



# **Alcohol Policy Review: Opportunities for Ontario Municipalities**

Developed for the Wellington-Dufferin-Guelph Health Unit,  
Durham Region Health Department and  
Thunder Bay District Health Unit  
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## EXECUTIVE SUMMARY

Municipal governments, public health units and community stakeholders across Ontario are taking important steps to improve the health of their citizens through health policy development, recognizing that where we live, work and play influences our choices and chances for health. One such policy area that has important implications for community health and well-being is alcohol policy. Many municipalities already address alcohol-related risk and harm on municipally-owned property through Municipal Alcohol Policies (MAPs). This report takes the discussion a step further, assessing the feasibility of other policy levers such as zoning, by-laws and licensing to reduce risk and harm from alcohol. It is hoped that the findings and recommendations offered in this report will support municipal leaders, public health practitioners and other community stakeholders in their policy development efforts.

A locally driven collaborative project completed in 2015, *Addressing Alcohol Consumption and Alcohol-Related Harms at the Local Level*, identified the importance of collaboration among community stakeholders, law enforcement, and other community groups to modify the drinking environment. The report emphasized the importance of partnerships, particularly those involving municipal governments, as vital in achieving many of the public policy recommendations contained in the report. However, only 50% of surveyed public health unit respondents cited that municipal governments were actively involved in addressing alcohol-related harms. When asked to identify which community partners should be engaged in alcohol-related harm strategies, 75% of respondents cited non-health government bodies and local agencies.

In 2016, Liem Strategic Integration Inc. was retained by the Wellington-Dufferin-Guelph Public Health, Durham Region Health Department, and the Thunder Bay District Health Unit to conduct an alcohol policy feasibility review for municipalities and public health units.

The purpose of the report is to identify local policy options across Canada and/or internationally intended to reduce alcohol-related risk and harm at the community level, and to assess their feasibility for Ontario municipalities.

The report identifies the opportunities and limitations facing Ontario municipalities within the context of the Ontario Municipal Act and other provincial legislation to advance policies and actions that affect access to and availability of alcohol. Recommended interventions are identified for Ontario municipalities, health units, and other applicable community partners to consider in advancing the policy discussion.

A summary table is presented on the following page that summarizes alcohol policy options or interventions identified in the scan and their feasibility for Ontario municipalities.

*Interventions that are shaded green represent actions that are under the jurisdiction of an upper or lower tier municipality, and have established precedence among Ontario municipalities.*

*Interventions that are shaded orange are feasible, however limited in scope based on matters under the jurisdiction of an upper or lower tier municipality. A subset of feasible interventions (shaded orange) also reflect those that have been undertaken by municipalities in other Canadian provinces, but do not have precedence in Ontario.*

*Interventions shaded red exist outside of the municipality's authority and have no precedence in Ontario.*

<b>TOPIC AREA</b>	<b>INTERVENTION (POLICY OR ACTION)</b>	<b>IMPLEMENTATION FEASIBILITY</b>
<b>Licensing and Enforcement</b>	• Establish licensing by-laws that grant liquor licenses to businesses primarily serving food and beverages.	Green
	• Create a new business license category for supermarket retailers selling alcohol (may be feasible, but no precedence in Ontario).	Orange
	• Grant business licenses to businesses.	Green
	• Impose conditions for issuance of business licenses (only for matters under the municipality's jurisdictional authority).	Orange
	• Close a premise if there are activities that constitute a public nuisance (garbage, noise, traffic, or unusual traffic patterns).	Green
	• Establish requirements for applicants to enter into a site plan agreement.	Green
	• Enforce site plan agreement provisions.	Green
	• Provide compliance letters as per the Building Code Act, 1992, Fire Protection and Prevention Act, and Health Protection and Promotion Act.	Green
	• Conduct inspections (for matters to assess compliance with applicable municipal by-laws and building or property standards).	Orange
	• Establish a process for issuing clearance certificates and approvals (i.e., liquor license questionnaire, application circulation procedures).	Green
	• Request that the AGCO not issue liquor licenses without allowing the municipality an opportunity to undertake a formal review process.	Green
	• Participate in a task force to investigate establishments.	Green
	• Prohibit the sale of Vintners Quality Alliance (VQA) wine and/or fruit wine at any or all Farmers' Markets within their jurisdiction.	Green
	• Report infractions or violations to the AGCO or law enforcement authorities.	Green
• Suspend liquor licenses and close liquor licensed establishments (primary responsibility of the AGCO).	Red	
• Taking the appropriate corrective enforcement actions (responsibility of the AGCO which may include suspensions, business closures, and fines).	Red	

