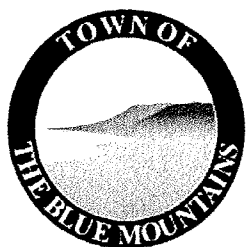


STAFF REPORT: RECREATION DEPARTMENT

REPORT TO: Council
MEETING DATE: June 27, 2011
REPORT NO.: DOR 11 48
SUBJECT: Liquor Licence Act update
PREPARED BY: Shawn Everitt
Director of Recreation

A. Recommendations

That Council receive Staff Report DOR.11.48 "Liquor Licence Act update" for information purposes.

B. Background

Recreation Staff was directed by Council at the June 13, 2011 meeting of Council to prepare a report to provide information that highlights the Amendments to the Liquor Licence Act. As detailed in Attachment 1 of this report a Special Occasion Permit is required any time liquor is offered for sale or served anywhere other than in a licensed establishment, a private place (for example, a corporate boardroom) or a residence. Special Occasion Permits are issued for occasional special events only, and not to operate an ongoing business.

As detailed in correspondence provided by the Alcohol and Gaming Commission of Ontario, several changes have been made to Regulation 7389/91 (Special Occasion Permits) under the Liquor Licence Act for the following reasons.

- Remove some previous barriers and restrictions for liquor sales licensees
- 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.

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

These changes will be made in two phases – June 1, 2011 and August 2, 2011. The government is also reviewing many other options to further streamline and simplify the Special Occasion Permit program, and these changes will be introduced in July 2012.

Changes 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.

► **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.

It is suggested by Staff that these applications be directed to the Events Coordinator as well, and that the Event Coordinator manage this process to ensure that written notices and letters of approval are completed in a timely manner.

► **Tiered Seating**

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

This request will require additional approval from the Municipal Building Department upon satisfaction of tiered seating being adequate for Public use and capacities determined.

► **Primary Use**

To qualify for a Special Occasion Permit, the primary business of a premise 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 a Special Occasion Permit are 11a.m. to 2a.m. the following day. On New Year's Eve (December 31), the hours for the sale and service of liquor under a Special Occasion Permit are 11a.m. to 3a.m. on the next day being (January 1).

Staff suggests that a Policy be developed that limits the time of rental for Town Facilities that are reflective of the former regulations. That sales and service be limited to sale of Liquor from 11a.m. to 12:30a.m. and serving of alcohol to 1a.m. on the next day. The exception of New Year's Eve (December 31), being 11a.m. to 2a.m. on the next day (January 1) remains in effect, this time was in place in the previous regulations.

► **Designate on a permit**

A permit holder has always been able to designate someone to attend the Special Occasion Permit 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.

Staff suggest as the owner of Town Facilities that the Permit and Levy be posted as previously required. This will allow Town Staff to identify the responsible contact person.

▶ **Conditions on an Special Occasion Permit**

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. Attachment 2 identifies conditions that maybe imposed for Risk Based events

▶ **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 record of food purchased for a Special Occasion Permit event.

▶ **Monetary Penalties for Special Occasion Permits**

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

Changes to Regulation 389/91 effective August 2, 2011

▶ **Notification to municipalities for outdoor events**

An event organizer must apply for a Special Occasion Permit at least 30 days in advance of the event if fewer than 5,000 people are expected to attend.

An event organizer must apply for a Special Occasion Permit at least 60 days in advance of the event if 5,000 or more people are expected to attend.

Change to Regulation 719 (Licence to sell Liquor) effective June 1, 2011

This change could directly affect events that take place along a street for example Old Fashion Christmas. If a Special Occasion Permit has been issued for an outdoor event that has both licensed area (bars, restaurants, etc.) and areas to which the Special Occasion Permit 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.

Recreation Staff has reviewed these amendments with Local Police, Fire, and Building as well have corresponded with the Alcohol and Gaming Commission representatives and have received support with suggestions contained within this report.

This is an excellent opportunity to ensure consistency is in place throughout By laws and policies that organizers of events are required to abide by for approvals to be received as well as making initial application for their approvals.

C. The Blue Mountains' Strategic Plan

- ▶ Supporting the development of social and recreational programs to meet the broad range of needs in the community
- ▶ Providing a strong well managed municipal government

D. Environmental Impacts

Promoting the Events in a sustainable manner within the Region

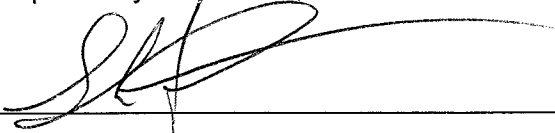
E. Budget Impact

None at this time

F. Attached

- 1) Special Occasion Permits – Public Events information sheet
- 2) Conditions “Risk Based Permitting Conditions

Respectfully submitted,



Shawn Everitt,
Director of Recreation

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Special Occasion Permits - Public Events

Licensee information sheets from the Alcohol and Gaming Commission of Ontario

What is a Special Occasion Permit?

