

## Managing Alcohol Risk within Municipalities June 2013

This document was adapted with permission from work done by the Ontario Safer Bars Network; Liquor Licence Changes and Municipal Alcohol Policy Ad Hoc Work Group and with consultation from legal services secured through the Simcoe Muskoka District Health Unit. Specifically, the document has been reviewed from a legal perspective in relation to the Ontario Liquor Licence Act (LLA) and the Ontario Municipal Act including land use and zoning bylaws. The purpose of the document is to provide guidance to municipalities reviewing and updating their current Municipal Alcohol Policy (MAP) in light of recent LLA changes. More importantly, the recommendations encourage municipalities to consider policies/interventions that will have a positive impact on reducing alcohol related harm throughout their municipality and potentially impact provincial alcohol legislation. For further information or assistance please contact Janice Greco at (705)721-7520 or 1-877-721-7520 ext. 7288.

### Part A

#### ***Best Practices to Reduce Risk:***

The three key policies which would have the greatest impact on reducing alcohol related harms include:

1. Regulating Physical Availability of Alcohol
  - Limit alcohol density.
  - Confine hours of service.
  - Retain provincial ownership and regulation of alcohol distribution system through the Liquor Control Board of Ontario (LCBO).
  - Limit alcohol permitted at public events.
2. Controlling Affordability (research has shown this to increase government revenues while decreasing alcohol related harms)
  - Volumetric pricing – pricing related to alcohol content of beverage.
  - Minimum pricing.
  - Indexation of pricing.
3. Restrictions on Marketing (Appeal for healthier alcohol advertising policies and practices)
  - Strengthen local restrictions on alcohol advertising such as imposing constraints on number, location, size and content of ads.
  - Restrictions on alcohol sponsorship at civic events involving youth.
  - Clear criteria for appropriate marketing practices that also have clear enforcement practices for non-compliance.

## **Municipalities need to consider the following actions:**

### **1. Create or update and adopt a Municipal Alcohol Control/Risk Management Policy**

These policies would only apply to municipally owned properties. They may be more restrictive than the Liquor Licence Act (LLA), but compliance with them should not result in a direct contravention of the LLA (see Part B).

### **2. Limit Alcohol Advertising**

Recommended Policy Statement:

- No reference shall be made to alcohol in any advertisement or promotional material, signs, posters, merchandise sold and/or equipment used at any municipal facility or space where children and youth are allowed entry (in keeping with section 87 of Regulation 719 of the LLA states that (2) the holder of a licence to sell liquor may advertise only if (d) it does not appeal, either directly or indirectly, to persons under the legal drinking age or “is not placed in media that are targeted specifically at people under that age;”).

Rationale:

- Alcohol advertising is designed to encourage and promote the use of alcohol; it is illegal for those under the age of 19 to consume alcohol therefore it is better that advertising not promote its use in areas where young people frequent.
- Increased exposure to alcohol and drinking behaviour, through advertisements, can affect perceived social norms, and has been linked to earlier uptake of drinking behaviour and an increased likelihood of related problems later in life.

### **3. Limit Accessibility and Availability of Alcohol**

Recommended Policy Statements to be included within Official Plans:

- The municipality shall develop minimum distance requirements between all new locations that sell or serve alcohol to support a variety of commercial, retail, and entertainment venues within an area. For example:
  - Some Alberta communities have land use bylaws that stipulate no alcohol establishment shall be located closer than 500 metres from any major or minor alcohol sales use premise.
  - Barrie, Ontario has enacted zoning bylaw amendments requiring nightclubs be a minimum setback from any residential zone of 200 metres and a minimum distance of 200 metres from any other nightclub.
- Ensure that new alcohol outlet applications/reapplications are not in proximity to incompatible other land uses, such as areas where children and underage youth frequent including parks, schools, movie theatres, recreation centres, religious institutions, housing developments, etc. For example:
  - The City of Spruce Grove, Alberta has a land use bylaw requiring a separation of 100 metres between a proposed major alcohol establishment and community or recreation activities including public parks and public or private education facilities.
  - In the Township of Glanbrook, Alberta no outdoor patio restaurant shall be located in any yard abutting a street if a residential zone is located on the opposite side of the street unless the patio restaurant is setback a minimum distance of 30 metres from the residential property line.
  - Hamilton, Ontario has enacted zoning bylaws stipulating no outdoor commercial patios which serve alcohol shall be permitted on a lot where any lot line abuts a residential zone or where the lot and a residential zone are separated by a laneway.

Rationale:

- Increased alcohol availability has been shown to increase alcohol consumption and alcohol related harms directly within the community in which it occurs.