TOPIC AREA	INTERVENTION (POLICY OR ACTION)	IMPLEMENTATION FEASIBILITY
<b>Regulating Physical Access Through Density and Location Restrictions</b>	<ul style="list-style-type: none"> <li>Establish site-specific zoning to control the locations of on and off-premise establishments.</li> </ul>	High
	<ul style="list-style-type: none"> <li>Establish zoning that restricts where licensed outdoor patios can be located.</li> </ul>	
	<ul style="list-style-type: none"> <li>Zoning that regulates hours of operation of licensed establishments and the hours that alcohol can be served (limited to outdoor patio by-laws).</li> </ul>	Medium
	<ul style="list-style-type: none"> <li>Zoning regulating sale of alcohol in grocery stores (legally feasible, however no precedence yet established in Ontario).</li> </ul>	
	<ul style="list-style-type: none"> <li>Pass an interim control by-law limiting the development of entertainment facilities and patios to restrict the location and density of on and off-premise establishments.</li> </ul>	High
	<ul style="list-style-type: none"> <li>Pass a moratorium to limit the number of business licenses for late night entertainment and night club establishments.</li> </ul>	
	<ul style="list-style-type: none"> <li>Establish limits regarding the number of liquor licensed establishments by neighbourhood.</li> </ul>	High
	<ul style="list-style-type: none"> <li>Location restrictions to protect sensitive land uses, such as schools and parks, and to address clustering by establishing minimum distance requirements between alcohol outlets (may be feasible, but no precedence yet established by Ontario municipalities).</li> </ul>	
<b>Hours of Sale Limitations</b>	<ul style="list-style-type: none"> <li>Restrict hours of service on outdoor patios.</li> </ul>	Medium
	<ul style="list-style-type: none"> <li>Impose conditions that limit the hours of sale for Vintners Quality Alliance (VQA) wines and fruit wines at Farmers' Markets that are located on municipal lands.</li> </ul>	
	<ul style="list-style-type: none"> <li>Establish a probationary period for newly licensed establishments imposing earlier closing times (may be feasible, but no precedence yet established by Ontario municipalities).</li> </ul>	
	<ul style="list-style-type: none"> <li>Establish an hours of service policy as part of a condition for licensed establishments including lengthening the time between last call and closing hours and prohibiting new patrons within one hour of closing time (may be feasible, but no precedence yet established by Ontario municipalities).</li> </ul>	

TOPIC AREA	INTERVENTION (POLICY OR ACTION)	IMPLEMENTATION FEASIBILITY
<b>Pricing Strategies</b>	• Determine pricing policies.	Red
	• Impose alcohol taxes (only permissible for City of Toronto as per the Municipal Act).	
	• Establish minimum prices on alcoholic beverages served on municipal lands or at municipal facilities, established through a Municipal Alcohol Policy.	Green
	• Establish a minimum price for alcoholic beverages as a condition of granting a business license (may be feasible, but no precedence yet established by Ontario municipalities).	Orange
	• Participate in advocacy efforts to strengthen provincial regulations in controlling access and affordability to alcohol.	Green
<b>Marketing</b>	• Establish policies controlling the promotion of alcoholic beverages on municipally-owned lands or facilities.	Green
	• Limit alcohol marketing on private premises and/or public facilities and spaces owned by other levels of government.	Red

The report's findings highlight the importance of establishing a collaborative effort in advancing changes to the Ontario Municipal Act that would provide additional authority for municipalities to prevent alcohol-related harms. The following summarizes the report's recommendations for municipalities and the public health sector in their efforts to advance policies and actions.