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

While there are different types of occasions for which a special occasion permit may be issued, this tip sheet provides information specific to special occasion permits for Public Events.

Special Occasion Permits for a Public Event

Public Event SOPs are issued for events that are open to the general public, such as charity fundraisers, outdoor street festivals and community festivals, etc.

An SOP for a Public Event can be issued to:

- a charity registered under the *Income Tax Act* (Canada); or
- a non-profit organization or association, constituted with its own constitution and by-laws, and organized to promote charitable, educational, religious or community objects.

An individual or business may also apply for a Public Event SOP if it is organizing or conducting an event of:

- “provincial, national or international significance” as agreed to by the Registrar of Alcohol and Gaming (Registrar) and the municipality, or
- “municipal significance” for which a resolution is required from the municipal council.

A Public Event permit holder may advertise the event and can profit from the sale of alcohol. See the Registrar’s Advertising Guidelines for more information.

Public Event SOPs Are “Sale Events”

All events for which Public Event SOPs are issued are “sale” events. At these events, liquor must be sold either directly through the sale of drinks or drink tickets, or indirectly by including drinks in the ticket price.

When the permit holder purchases liquor at authorized retail stores (LCBO, The Beer Store, manufacturers’ retail stores) for a Public Event, a levy

fee is collected for all liquor purchased so that the permit holder does not have to charge or remit sales tax when the liquor is sold.

Outdoor Public Events – Notification to Municipal Authorities

Until August 2, 2011, for all outdoor public events, the applicant must give written notification **30 days** before the event is to take place to the clerk, police, fire and health departments of the municipality where the event is taking place. If a tent or marquee is used, the local building department must also be notified in writing. As of August 2, 2011, notification periods to the local municipality, police, fire and health departments (and building department where applicable) will be increased for Public Events to:

- 30 days before the event is to take place, if it is expected that fewer than 5,000 people will attend the event; or
- 60 days before the event is to take place, if it is expected that 5,000 people or more will attend the event.

Outdoor Public Events Involving Liquor Sales Licensed Establishments

A Public Event SOP holder and a liquor sales licensee may jointly participate in an outdoor Public Event that allows patrons to carry a single serving of liquor between the licensed area and the area covered by the SOP if the event meets the following criteria:

- It is an outdoor event (i.e. street festival) where the boundaries of the permitted area include one or more liquor sales licensed establishments;
- The event has been designated “municipally significant” by a resolution of the municipal council; and
- The liquor sales licence holder(s) and the Public Event SOP holder have entered into an agreement to ensure there is no unreasonable risk to public safety or the public interest and no unreasonable risk of non-compliance with the Liquor Licence Act (LLA) and its regulations. **This agreement must be filed with the Alcohol and Gaming Commission of Ontario (AGCO) at least 30 days prior to the event.**

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Contact number for AGCO Customer Service & General Enquiries: 416.326.8700 or 1.800.522.2876 or visit us at www.agco.on.ca

Public Event SOP Compliance

The AGCO employs a risk-based approach to the issuance of SOPs designed to assess risks to public safety and the public interest. Based on a risk analysis of the event and the applicant, conditions may be attached to a Public Event SOP.

A range of compliance tools, including the imposition of monetary penalties, are available to the AGCO for Public Event permit holders where there has been a breach of the LLA or regulations.

Tiered Seating

The sale, service or consumption of liquor is permitted in tiered seating at events with a Public Event SOP. The area containing the tiered seating must be disclosed on the application. Should a permit holder wish to add tiered seating after a permit has been issued, the AGCO must be notified immediately in writing.

Donated Liquor

Only registered charities and non-profit organizations/associations holding a Public Event SOP may sell or serve liquor donated by liquor manufacturers. These donations must be processed by a LCBO/government retail store under the permit at full retail price, including all applicable taxes and levies.

Records for all donated products must be obtained by the SOP holder and must be made available for inspection.

Registered charities and non-profit organizations/associations holding a Public Event SOP may offer liquor donated by a manufacturer as a prize if a lottery licence has been issued for the event. Liquor awarded as a prize must not be consumed at the event.

Responsibilities of a Public Event SOP Holder

The following are some of the key responsibilities of the Public Event SOP holder.

