



**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Parking and By-law Services Division**

<b>TO:</b> Chair and Members Planning Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> April 17, 2012	
<b>SUBJECT/REPORT NO:</b> Liquor License Application Review Update (PED09127(f)) (City Wide)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Marty Hazell 905-546-2424 Ext. 4588
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- a) That Council ask the Alcohol and Gaming Commission of Ontario to not issue liquor licences in the City of Hamilton without first allowing the City an opportunity to undertake a formal review process to determine what conditions, if any, are required to protect the public interest;
- b) That a copy of Report PED09127(f), respecting Liquor Licence Application Review Update, be forwarded to the Alcohol and Gaming Commission of Ontario, with the request set out in recommendation a);
- c) That a comprehensive Liquor Licence Application Review Process be approved subject to the approval of items (i), (ii), (iii), and (iv) below:
  - i) That the Liquor Licence Application Review Assessment Tool, contained in Report PED09127(e), attached as Appendix "A" to Report PED09127(f), be approved for use in assessing the City's position with respect to all new liquor licence applications and extensions;

- ii) That, notwithstanding the findings of the Liquor Licence Application Review Assessment Tool, if, in the opinion of the affected Ward Councillor, an application or extension is not in the public interest, the Councillor may seek City Council direction before providing municipal consent to the Alcohol and Gaming Commission of Ontario;
- iii) That the current Manager, Strategic Projects be used temporarily to administer the recommended Liquor Licence Application Review Process, and that required resources be reviewed in approximately two years; and,
- iv) That a \$160.16 fee be approved for persons seeking municipal consent for new liquor licence applications and extensions, and added to the City's User Fee and Charges By-Law;
- d) That Council again request that the Alcohol and Gaming Commission of Ontario, notify the City of Hamilton of potential licence transfers and be afforded an opportunity to comment on such transfers similar to the existing process for new liquor licence applications.
- e) That the item respecting Liquor Licence Application Review Update be identified as complete and be removed from the Planning Committee's Outstanding Business List.

#### **EXECUTIVE SUMMARY**

At the November 22, 2011 meeting of the Planning Committee, staff recommended, through Report PED09127(e), a copy of which is attached as Appendix "A" to this Report, the establishment of a comprehensive and coordinated Liquor Licence Review Process. The item was referred back to staff *"for a report on the discussed concerns and report back to the Planning Committee in the first quarter of 2012."* This Report recommends a low-cost option for a comprehensive and coordinated Liquor Licence commenting process.

***Alternatives for Consideration – See Page 6***

#### **FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)**

**Financial:** As it is now recommended that current staff resources be used, full cost recovery for new additional staff is no longer an issue, at least for approximately the first two years until resource requirements can be assessed. Therefore, it is recommended that a \$160.16 fee be established (in addition to any inspection fees already charged by Fire Prevention, Public Health, Building Services and Clerks), for new liquor licence applications and extensions which is the same fee as charged for any licence

application under the Food Services Category of the Licensing By-Law (Bars and Nightclubs, Food Premises and Restaurants with Liquor Service).

**Staffing/Legal: N/A**

#### **HISTORICAL BACKGROUND** (Chronology of events)

On February 11, 2009, City Council directed that a comprehensive review of Hess Village be undertaken. The resulting comprehensive staff Report PED09127, presented to the former Committee of the Whole on May 21, 2009, included over 30 recommendations to address issues associated with the operation of Hess Village. Three of the recommendations, approved by Committee and City Council, were:

- to investigate the creation of a “Bar and Nightclub” licence category;
- to investigate the liquor licence application review processes of other municipalities and to develop a process suitable for Hamilton; and,
- to request that the City be notified by the Alcohol and Gaming Commission of Ontario (AGCO) of liquor licence transfers.

On December 22, 2010, City Council approved the Planning Committee recommendation to create a “Bar and Nightclub” licence category.