**4. *Develop a Special Occasions Permit (SOP) and Licensing Application Review Process***

Rationale:

- Municipalities can be proactive about controlling the harms associated with alcohol in their communities. A local review process allows municipal officials to filter applications based on pre-established criteria that reflect municipal priorities and values. For example:
  - The cities of Hamilton and Barrie both have instituted such processes in order to proactively influence issuance of a liquor licence under the AGCO.

**5. *Advocate for an Provincial Alcohol Policy for Ontario***

Best Practice speaks to the need for province-wide policies to address alcohol availability, pricing and advertising, along with targeted policies specific to high risk and vulnerable populations focused on prevention, treatment and enforcement. While Municipal Alcohol Policies play a significant role in mitigating alcohol related harms within our community, to truly realize a significant impact within our broader community, policies need to also be implemented at the provincial level.

**Part B**

**When creating/updating Municipal Alcohol Policies: A response to changes in the Ontario Liquor Licence Act (LLA)**

**LLA Changes**

In 2011, a number of changes were made to the province’s Liquor Licence Act. Many of these changes have a direct impact on the sale and service of alcohol in and on municipal properties. Policy statements to address some of these changes have been created and are provided here with supporting rationale. Some municipal alcohol control policies (MAPs, for example) may already reflect these changes; others may find the policy statements useful as these policies are updated.

<b>Changes to Regulation 389 and 719 of the Liquor Licence Act Effective June 1, 2011 and August 2, 2011</b>				
<b>Abbreviations: AGCO – Alcohol and Gaming Commission of Ontario, MAP – Municipal Alcohol Policy, SOP – Special Occasion Permit</b>				
<b>Regulation</b>	<b>Previous</b>	<b>Current</b>	<b>Areas for Review</b>	<b>SMDHU Recommended Policy Statements &amp; Rationale</b>
<b>“Public Event” SOP</b>	Special occasions used to be typed as fundraiser, significant event or community event.	<p>One type of special occasion – “Public Event”- replaces all three types.</p> <p>A Public Event category allows the permit holder to invite members of the public to an event where alcohol may be sold for profit.</p> <p>A registered charity, non-profit association or organization for the advancement of charitable, educational, religious or community organization may take out a Public Event SOP and no municipal designation is required.</p> <p>When any other person or group applies for a “Public Event” SOP to the AGCO, the event must first be designated by the municipality as one of municipal significance.</p>	<p><b>Municipalities should establish clear criteria for designating an event as municipally significant.</b></p> <p>Criteria could include, but is not limited to:</p> <ul style="list-style-type: none"> <li>• Number of attendees expected.</li> <li>• Type of activities planned.</li> <li>• Past history at similar events – harms incurred to person and property, need for emergency response, need for enforcement presence, etc.</li> <li>• Presence of children and families at event.</li> <li>• Sanitation requirements.</li> </ul> <p>Municipalities are under no obligation to provide a designation to an applicant for a Public Event SOP.</p>	
<b>Notice to Municipalities for Outdoor Public Events</b>	SOP holder provides notice to municipalities (including clerk, police, fire and health	<p><b>30 days</b> notice for events where less than 5,000 people expected to attend.</p> <p><b>60 days</b> notice for events where more than 5,000 people expected to attend.</p>	MAPs which currently stipulate 21 days need to be updated and municipalities may need to inform event organizers/ the community of the change in the notification period.	

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	department) <b>21 days</b> prior to event.			
<b>Agreement between Public Event SOP Holder and Liquor Sales Licensee</b>	For outdoor events, patrons were prohibited from bringing alcohol into licensed areas from unlicensed areas, and they were not allowed to remove alcohol from licensed areas.	<p>A Public Event SOP holder can enter into an agreement with the AGCO allowing patrons to carry a single serving of alcohol between the areas to which the Public Event SOP applies and the area within the licensed establishment. (e.g., bar, patio) with specified conditions.</p> <p>The AGCO Registrar will review the agreement to ensure the parties have reasonably addressed issues of public safety and public interest.</p>		<p><b>Municipalities will create/amend municipal bylaws to restrict alcohol use outside the licensed area on municipal property such as sidewalks.</b></p> <p><b>Rationale:</b></p> <ul style="list-style-type: none"> <li>• Movement of alcohol between a bar/restaurant and an SOP area makes monitoring alcohol consumption a challenge, alters experience of public space, and increases liability.</li> </ul>
<b>Areas to Which the SOP Applies</b>	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.	<p>Outdoor Public Events are not required to restrict alcohol sale, service and consumption to designated beer tents, and may be extended to include other areas that are part of the event.</p> <p>Regardless of the size of the proposed licensed area, a 0.9 meter partition must be in place in order to distinguish areas in which alcohol is allowed and not allowed. Sufficient security must be provided by the event organizer to ensure the alcohol is sold, served and consumed in compliance with the LLA.</p>	<p><b>Municipalities should set clear guidelines for their facilities about where alcohol is served (through a MAP or rental contracts).</b></p> <p>Municipalities can maintain their current practices of defined outdoor beverage area (beer tents) to reduce liability and protect public safety.</p> <p>Insurance premiums may be higher for events adopting the new LLA changes (e.g. eliminating beer tents). Organizers may choose defined licensed areas due to the cost of security, insurance premiums and set up.</p>	<p><b>Sale, service and consumption of beverage alcohol at Outdoor Public Events and at events held by Public Event SOP holders will be confined to clearly defined, licensed areas (e.g. a beer tent/garden for outdoor activities, a specific room or rooms for indoor activities). Access to the licensed area will be monitored and enforced; underage youth will not be permitted inside the licensed area.</b></p> <p><b>Rationale:</b></p> <ul style="list-style-type: none"> <li>• Broadening the area where alcohol can be carried and consumed makes it more difficult for servers and bar tenders to monitor individual consumption which in turn increases</li> </ul>