- The regular hours for the sale and service of liquor under an SOP are 11 a.m. to 2 a.m. the following day, except for New Year's Eve (December 31) when sale and service of liquor under an SOP must cease at 3 a.m. the next day (January 1). However, the Registrar may restrict the hours of sale and service as a condition of the permit.
- All signs of sale and service must be cleared from the premises within 45 minutes of the end time stated on the permit. This includes the removal of all partially consumed and empty bottles, and glasses that contained liquor.
- Police officers and AGCO Inspectors must be given unobstructed access to the event at all times in order to conduct inspections or investigations and may cancel an SOP while the event is underway if they reasonably believe that the LLA or regulations are being contravened in connection with the event, or if there is a serious public safety risk.
- Only liquor purchased on the permit from a government store (LCBO, The Beer Store or authorized manufacturer's retail store) is allowed to be sold or served at the event.
- Unless under the authority of an agreement entered into by the permit holder and a liquor sales licensee at an outdoor public event designated as "municipally significant", liquor sold or served at the event may not be removed from the premises by any person attending the event. Only the host may remove unused liquor at the conclusion of the event.
- Liquor cannot be sold, served or provided to any person who appears to be under 19 years of age, and proper identification must be checked for any person who appears to be under 19 years of age.
- Intoxication, disorderly conduct and unlawful gambling are not permitted.
- Encouraging the immoderate consumption of alcohol is not permitted, as are contests or games involving the consumption of liquor. Non-alcoholic beverages must be available.
- Guests cannot be required to purchase a minimum number of drinks (or drink tickets) to enter or remain at the event, and no drink containing more than 85ml of spirits can be sold or served.
- There must be sufficient food available to serve the people in attendance.
- The SOP and levy, as verified on alcohol purchase receipts, must be available for inspection.
- The permit holder or his/her designate (the person indicated on the reverse side of the permit) must be present at the event at all times.
- Games of chance or mixed chance and skill (i.e. raffles, 50/50 draws etc.) are not permitted unless the proper licence has been obtained from the province or municipality. Licences are only issued to eligible organizations with charitable or religious purposes. Under such a licence, liquor may be awarded as a prize.
- For outdoor events, the area to which the permit applies must be separated from other areas by a minimum 36 inch (0.9 metres) high separation.
- Leftover liquor must be removed from the premises at the end of the event. When returning unopened alcohol to the government store, you must produce the SOP and a copy of the sales receipt.
- SOP holders can learn to lower their liability risks by taking the Smart Serve program and hiring servers who have taken the course (or a licensed caterer). For more information on Smart Serve, call 416-695-8737 or toll free at 1-877-620-6082 or visit their website at www.smartserve.ca.

Conditions

Risk-Based Permitting Conditions (Special Occasion Permits)

Under risk-based permitting, one or more conditions may be attached to a special occasion permit by the Registrar of Alcohol and Gaming to help the permit holder minimize risks identified during the assessment process. Below is a complete list of these conditions, as approved by the AGCO Board specifically for this purpose:

- The permit holder shall not employ any person in the position of licensed security, personnel, service staff, or other function without the prior approval of the Registrar of Alcohol and Gaming.
- The permit holder shall comply with any terms, conditions or other requirements of any business or similar licence, permit or authorization issued by any governmental authority, including a municipal or regional government.
- The permit holder shall ensure sufficient lighting at entrance and exit gates, ticket sales and bar service areas to facilitate ID checking.
- The permit holder shall ensure liquor ticket refunds are available.
- The permit holder must meet with AGCO staff prior to permit issuance.
- The permit holder shall offer food and non-alcoholic drinks to patrons at all times that liquor is for sale or served.
- The permit holder shall file a price list for the sale of liquor with the Registrar of Alcohol and Gaming and shall not alter the price of liquor without the approval of the Registrar of Alcohol and Gaming.
- The permit holder shall ensure that all beverage alcohol is served only in containers approved by the Registrar.
- The permit holder shall sell and serve liquor only during hours specified by Registrar.
- The permit holder shall not sell or serve and shall not permit consumption of liquor after XY o'clock on a patio or other outdoor areas.
- The permit holder shall ensure liquor ticket sales are limited to XY (TIME, DATE).
- The permit holder shall not provide or permit amplified music or other forms of entertainment in outdoor areas.
- The permit holder shall not permit sounds in excess of XY db to be emitted from the premises.

