted (2M minimum)
Place of Amusement	 Good order and sufficient staff 2. Roller-skating-rinks hours 3. Security to be provided for theatre queues 4. Theatres hours 5. Order to cease advertising 6. Proof of insurance for travelling shows 7. Mini-golf hours 8. Insurance policy submitted (1M) 9. Regulations for trampoline and tumbling centres
Public Hall	Same as Place of Amusement + 1. Hours 2. Public halls with liquor licence exempt from municipal business licence
Retail Food Store	Same as Eating & Drinking Establishment



Zoning- Existing Permitted Nightclub Areas





Zoning-Proposed Nightclub Permitted Areas

NOTE – Draft Proposal – For Discussion Purposes Only