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				<p>the possibility of over-service and related harm.</p> <ul style="list-style-type: none"> <li>Research evidence shows that increased access to alcohol leads to increased consumption, underage drinking and related harms.</li> </ul>
<b>Hours of Sale and Service</b>	<p>11 a.m. to <b>1 a.m.</b> next day.</p> <p>New Year's Eve (Dec. 31): 11 a.m. to <b>2 a.m.</b> next day.</p>	<p>11 a.m. to <b>2 a.m.</b> next day.</p> <p>New Year's Eve (Dec. 31): 11 a.m. to <b>3 a.m.</b> next day.</p>	<p>Municipalities can choose to specify hours for alcohol use on municipal property.</p>	<p><b>Hours of Sale and Service of alcohol will be from 11am to 1am the next day with the exception of New Year's Eve (Dec.31) when hours will be extended from 11am to 2 am the next day. There will be no last call.</b></p> <p><b>Rationale:</b></p> <ul style="list-style-type: none"> <li>Research indicates that extending hours of sale increases overall alcohol consumption which leads to increased intoxication, leading to increased alcohol-related harms including injuries.</li> </ul>
<b>Types and Quantities of Liquor</b>	<p>Permit holder can serve/sell only the quantity and type of liquor authorized under the permit.</p>	<p>Permit holder is no longer restricted to selling or serving certain quantities or types of liquor.</p> <p>AGCO stipulations include:</p> <ul style="list-style-type: none"> <li>Encouraging the immoderate consumption of alcohol is not permitted, as are contests or games involving the consumption of liquor.</li> <li>Non-alcoholic beverages must be available.</li> <li>Guests cannot be required to purchase a minimum number of drinks (or drink</li> </ul>	<p><b><i>Low-Alcohol Content Drinks must be made available.</i></b></p> <p>It is strongly recommend that there be NO mixing of energy drinks and alcohol due to the countering effects of caffeine and alcohol which could lead to a false sense of alertness and risk of injury to self or others.</p> <p>The municipality will ensure that the quantity of alcohol and types of drinks being served promote compliance with the AGCO</p>	<p><b>To be eligible to rent a municipal facility, the sponsor must show to the satisfaction of the municipal representative that at least 35% of the available alcohol consists of low-alcohol beverages (e.g. 4% and 2.5% beer).The permit holder must also ensure that only standard drink sizes will be served. No double shots, pitchers or extra strength alcohol drinks will be provided.</b></p> <p><b>A standard drink is: 12 oz. 5% beer;</b></p>