On November 22, 2011, the Planning Committee, referred the recommended comprehensive and coordinated Liquor License Review Process back to staff “*for a report on the discussed concerns and report back to the Planning Committee in the first quarter of 2012.*” Also, staff was directed “*to review the impact/effect that liquor license fee increases would have on not-for-profit organizations and agricultural societies in the City of Hamilton.*”

#### **POLICY IMPLICATIONS**

N/A

#### **RELEVANT CONSULTATION**

City Clerks, Fire Prevention, Building Services, Public Health, Community Services, the Hamilton Police Service and the AGCO were consulted in the preparation of this Report.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

**Liquor Licence Application Review Process:** The comprehensive and coordinated Liquor Licence Review Process recommended through Report PED09127(e), a copy of which is attached as Appendix “A” to this Report, included:

- having Council adopt the principle that any new liquor licence application in the City of Hamilton be considered to “*not be in the public’s interest*” such that the AGCO could not proceed to issue a licence until the City gives it’s consent;
- using a recommended Liquor License Application Review Assessment Tool, to assess the City’s position with respect to all new liquor license applications and liquor license extensions;
- the requirement for one new FTE (Liquor Licence Review Coordinator) to be the municipal contact for all applications seeking municipal consent for liquor license applications to the AGC Ontario, based on 100% cost-recovery through the following new application fees:
  - \$1,200.00 for new liquor licences and \$500.00 for extensions to existing liquor licences; and,
  - \$150.00 for special occasion permits for events with less than 500 attendees and \$250.00 for events with more than 500 attendees.

Concerns expressed by the Planning Committee included; the need to create an additional FTE and the ability to fully recover costs; the amount of the proposed fees given “*current economic challenges*”, and that the City Clerk’s Office currently fulfils the duties of this proposed FTE.

Staff have reviewed the matter in detail, and continue to conclude that, while interim improvements have been made to the liquor licence commenting process since the 2009 Report, the City’s position is still not assessed comprehensively. While the City Clerk’s Division does circulate liquor license applications for comment to affected departments and agencies, no coordinated City position is taken. Therefore, the opportunity for the City to have the AGCO impose conditions on liquor licences is missed because the City review process is inadequate.

This Report continues to recommend a comprehensive and coordinated Liquor Licence Application Review Process as previously recommended in Report PED09127(e), a copy of which is attached as Appendix “A” to this Report. However, after further review, it has been concluded that the function could be carried out using existing staff

resources, at least on a temporary basis, because of recent organizational changes within the Planning and Economic Development Department as follows:

- work on the Comprehensive Zoning By-law Program is now dependent on the appeals of the new Urban Official Plan being resolved at the Ontario Municipal Board, which could be approximately two years. Therefore, work on the Comprehensive Zoning By-law has been scaled back. As a result, the Manager, Strategic Projects and Project Manager, Special Projects is being temporarily assigned to manage the Business Facilitators, Licence Facilitators and Licensing Clerks within the Business One-Stop on the ground floor of City Hall, for approximately the next two years starting April 2, 2012.
- through this temporary staffing change, opportunities exist to take on specific projects and issues to further improve the processes for new businesses and to ensure that the right contacts are made within the City, including the recommended Liquor Licence Application Review Process.

Therefore, it is recommended that the Manager, Strategic Projects be responsible for administering the recommended Liquor Licence Application Review Process, and that the required resources be re-assessed when they return to their regular work on the Comprehensive Zoning By-law Program in approximately two years.

One final concern acknowledged by the “*Open for Business*” Subcommittee on March 28, 2012, was the negative messaging to the business Community by having Council adopt the principle that any new liquor licence application in Hamilton be considered to “*not be in the public’s interest*”. A formal Council resolution stating this, in accordance with Section 7.1(1) of O.Reg. 719 under the Liquor Licence Act, gives the AGCO the opportunity to refuse a liquor licence in accordance with ss. 6, 7 and 8 of that Act. However, staff’s understanding, which includes an assessment of the recent experience of other municipalities, is that the AGCO, without a formal Council resolution, will cooperate: in allowing the City an opportunity to undertake a review process for liquor licence applications; and, in requiring that conditions recommended by the City which are in the public interest be added to a liquor licence before it is issued.

**Special Occasion Permits:** A Special Occasion Permit (SOP) is required any time liquor is sold or served anywhere other than in a licensed establishment, a private place or a residence. SOPs are issued for occasional special events only, and not to operate an on-going business.

The Liquor Control Board of Ontario (LCBO) administers the SOP application process on behalf of the AGCO. The current practice is similar to the Liquor Licence Process except that an applicant must apply at a local LCBO retail outlet and send notification letters to the Police, Fire, Public Health, Building Services (if applicable) and Clerks. However, in many cases proper notification is not confirmed by staff and information is

not given (i.e. Police are notified but not the City) and when the City is notified again there is no co-ordinated response/comments to the AGCO.