Topic Area	Recommendation
<b>Licensing and Enforcement</b>	<b>Municipalities</b>
	<ul style="list-style-type: none"> <li>• Update and/or revise municipal by-laws that strengthen the protection of public safety and property standards. Consideration may be given to examine public concerns (nuisances, property standards violations) in geographic areas with a higher number of liquor licensed establishments and nuisances.</li> <li>• Continue to establish business license conditions through a municipal by-law on the basis of protecting public interests and minimizing nuisances, where warranted.</li> <li>• Create a new business license category that includes supermarket retailers licensed to sell alcohol. This establishes specific requirements for the application to go through a rezoning process, including a public hearing.</li> <li>• Continue to work with enforcement authorities (AGCO, police) during an application process on the basis of protecting public interest.</li> <li>• Where warranted, develop conditions for liquor license establishments addressing municipal jurisdictional matters (e.g., signage with contact information for public complaints, restricting patio hours of operation, restricting amplified music in outdoor spaces, installing security cameras, and ensuring the enclosure of garbage receptacles).</li> </ul>
	<b>Public Health Units</b>
	<ul style="list-style-type: none"> <li>• Report potential liquor license infractions to the AGCO and local law enforcement officials when observed/documented during routine inspections at licensed premises.</li> <li>• Where applicable, participate in a task force with the local municipality and local law enforcement officials.</li> </ul>

Topic Area	Recommendation
<b>Regulating Physical Access through Density and Location Restrictions</b>	<b>Municipalities</b>
	<ul style="list-style-type: none"> <li>• Update municipal zoning by-laws to establish a minimum floor area requirement that is at least greater than the provincial requirement for a grocery store to allow the sale of wine, beer, or cider.</li> <li>• Develop minimum separation distances between liquor license establishments. Undertake community engagement to identify whether separation distances are warranted in specific neighbourhoods to reduce public disturbances and to improve public safety and security.</li> <li>• Investigate the need for site specific zoning to limit the location of alcohol retailers and liquor licensed establishments.</li> </ul>
	<b>Public Health Units</b>
	<ul style="list-style-type: none"> <li>• Advocate for provincial policies that allow local jurisdictions the authority to block on premise and off-premise licenses and is exercised in areas where there is a higher degree of crime or higher socioeconomic disparity, similar to that established by the State of California.<sup>1</sup></li> <li>• Advocate for provincial policies to develop a separation distance between alcohol retailers, including grocery stores selling alcohol, similar to that established by the British Columbia government. The AGCO does not impose any location restrictions in regards to maintaining proximity from other licensed retailers, but only identifies that “authorizations are to be distributed fairly across geographic regions” to promote even competition.</li> <li>• Advocate for provincial policies that encourage municipalities to establish restrictions to control alcohol retail density during a statutory review of provincial land use planning policies.</li> <li>• Participate in municipal strategic plans such as Tourism Plans, Arts and Culture Plans, Economic Development Plans, and Municipal Retail Market studies to provide feedback on municipal actions that affect retail services, business development, tourism, and culture.</li> <li>• Work with municipalities to identify priority neighbourhoods to limit alcohol retailers and licensed establishments. These areas would then need to be cross-referenced with licensed establishments and a review of restaurant-nightclubs.</li> <li>• Develop mapping to monitor the location of alcohol retail outlets and licensed establishments. On-going updates will be needed to map closures and new licensees. Data can be obtained from the AGCO and LCBO.</li> </ul>
<b>Hours of Sale Limitations</b>	<b>Municipalities</b>
	<ul style="list-style-type: none"> <li>• Municipalities who are interested in restricting hours of sale/service should issue site specific conditions when warranted (i.e., to address issues of public concern and nuisances) and where applicable.</li> </ul>
	<b>Public Health</b>
<ul style="list-style-type: none"> <li>• Provide best practices research and supporting evidence to municipalities, where warranted, regarding risks and alcohol harms associated with hours of sale.</li> <li>• Participate in advocacy efforts to strengthen provincial regulations that provide municipalities with a greater authority to restrict hours of alcohol service.</li> </ul>	