- The permit holder shall ensure that no live or amplified music is played in the licensed outdoor area(s) past the time designated by the Registrar of Alcohol and Gaming.
- The permit holder shall not provide or permit music or other forms of entertainment in outdoor areas.
- The permit holder shall ensure that the identification of every patron who appears to be under the age of 25 years is checked and verified.
- The permit holder shall ensure that no person under the age of 19 years enters the premises/licensed area.
- The permit holder shall ensure that a wristband is placed on all patrons 19 and over and shall not allow service of liquor to any patron that is not wearing a wristband.
- The permit holder shall inform the Registrar of Alcohol and Gaming in writing no later than 10 business days prior to any event or activities that will or may include persons under the age of 19 years in attendance at the premises.
- The permit holder shall sell and serve liquor only in single serving containers.
- The permit holder shall not sell or serve spirits by the bottle.
- The permit holder shall sell or serve liquor only in serving sizes approved by the Registrar of Alcohol and Gaming.
- The permit holder shall submit by DATE a proposed TYPE OF PLAN to the Registrar of Alcohol and Gaming for review and filing that addresses the objectives for TYPE OF PLAN identified by the Registrar of Alcohol and Gaming.
- The permit holder shall consult with such governmental or other authorities as the Registrar of Alcohol and Gaming may specify prior to submitting TYPE OF PLAN to the Registrar of Alcohol and Gaming for review and filing.
- The permit holder shall comply with the TYPE OF PLAN filed with the Registrar of Alcohol and Gaming.
- The permit holder shall submit by DATE a proposed TYPE OF PLAN to the Registrar of Alcohol and Gaming for review and approval that addresses the objectives for TYPE OF PLAN identified by the Registrar of Alcohol and Gaming.
- The permit holder shall consult with such governmental or other authorities as the Registrar of Alcohol and Gaming may specify prior to submitting TYPE OF PLAN to the Registrar for review and approval.
- The permit holder shall comply with the TYPE OF PLAN approved by the Registrar of Alcohol and Gaming.
- The permit holder shall not apply for an increase in capacity.

- The permit holder shall not apply for an extension of hours.
- The permit holder shall maintain an accurate count of the number of patrons at the event at all times in compliance with capacity restrictions.
- The permit holder shall ensure no more than XY liquor tickets sold to one person at one time.
- The permit holder shall ensure no more than XY drinks containing liquor are served to one person at one time.
- The permit holder shall ensure entrances and exits are monitored during all hours of the permit.
- The permit holder shall ensure a minimum of XY licensed security staff to be on duty from open to close each day, having XY per entrance/exit and XY roaming staff.
- The permit holder shall ensure XY licensed security personnel for XY (Time/Date).
- The permit holder shall ensure organizers, volunteers, staff and licensed security are easily and consistently identifiable.
- The permit holder shall ensure no bottles or cans to be served to patrons.
- The permit holder shall ensure that all beverage alcohol is served only in plastic containers.
- The permit holder shall ensure a minimum XY foot fence will be used to form a perimeter to separate the licensed area from the unlicensed areas.
- The permit holder shall ensure controlled lines will be used at line ups at the entrances and exits to licensed areas.
- The permit holder shall file a plan with the Registrar and comply with measures to ensure there is no violence or disorderly conduct in or adjacent to the premises caused by employees or patrons.
- The permit holder shall file with the Registrar of Alcohol and Gaming and comply with measures to ensure that there is no illegal gambling in the premises.
- The permit holder shall file with the Registrar of Alcohol and Gaming and comply with measures to ensure that there is no illegal drug use or sale in or adjacent to the premises.
- The permit holder shall file with the Registrar of Alcohol and Gaming and comply with measures to ensure that there is no solicitation for purposes of prostitution in or adjacent to the premises.
- The permit holder shall notify the Registrar of Alcohol and Gaming within 5 business days of any charges, convictions or findings of guilt under any legislation with

respect to (i) the premises, (ii) the holder of the licence (iii) a manager, (iv) a person interested in the permit holder.

- The permit holder shall ensure that there is a designated and supervised area for smokers that does not adversely affect property adjacent to the premises.
- The permit holder shall ensure that all volunteers, employees, and other staff involved in the sale and service of liquor hold a certificate of a server training course and/or other program approved by the Board of the Alcohol and Gaming Commission of Ontario on or before the commencement of the event.
- The permit holder shall ensure lighting for the tiered seating of the event is sufficient to conduct inspections under the Act and Regulations.
- The permit holder shall not sell, serve nor allow consumption of alcohol in the tiered seating for events at which the majority of the patrons are under 19 years of age.
- The permit holder shall serve liquor to patrons for consumption in the tiered seats only in containers that are distinct in appearance from the containers in which non-alcoholic beverages are served.
- The permit holder shall not sell, serve nor allow consumption of alcohol in the tiered seating more than 90 minutes prior to event.
- The permit holder shall ensure that licensed security staff is stationed throughout the tiered seating area in sufficient numbers to maintain order.
- The permit holder shall provide notice to the Registrar of Alcohol and Gaming at least XY days prior to an event for which there will be a temporary tiered seating area.
- The permit holder shall ensure that licensed security staff, persons who serve liquor at the event or who are responsible for managing the sale and service of liquor at the tiered seating event are certified in alcohol server training.
- The permit holder shall notify the Registrar of all events during which liquor will be sold, served or consumed in the tiered seating at least XY days prior to the event.
- The permit holder shall not sell, serve or permit liquor to be in the possession of any patron in the tiered seating unless the licensee has received prior approval in writing from the Registrar.