Due to changes to Ontario's liquor legislation enacted on June 1, 2011, staff had recommended a coordinated review process, similar to the Liquor Licence Application Review Process. Concerns were expressed about the fees being recommended, and staff was directed to "*review the impact /affect that liquor license fee increases would have on not-for-profit organizations and agricultural societies in the City of Hamilton.*"

Staff met with the various commenting Departments, the Hamilton Police and the AGCO concerning the number of SOPs received and processed over the course of the last year. Fire Prevention, Building Services, Municipal Law Enforcement, Public Health and the Hamilton Police Service are all concerned about the workload associated with liquor licence applications, extensions and SOPs and, in fact, the Police have already allocated additional staff resources to this function.

After further review, staff recommends monitoring the effects of the recent changes to Ontario's Liquor Laws further before deciding if conditions warrant a comprehensive approach to approving SOPs.

**Provincial Legislation:** Finally, at the November 22, 2011 Planning Committee meeting, staff was also asked to "*forward the legislation from the province that came into place in June 2011 respecting liquor licences as an appendix to the next report in the first quarter of 2012.*" That legislation is attached hereto as Appendix "B" to this Report.

#### **ALTERNATIVES FOR CONSIDERATION**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Approval could be given to the comprehensive and coordinated Liquor Licence Review Process recommended through Report PED09127(e), a copy of which is appended hereto as Appendix "A" to this Report.

The current process (via the City Clerk's Division) could be maintained with process improvements such as retrieving and consolidating all City comments before forwarding them to the AGCO.

**CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability,  
3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development,  
6. Environmental Stewardship, 7. Healthy Community

***Healthy Community***

- ◆ A comprehensive and coordinated Liquor Licence Review Process supports the City's goals towards public health and safety and community quality of life.

**APPENDICES / SCHEDULES**

Appendix "A" to Report PED09127(f) - Report PED09127(e)

Appendix "B" to Report PED09127(f) - Information Bulletin – No. 20 – Highlights of Amendments to Regulation 389/91 of the Liquor Licence Act (Special Occasions Permits).

MH/dt



Hamilton

**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Parking and By-law Services Division**

<b>TO:</b> Chair and Members Planning Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> November 22, 2011	
<b>SUBJECT/REPORT NO:</b> Liquor Licence Application Review Update (PED09127(e)) (City Wide)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Joe Xamin 905-546-2424 Ext. 6656 Vince Ormond 905-546-2424 Ext. 1358 Marty Hazell 905-546-2424 Ext. 4558
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- a) That the recommended Liquor Licence Application Review Process for comprehensive municipal comments on liquor licence applications and special occasion permits be approved subject to the approval of items (i), (ii), (iii), (iv), (v) and (vi) below:
  - i) That Council adopt the principle that any new liquor licence application in the City of Hamilton be considered to "*not be in the public's interest*" such that the Alcohol and Gaming Commission of Ontario cannot proceed to issue a license until the City gives it's consent,
  - ii) That the Liquor Licence Application Review Assessment Tool, attached as Appendix "A" to Report PED09127(e) be approved for use in assessing the City's position with respect to all new liquor licence applications and liquor licence extensions,
  - iii) That, notwithstanding the findings of the Liquor Licence Application Review Assessment Tool result, if, in the opinion of the affected Ward



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Councillor, an application is not in the public interest, the Councillor may seek City Council direction before providing municipal consent to the Alcohol and Gaming Commission of Ontario,

- iv) That 1.0 FTE be approved for a Liquor Licence Review Coordinator to be the municipal contact for all applications seeking municipal consent for liquor license applications to the Alcohol and Gaming Commission of Ontario, based on 100% cost-recovery through the application fees recommended in vi,
- v) That the Liquor Licence Review Coordinator be responsible for:
  - 1. circulating and gathering comments from required City Departments and the affected Ward Councillor,
  - 2. collating and formulating responses on behalf of the City to the Alcohol and Gaming Commission of Ontario; and,
  - 3. reviewing extensions to hours and increasing capacity of existing liquor licences, as well as special occasion permits,
- vi) That the following fees for persons seeking municipal consent for liquor license applications to the Alcohol and Gaming Commission of Ontario be approved and added to the City's User Fee and Charges By-law:
  - 1. \$1,200.00 for new liquor licences,
  - 2. \$500.00 for extensions to existing liquor licences; and,
  - 3. \$150.00 for special occasion permit applications for events with less than 500 attendees and \$250.00 for events with more than 500 attendees.
- b) That Council be requested to write to the Alcohol and Gaming Commission of Ontario, requesting that the City of Hamilton be notified of potential licence transfers and be afforded the opportunity to comment on such transfers similar to the existing process for new liquor licence applications.