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		<p>tickets) to enter or remain at the event and no drink containing more than 85ml of spirits can be sold or served.</p> <ul style="list-style-type: none"> <li>There must be sufficient food available to serve the people in attendance. Snacks such as chips, peanuts or popcorn are not an acceptable substitute for this requirement. (The AGCO no longer requires a record be kept of food purchased.)</li> </ul>	<p>stipulations. The permit holder shall not engage in or allow practices which may tend to encourage the immoderate consumption of liquor by a person attending the event.</p>	<p><b>5 oz. 12% wine, 1½ oz. 40% spirits.</b></p> <p><b>Rationale:</b></p> <ul style="list-style-type: none"> <li>Service of standard drinks supports the efforts of bar staff to monitor and control consumption by patrons.</li> <li>High alcohol drinks encourage over-consumption.</li> <li>Over-consumption leads to intoxication which in turn leads to an increase in the incidence of alcohol-related harms.</li> </ul>
<b>Tiered Seating</b>	Events with temporary or fixed tiered seating were not allowed to apply for an SOP.	Applicants can apply for an SOP for a premise with temporary or fixed tiered seating.	<p>Municipalities can choose to limit or prohibit alcohol in a municipal facility with tiered seating (through a MAP or rental contracts) without violating the LLA.</p> <p>Alcohol consumption affects a person's judgment, coordination and reflexes.</p>	<p><b>Prohibit the sale of alcohol on municipal facilities with temporary or fixed tiered seating.</b></p> <p><b>Rationale:</b></p> <ul style="list-style-type: none"> <li>Tiered seating such as bleachers and auditorium style seating increases the risk of injuries at events.</li> </ul>
<b>Bringing Liquor not purchased on permit into an SOP Event</b>	Liquor not purchased under a special occasion permit was not allowed to be brought into or taken out of the permit area.	<p>A person attending an SOP event may bring sealed, unopened liquor into the event, providing the liquor was purchased at a government authorized retail store with the intent the liquor will be consumed elsewhere than on or next to the SOP premises.</p> <p>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.</p>	<p>A municipality may require as part of its rental contract or agreement that liquor purchased elsewhere not be brought into the venue.</p> <p>If permitting alcohol into the venue, municipalities can request information from the permit holder about the plans in place to ensure no one is consuming alcohol in an unauthorized location or consuming alcohol not bought at the event. Some MAPs currently specify all alcohol to be retained within or behind a bar area.</p>	<p><b>Liquor not purchased under the permit is not permitted to be brought into or taken from the permit venue.</b></p> <p><b>Rationale:</b></p> <ul style="list-style-type: none"> <li>Alcohol being brought into an event can present challenges for organizers, servers and bar tenders to monitor that this alcohol remains sealed and is not being consumed by patrons.</li> </ul>

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<b>Conditions on an SOP</b>		Depending on the nature of the event and/or the compliance history of the permit holder, the Registrar at the AGCO may impose conditions on an SOP.	Conditions imposed by the AGCO for an SOP may guide municipalities in decisions regarding the level of security required for the event; involvement of fire, police and ambulance and the health departments in the review of security and operational plans; and/or final approval of the application.	
<b>Posting the Permit and Levy Receipts</b>	Permit holders were required to post the SOP and the levy receipt, if any, at the premises to which the SOP applied.	Permit and levy receipts no longer have to be posted at the event, but must be available for AGCO inspectors and the police.	<b>Municipalities can still require permits and levy receipts to be posted.</b>	<b>All permits and related documents will be posted at the venue in clear view.</b>  <b>Rationale:</b> <ul style="list-style-type: none"> <li>Posting of the permits promotes accountability, and enables municipal and enforcement staff to readily access contact information and promotes awareness of any conditions placed upon the event.</li> </ul>
<b>Designate on a Permit</b>	The person to whom the SOP has been issued could name another person to attend the event in his/her place. The regulation required the permit holder and the designate to complete a form provided by the Registrar, and post this document at the event along with the permit.	Permit holder can send a designate to an event but a letter is no longer required to advise of the designation.	The permit holder or designate, whichever is present at the event, is responsible as per the LLA requirements.  Ensuring the applicant is of age, responsible and in attendance also ensures that the applicant or their designate is aware of what is occurring at their event and is in fact taking responsibility for the SOP event.  Municipalities may want to delineate the role of the permit holder to include: Permit holder: Signs the alcohol permit, is the general manager of the event and assumes responsibility and liability for the	Municipality will ensure that the permit holder or designate is present and taking responsibility for the event and following the stipulations of the SOP.



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			<p>operation of the event. The backup designate must be noted on back side of the alcohol permit.</p> <p>Event Sponsor: She or he must attend the event, ensure that adequate server trained staff are available, co-ordinate the event and assist staff and volunteers in ensuring that the provisions required for the SOP are met.</p>	

**Sources:**

1. Alcohol and Gaming Commission of Ontario. [www.agco.ca](http://www.agco.ca)
2. AMCTO (The Association of Municipal Managers, Clerks and Treasurers of Ontario). *New Special Occasion Permit Rules Clarified* letter dated August 15, 2011.
3. Babor et al. (2010). *Alcohol, No Ordinary Commodity*. Oxford University Press.
4. Centre for Addiction and Mental Health. *Municipal Alcohol Policy Guide: A practical resource for successfully managing drinking in recreational settings*. Order from the Ontario Recreation Facilities Association Inc, [www.orfa.com](http://www.orfa.com)
5. Centre for Addictions Research of BC. <http://www.carbc.ca/HelpingCommunities/HelpingMunicipalGovernments.aspx>
6. Cost too High (CPHA, 2011)