

June 17, 2020

Mr. Chris Nepszy, CAO  
Town of Essex  
33 Talbot Street South  
Essex, ON N8M 1A8

Dear Chris:

**Re: Potential expansion of licensed patios on municipal or commercial property**

The Windsor-Essex County Health Unit (WECHU) is writing in response to the recent announcements from the [Alcohol and Gaming Commission of Ontario](#) regarding the allowance of licensed patio extensions for the duration of 2020, provided the municipality does not object to the extension, and that certain criteria are met. The expansion of licensed patios may facilitate the safe re-opening of establishments by allowing for physical distancing measures for patrons; however, municipalities can play a role in ensuring it is done in a manner that reduces the risk to public health and safety.

***Public health considerations for expanding spaces for alcohol sales, service and consumption***

Should Council support the expansion of licensed patios, special consideration should be given to the potential health, safety, and liability risks it may cause to patrons, event staff, and the public, including any inequitable harms to vulnerable populations (e.g., youth and those struggling with alcohol dependency). Alcohol use remains a leading, preventable cause of injury, chronic disease, and death in Ontario and consistently contributes to the highest number of substance-related emergency department visits in Windsor-Essex (WECHU, 2019).

Alcohol policy research has strongly identified that increasing access through alcohol outlets and on premise establishments increases use and associated harms, and normalizes drinking. Such harms include violence, injury (e.g. falls, motor vehicle collisions), alcohol poisoning, and public nuisance issues from noise and public intoxication. This causes not only increased poor health outcomes, but also increased use of municipal emergency medical services, police, and hospital services (Stockwell et al., 2019; OPHA, 2019; Liem, 2018). Establishing pro-active measures for potential licensed patio expansions is one way that municipalities can protect residents and reduce the burden on municipal services.

The impact of alcohol policy changes on the ability to comply with smoking and vaping legislation should also be assessed. The *Smoke-Free Ontario Act, 2017 (SFOA, 2017)* aims to reduce exposure to second-hand smoke, denormalize smoking behaviour, and create healthier environments for all. Under the *SFOA, 2017*, the smoking of tobacco or cannabis and vaping of any substance is prohibited on and within nine (9) metres of a patio where food and drink is served. This includes outdoor areas where seating tables are provided for patrons to consume their meal or beverage. It is also important to note that the *SFOA, 2017* prohibits the smoking of tobacco or cannabis and the vaping of any substance in playgrounds, recreation and sports centres, schools, and within 20 metres of those properties.

Under the *SFOA, 2017* patios are defined as an area where food and drink is served including outdoor areas where seating tables are provided for patrons to consume their meal or beverage. Bar and restaurant owners as well as event operators must:

- Give notice to staff and patrons that smoking or vaping is not allowed in the smoke-free and vape-free areas.
- Post “No Smoking” and “No Vaping” signs, or a dual “No Smoking and No Vaping” sign at entrances, exits and washrooms of the smoke-free and vape-free areas, in appropriate locations and in sufficient numbers, to ensure that staff and customers are aware that smoking and vaping is not allowed.
- Ensure that no ashtrays or similar items remain in the smoke-free and vape-free areas.
- Ensure that workers and customers do not smoke or vape in smoke-free and vape-free areas.
- Ensure that someone who refuses to comply with Ontario’s smoking and vaping laws does not remain in the smoke-free and vape-free area.

The health unit provides signs free.

***Public health recommendations for expanding licensed patios***

In order to minimize the above potential risks, the WECHU recommends the following:

- Require all licensed establishments to submit an application to municipal administration for any proposed patio expansions, to allow for pro-active inspections.
- Request consultation with public health inspectors and Tobacco and Vaping Enforcement Officers for all issued permits involving new or expanded areas where food and drink is served.
- Require that designated alcohol service and consumption areas be physically separated from non-designated areas, for example, with the use of temporary fencing.
  - Maintaining fenced areas reduces the risk of liability and helps ensure safety requirements are met, such as monitoring and controlling entries and exits, and enforcing sales regulations including prohibiting service to underage patrons. Proper barriers also help with ensuring no outside alcohol is brought into a space, supervising patrons for their safety while consuming alcohol, and ensuring that expelled patrons remain out (OPHA, 2019).
  - Barriers containing the event to one defined space also allow for enhanced security and improved enforcement and compliance with regulations such as those found within the *Smoke-free Ontario Act, 2017*.
- Require signage at designated exit points to ensure alcohol does not travel outside of designated spaces.
- Ensure that expansion areas for licensed patios are not adjacent to areas where youth or vulnerable populations frequent (e.g. youth-serving facility access, mental health or addiction facility access, a park or playground).
- Require physical distancing measures to be demonstrated in applications for licensed patio expansions where food and drink will be served on municipal property.
- Ensure that municipal staff are able to monitor and enforce relevant municipal bylaws at all times that alcohol service is authorized (OPHA, 2019).
- Install security cameras on municipal property where alcohol is being served, and encourage licensed establishments to do the same (Liem, 2018).
- Provide on-site education with signage for the responsible use of alcohol, in addition to the Sandy’s Law signage requirement.

The WECHU is available for further consultation on municipal alcohol policies, and the application and enforcement of the Smoke Free Ontario Act, 2017 in relation to the expansion of patios and outdoor dining areas.

Thank you,



**Theresa Marentette, RN, MSc, Chief Executive Officer, Chief Nursing Officer**

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## References

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