### **EXECUTIVE SUMMARY**

As a result of a comprehensive review of Hess Village in 2009, staff reported, through Report PED09127, with over 30 recommendations to address various issues associated with the operation of Hess Village. Three recommendations approved by Council were:

- to investigate the creation of a "Bar and Nightclub" licence category to provide for better controls of establishments with the primary purpose of serving alcohol and providing entertainment,

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- to investigate the liquor licence application review processes of other municipalities and to develop a process suitable for Hamilton; and,
- to request that the City of Hamilton be notified by the AGCO of liquor licence transfers.

With Council's approval of a "Bar and Nightclub" licence category in December 2010, staff was able to finalize the details of a new liquor licence application process as recommended in this Report. Also, staff reviewed the impact of recent changes to the Provincial liquor licence legislation enacted on June 1, 2011, to determine if the relaxed regulations with respect to alcohol consumption and service at special events would require more municipal oversight and attention.

***Alternatives for Consideration – See Page 8.***

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)**

**Financial/Staffing:** An additional 1.0 FTE is required to coordinate the recommended comprehensive commenting process for liquor license applications, extensions and Special Occasion Permits (SOP). The associated salary and benefit costs for this position (estimated at \$81,000.00 annually) can be full cost recovery based on the new fees recommended in this Report.

Staff estimate, based on numbers over the last few years, that the City receives, on average, 60 to 70 new liquor licence applications per year; on average a dozen requests for extensions; and, predicts that 180 to 200 SOPs will be received. This equates to approximately \$112,125.00 in application fees (65 new liquor licence applications at \$74,000.00; 12 liquor licence extension applications at \$6,000.00; and, 135 SOPs at \$16,875.00 (\$125.00/application) and 45 SOPs at \$11,250.00 (\$250.00/application). Subtract approximately \$24,000.00 (fees disbursed to the other commenting divisions) from \$112,125.00 equates to \$86,125.00 for the required position.

**Legal: N/A**

**HISTORICAL BACKGROUND (Chronology of events)**

On February 11, 2009, City Council directed that a comprehensive review of Hess Village be undertaken. The resulting comprehensive staff Report PED09127, presented to the former Committee of the Whole on May 21, 2009, included over 30 recommendations to address various issues associated with the operation of Hess Village.

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Three of the recommendations, approved by City Council, were:

- to investigate the creation of a "Bar and Nightclub" licence category to provide for better controls of establishments with the primary purpose of serving alcohol and providing entertainment,
- to investigate the liquor licence application review processes of other municipalities and to develop a process suitable for Hamilton; and,
- to request that the City of Hamilton be notified by the AGCO of liquor licence transfers.

The Planning Committee considered a "Bar and Nightclub" licence category on February 2, 2010, but directed staff to undertake further consultation with stakeholders. Additional consultation was conducted and on December 22, 2010, City Council approved Committee's recommendation to create a "Bar and Nightclub" licence category within the Licensing By-Law.

Staff was prepared to report back to the Planning Committee with a recommended liquor licence application review process in the Spring of 2011. However, it was deferred until the Fall in order to properly assess the potential impact of the Provincial legislative changes to the Liquor Laws.

#### **POLICY IMPLICATIONS**

N/A

#### **RELEVANT CONSULTATION**

City Clerks, Fire Prevention, Building Services, Public Health, Community Services, the Hamilton Police Service and the Alcohol and Gaming Commission of Ontario were consulted in the preparation of this Report.

#### **ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

#### **Liquor Licence Application Review Process**

Since the 2009 report, interim improvements were made to the liquor license commenting process. However, the City's position is still not assessed comprehensively. Liquor licence applicants are required to notify the municipality of their liquor licence application by contacting the City Clerk, Fire, Health, Licensing and the Police. The City Clerk then informs the Ward Councillor and Building Services. The City has 30 days from the time it receives notice to communicate any concerns with the

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liquor licence application to the AGCO. If there is no response from the City within 30 days, the AGCO assumes the municipality has no objections.

The concern with the current process is that there is no co-ordinated City response, monitored through a central point of contact, to communicate concerns with a liquor licence application within the available 30 day period after the City is notified of an application. The opportunity for the City to have the AGCO impose conditions on liquor licences is missed because the City review process is inadequate.

Staff have surveyed several other Ontario municipalities and determined that most have a coordinated commenting process. The City of Kitchener is noteworthy in that it has a comprehensive review program and meetings with applicants to establish conditions as necessary for any liquor licence application.

Staff is recommending the establishment of a comprehensive and coordinated Liquor Licence Review process as follows:

- the City's position with regards to the issuance of liquor licences be that it is in the public's interest to oppose all liquor licence applications and extensions as permitted under the Liquor Licence Act s.6.(2)(h) unless the City advises otherwise,
- a newly created Liquor Licence Review Coordinator position be the central point of contact for all applicants seeking municipal consent forms for the AGCO with respect to new liquor licence applications or extensions to liquor licence applications for existing establishments (e.g. patio extensions, capacity increases and extending hours of service), by,
  - circulating and gathering comments from all affected Departments and the Ward Councillor (Hamilton Police Services will respond directly to the AGCO and provide a copy of their feedback to the Liquor Licence Review Coordinator),
  - meeting with the applicant to review their application and to evaluate the proposed operation based upon the recommended Liquor Licence Review Assessment Tool attached as Appendix "A"; and,
  - collating and formulating a formal response on behalf of the City, and notifying the AGCO of the City's position on the liquor licence application (i.e. - confirming the City's opposition or advising that the City supports, or supports with conditions).

In order to provide objective comments on whether or not a liquor licence application or extension be supported or denied, staff is recommending the Liquor Licence Application

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Review Assessment Tool attached as Appendix "A" to this Report be used to assist in determining if an operation is in the public interest based on:

- type of establishment
- owner/operator experience
- history of location (last five years)
- proximity of the premises to other licenced establishments
- proximity of the premises to residential dwellings/uses
- estimated ratio of liquor sales to gross sales
- type of entertainment available
- type of ancillary entertainment
- hours of operation
- other relevant considerations

The criterion of each factor is based upon specific issues pertaining to that factor, (e.g. number of metres from a residential neighbourhood). The criteria were developed in the consultation with the various departments as identified under "Relevant Consultation" section of this Report. For example, one concern raised by Public Health was the proliferation of alcoholic establishments in close proximity to residential neighbourhoods. This factor is included as an assessment point in the assessment tool.

A score will be assigned to each criterion which will be tallied and assessed against one of the four categories listed on the assessment tool. The first three categories (A, B, or C) have recommended conditions for the liquor licence application. The fourth category confirms to the AGCO that the City is opposed to the application.

If, however, in the opinion of the Ward Councillor, any application is not in the public interest, the Councillor may seek City Council direction before providing municipal consent to the AGCO despite the findings of the Liquor Licence Application Review Assessment Tool.

If approved, the recommended Liquor Licence Application Review Process will result in:

- co-ordinated investigations and comments for all liquor licence applications and extensions,
- improved public safety, consumer protection and community quality of life,
- control over potential proliferation of alcohol establishments,
- due diligence in reviewing and consenting to Liquor Licence Applications and extensions; and,
- proactive efforts at establishing conditions before problems occur rather than after.

### **Special Occasion Permits**

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On July 18, 2011, staff submitted an Information Update to Council titled "Status of the Comprehensive Liquor Licence Application Review Process". Due to the changes to Ontario's liquor legislation which were to be enacted on June 1, 2011, staff was concerned that the new legislative changes would impact the City and wanted an opportunity to review the changes and to assess the potential impact on the municipality and are covered in this Report.

A Special Occasion Permit (SOP) is required any time liquor is offered for sale or served anywhere other than in a licensed establishment (e.g. special events or a private place such as a corporate boardroom or a residence). SOPs are issued for occasional special events only and not for an ongoing business operation.

The current application practice for SOPs is similar to the Liquor Licence process except that an applicant must apply at a local Liquor Control Board of Ontario (LCBO) retail outlet. The LCBO administers the SOP application process on behalf of the AGCO. The LCBO is required to send SOP notification letters to the Police, Fire, Public Health, Building Services (if applicable) and Clerks. However, in many cases proper notification is not confirmed by staff and information is not given (i.e. Police are notified but not the City) and when the City is notified again there is no co-ordinated response/comments to the AGCO.

Staff met with the various commenting City departments, the Hamilton Police and the AGCO concerning the number of SOPs received and processed over the course of the last year. Fire Prevention, Building Services, Municipal Law Enforcement, Public Health and the Hamilton Police Service are all concerned about the workload associated with liquor license applications, extensions and SOPs and, in fact, the Police have already allocated additional staff resources to this function.

Overall, a coordinated process for Special Occasion Permits is required, similar to the Liquor Licence Application Review Process. Staff is recommending that the Liquor Licence Review Coordinator be responsible for overseeing and managing the SOP application process to ensure a uniform and consistent response back to the AGCO, and that fees be established to assist in cost recovery.

### **Application Fees**

To ensure that the recommended Liquor Licence Review Coordinator position is fully cost recovery, staff is recommending new fees for processing comments on liquor licence applications, extensions and special occasion permits.

Currently, a total fee of \$426.69 (for establishments with a patio) and \$357.18 (for establishments without a patio) is required for new liquor licence application; collected by Fire Prevention (\$150.62 for indoor area and \$69.51 for patios), Public Health

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(\$28.00), Building Services (\$156.00 for a Zoning Compliance Letter), and Clerks (\$22.56 for a Municipal Information Form).

The new recommended fees are \$1,200.00 for new liquor licence applications and \$500.00 for extensions to existing liquor licenses, and these fees include the existing processing fees already charged by Fire Prevention, Public Health, Building Services and Clerks. For Special Occasion Permit applications, staff recommends new fees of \$150.00 for events with less than 500 attendees and \$250.00 for events with more than 500 attendees.

Once a complete transition has occurred and this new process is fully implemented with staffing in place, a recommendation will be made to the Planning Committee to delete the separate Department fees from Fire Prevention, Public Health, Building Services and Clerk's so there is no duplication and the User Fees By-law updated accordingly.

### **Liquor Licence Transfer Process**

In Report PED09127 "Hess Village Review", Council approved staff's recommendation that the AGCO "be requested to notify the City of Hamilton of liquor licence transfers in order for the municipality to confirm zoning conformity prior to liquor licence transfers being approved by the Alcohol and Gaming Commission of Ontario." In 2009, the Clerk's Office sent a letter to the AGCO and the Ministry of Community Safety and Correction Services. To date neither has responded to the City's request.

Transfers of existing liquor licences from one owner to another continue to be a concern as they are not subject to any municipal review/comment. The only opportunity for the City to become involved in a transfer is during public notification as required by the AGCO. The City does not have the ability to provide comment nor an objection to the transfer unless the City responds to the public notification.

At every opportunity it would be beneficial for the municipality to review and comment upon a transfer to ensure that it is an open and transparent process in order to minimize future problems, and to ensure that a licensed establishment is in the public interest. Staff is, therefore, recommending that Council write to the AGCO and the Ministry of Community Safety and Correction Services requesting that Hamilton be notified of the potential transfer of liquor licences between owners in order to be able to comment and/or object.

### **ALTERNATIVES FOR CONSIDERATION**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each)

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alternative)

The recommended application fees could be reduced which would result in the program not being full cost recovery.

**CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability,  
3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development,  
6. Environmental Stewardship, 7. Healthy Community

***Healthy Community***

- ◆ A comprehensive and coordinated Liquor Licence Review process supports the City's goals towards public health and safety and community quality of life.

**APPENDICES / SCHEDULES**

Appendix "A" to Report PED09127(e) - Liquor Licence Application Review Assessment  
Tool



**Liquor Licence Application Review Matrix**

Factors	Criteria	Score
<b>Type of Establishment</b>	<input type="checkbox"/> Bar/Nightclub (10) <input type="checkbox"/> Restaurant (5) <input type="checkbox"/> Other food premises (1)	
<b>Owner/Operator Experience</b>	<input type="checkbox"/> New Owner/Operator (10) <input type="checkbox"/> Experienced Owner/Operator (5) (greater than 5 years experience) <input type="checkbox"/> Experienced Owner/Operator (less than 5 years experience) (1)	
<b>History of Location (within last 5 years)</b>	<b>History of incidents at the location:</b> <input type="checkbox"/> Major Incident (10) Describe: _____ <input type="checkbox"/> Minor Incident (5) Describe: _____ <input type="checkbox"/> None (1) <input type="checkbox"/> High density (10) <input type="checkbox"/> Medium density (5) <input type="checkbox"/> Low density (1)	
<b>Proximity of the premises to other licensed establishments</b>	<input type="checkbox"/> High density (10) <input type="checkbox"/> Medium density (5) <input type="checkbox"/> Low density (1)	

Factors	Criteria	Score
<b>Proximity of the premises to residential dwellings/uses</b>	<input type="checkbox"/> Less than 50m (10) <input type="checkbox"/> 50m – 99m (5) <input type="checkbox"/> 100m and more (1)	
<b>Estimated Ratio of Liquor Sales to Gross Sales</b>  <i>For ratios not matching criteria provided, number will be assigned to the closest higher liquor sales ratio value.</i>	<b>Liquor: Food Ratios</b> <input type="checkbox"/> 60:40 (10) <input type="checkbox"/> 40:60 (5) <input type="checkbox"/> 20:80 (1)	
<b>Type of Entertainment Available</b>	<input type="checkbox"/> DJ Music /Live Entertainment (10) <input type="checkbox"/> Karaoke (5) <input type="checkbox"/> Recorded Music/ Television/Sports (1)	
<b>Type of Ancillary Entertainment</b>	<input type="checkbox"/> Billiard / Pool table (10) <input type="checkbox"/> Places of Amusement (5) <input type="checkbox"/> Other Activities/None (1)	
<b>Hours of Operation</b>  <i>Closest match or predominant hours/days of operation.</i>	<input type="checkbox"/> Monday – Sunday 8 p.m. – 3 a.m. (10) <input type="checkbox"/> Monday – Sunday 11 a.m. – 3 a.m. (5) <input type="checkbox"/> Monday – Sunday 9 a.m. – 9 p.m. (1)	

Factors	Criteria	Score
Other Relevant Considerations	<input type="checkbox"/> History of Location/Applicant (e.g. Police, Fire, Multi Agency Task Force) (10) <input type="checkbox"/> Special Promotion Nights (e.g. liquor advertising, raves, all ages nights) (10) <input type="checkbox"/> Tribunal / AGCO history of location (5) <input type="checkbox"/> Charity Benefits (1)	
<b>TOTAL SCORE:</b>		

**Score Criteria**

Category	Score	Conditions Imposed on Liquor Licence Applicant agrees to the following:
A	31 – 50 points	<ul style="list-style-type: none"> <li>➤ To attend one licence review within 8 months of the first year.</li> </ul>
B	51 – 65 points	<ul style="list-style-type: none"> <li>➤ To attend two licence reviews in the 4<sup>th</sup> and 8<sup>th</sup> month of the first year.</li> <li>➤ To limit entertainment and not organize all age events.</li> </ul>
C	65 – 79 points	<p><i>One or more conditions may apply.</i></p> <ul style="list-style-type: none"> <li>➤ To provide greeters/security at entrance points after 8:00 p.m. each day business is open.</li> <li>➤ To provide notice to the Issuer of Licences prior to any special events or planned activities.</li> <li>➤ To limit patio hours to 12:00 a.m.</li> <li>➤ To serve beverages in plastic cups on patios after 9 p.m.</li> <li>➤ To not have all ages/all night events.</li> <li>➤ To submit an operational plan for the establishment satisfactory to the Issuer of Licences.</li> <li>➤ To separate entrance and exit ways. Provide a traffic flow plan.</li> <li>➤ To impose a dress code at the establishment.</li> <li>➤ To not have any violent images/signage in the establishment.</li> </ul>
D	80 – 100 points	<ul style="list-style-type: none"> <li>➤ Maintain opposition. If appealed, oppose, or if Licensing Appeal Tribunal (LAT) reviewed and granted, recommend conditions under <b>Category C</b> of the Liquor Licence Score Criteria..</li> </ul>

**Policy:**

- Applicant/Licensee is required to provide immediate notice to the Issuer of Licences at any time conditions on the Liquor Licence are added and/or removed.
- Applicant/Licensee is required to provide immediate notice to the Issuer of Licences of changes to the business operation or operational plan for the establishment.
- After the first year, on-going review of the establishment be through the Licensing By-law program.
- Notwithstanding the Liquor Licence Application Review Assessment Tool result, opposition to municipal consent can be maintained when it is not in the public interest having regards to the needs and wishes of the residents of the municipality.
- Notwithstanding the policy the Director of Parking and By-Law Services may oppose an application for a liquor licence due to concerns of public safety being at risk.

## INFORMATION BULLETIN – No.20

### *Highlights of Amendments to Regulation 389/91 of the Liquor Licence Act (Special Occasion Permits) Effective June 1, 2011 and August 2, 2011*

The Government of Ontario has made several amendments to Regulation 389/91 (Special Occasion Permits) under the *Liquor Licence Act*. These changes are being introduced following extensive consultation with a wide range of liquor industry stakeholders, law enforcement agencies, public health organizations and other interested parties and are intended to:

- Remove some previous barriers and restrictions for special events and festivals
- Provide flexibility to businesses
- Improve tourism and local economies
- Strengthen Ontario's economy and create new opportunities for jobs
- Expand enforcement options where violations of Ontario's liquor laws occur.

The changes will be complemented by compliance provisions that ensure that alcohol continues to be sold and served responsibly at these events. These include the ability of the Registrar of Alcohol and Gaming (Registrar) to add conditions to a Special Occasion Permit (SOP) to mitigate identified risks to public safety, and to issue Orders of Monetary Penalty to SOP holders.

The regulatory changes affecting the Special Occasion Permit (SOP) program will be introduced in three phases. The changes coming into effect in the near term on June 1, 2011 and August 2, 2011 are outlined below. The government is also reviewing many other options to further streamline and simplify the SOP program, and these changes will be introduced in July 2012.

For more information on regulatory amendments affecting the Special Occasion Permit program, please visit the AGCO website at [www.agco.on.ca](http://www.agco.on.ca), or contact the AGCO Customer Service Department at 1-800-522-2876 (toll free in Ontario) or 416-326-8700 (in the Greater Toronto Area).

## HIGHLIGHTS

### Changes to Regulation 389/91 effective June 1, 2011

#### **"Public Event" Special Occasion Permit**

A new type of special occasion – "Public Event" – replaces three types of special occasions (Fundraisers, Significant Event, Community Event) for which a Special Occasion Permit may be issued. A Public Event is one which is conducted by a registered charity or not for profit entity or an event of municipal, provincial, national or international significance. In order to be eligible for an SOP, Public Events which are not conducted by a registered charity or not for profit entity must be designated as an event of municipal significance by the municipality in which the event is to take place.

#### **Notification to municipalities for outdoor events**

For outdoor events, the applicant must provide written notice at least 30 days before the event to the clerk, police, fire and health departments of the municipality in which the event is to take place. The previous notification period was 21 days before the event.

#### **Tiered Seating**

Applicants can now apply for a Special Occasion Permit for a premises with fixed tiered seating or temporary tiered seating (i.e. bleachers).

#### **Primary Use**

To qualify for a Special Occasion Permit, the primary business of a premises no longer has to be the sale and service of liquor and food. However, an adequate supply of food must be available for those attending the event.

#### **Hours of Sales and Service**

Except for New Year's Eve (December 31), the hours for the sale and service of liquor under an SOP may be between 11 a.m. to 2 a.m. the following day. On New Year's Eve (December 31), the hours for the sale and service of liquor under an SOP are 11 a.m. to 3 a.m. on the next day (January 1).

#### **Designate on a permit**

A permit holder has always been able to designate someone to attend the SOP event in his/her place, however a letter is no longer required to advise of the designation. The permit holder and designate simply both must sign the permit.

#### **Posting the permit and levy receipt**

The permit and levy receipts no longer have to be posted at the event, but must be available for AGCO Inspectors and police.

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### **Conditions on an SOP**

Depending on the nature of the event and/or the compliance history of the permit holder, the Registrar of Alcohol and Gaming may impose conditions on a Special Occasion Permit.

### **Types and quantities of liquor**

A permit holder is no longer restricted to selling or serving certain amounts or types of liquor.

### **Record of food purchased**

Permit holders no longer have to keep a record of food purchased for an SOP event.

### **Monetary Penalties for SOPs**

Special Occasion Permit holders may be assessed monetary penalties for breaches of the *Liquor Licence Act* and regulations.

## **Change to Regulation 719 (Licences to Sell Liquor) effective June 1, 2011**

### **Outdoor SOP Holders May Now Enter Into Agreement With Liquor Sales Licensees**

If a Special Occasion Permit has been issued for an outdoor event that has both licensed areas (bars, restaurants, etc.) and areas to which the SOP applies (i.e. the street on which the event is taking place), patrons can move freely between these areas with a single serving of alcohol, under certain conditions and where permission has been granted by the Registrar of Alcohol and Gaming.

## **Changes to Regulation 389/91 effective August 2, 2011**

### **Notification to municipalities for outdoor events**

An applicant for a Public Event SOP must provide **30 days notice** to the AGCO and local municipality (including clerk, police, fire and health departments) for events where fewer than 5,000 people are expected to attend, and **60 days notice** to the AGCO and local municipality (including clerk, police, fire and health departments) for events where 5,000 or more people are expected to attend.