Topic Area	Recommendation
<b>Pricing Strategies</b>	<b>Municipalities</b>
	<ul style="list-style-type: none"> <li>• Participate in advocacy efforts to strengthen provincial regulations in controlling access and affordability to alcohol.</li> <li>• Explore the development of minimum pricing standards for alcoholic beverages as a condition of a business license application.</li> </ul>
	<b>Public Health</b>
	<ul style="list-style-type: none"> <li>• Continue to advocate for stronger alcohol pricing interventions to reduce alcohol-related harms.</li> </ul>
<b>Marketing</b>	<b>Municipalities</b>
	<ul style="list-style-type: none"> <li>• Develop policies that prohibit the promotion and sale of alcoholic beverages on municipally-owned lands or facilities, including public transit and associated amenities.</li> </ul>
	<b>Public Health</b>
	<ul style="list-style-type: none"> <li>• Continue to advocate to the Province for stronger policies to restrict alcohol marketing and advertising.</li> </ul>
<b>Information Sharing</b>	<b>Municipalities</b>
	<ul style="list-style-type: none"> <li>• Municipalities should seek available local data. Municipalities interested in accessing data from local police departments would need to refer to municipality or public health unit's legal counsel when seeking authorization.</li> </ul>
	<b>Public Health</b>
	<ul style="list-style-type: none"> <li>• Share the findings of the policy review with municipalities and encourage them to adopt a policy approach to reducing alcohol risk and harm.</li> <li>• Advocate to the provincial government for changes to access alcohol sales data from licensed establishments to support policy development.</li> </ul>

## INTRODUCTION

Municipal governments, public health units and community stakeholders across Ontario are taking important steps to improve the health of their citizens through health policy development, recognizing that where we live, work and play influences our choices and chances for health. One such policy area that has important implications for community health and well-being is alcohol policy. Many municipalities already address alcohol-related risk and harm on municipally-owned property through Municipal Alcohol Policies (MAPs). This report takes the discussion a step further, assessing the feasibility of other policy levers such as zoning, by-laws and licensing to reduce risk and harm from alcohol. It is hoped that the findings and recommendations offered here will support municipal leaders, public health practitioners and other community stakeholders in their policy development efforts.

A locally driven collaborative project completed in 2015, *Addressing Alcohol Consumption and Alcohol-Related Harms at the Local Level*, identified the importance of collaboration among community stakeholders, law enforcement, and other community groups to modify the drinking environment. The report identified the importance of partnerships, particularly those involving municipal governments, as vital in achieving many of the public policy recommendations contained in the report. However, only 50% of surveyed public health unit respondents cited that municipal governments were actively involved in addressing alcohol-related harms. When asked to identify what community partners should be engaged in alcohol-related harm strategies, 75% of respondents cited non-health government bodies and local agencies.

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The report identifies the opportunities and limitations facing Ontario municipalities within the context of the Ontario Municipal Act and other provincial legislation to advance policies and actions that affect access to and availability of alcohol. Recommended interventions are identified for Ontario municipalities, health units, and other applicable community partners to consider in advancing the policy discussion.

The report's findings highlight the importance of establishing a collaborative effort in advancing changes to the Ontario Municipal Act that would provide additional authority for municipalities to prevent alcohol-related harms.

## METHODOLOGY

A review was undertaken of academic and grey literature to identify existing/promising municipal policies and practices to reduce alcohol-related harms. Various interviews were conducted with government officials to gather additional information and seek clarity regarding provincial and municipal policies, standards, guidelines and practices. A detailed methodology is presented in Appendix A of this report.

The assessment considers jurisdictional responsibilities of local governments in accordance with the Municipalities Act, the Planning Act, Liquor License Act, and other relevant legislation. The report identifies actions that can be taken by municipalities and public health units to advance policies and interventions in accordance with their respective roles in influencing the access and availability of alcohol retailers and licensed premises.

Within each section, questions are presented for public health departments to ask their respective municipalities in order to initiate conversations to advance public policies and actions. These questions help municipalities better understand and articulate their own services, practice areas, and initiatives that can help reduce the harms and costs associated with alcohol use.

For example, the following questions may provide a starting point to initiate discussion:

- Has your municipality historically participated in or invested in collaborative strategies to improve community health and safety?
- Is your municipality involved in partnerships or collaborative projects that establish awareness or support opportunities to address mental health and reduce harms from substance abuse, including alcohol misuse?
- Is your municipality supportive of approaches to reduce harms associated with substance misuse, including alcohol?
- To what extent can your municipality contribute or participate in harm reduction programs and initiatives?

This policy review study was completed under the guidance of Wellington-Dufferin-Guelph Public Health, Durham Region Health Department, and the Thunder Bay District Health Unit. Policy and practice areas of interest were identified by the health unit partners for investigation.

Consultation was not undertaken with municipal legal authorities nor legal counsel during the development of this report to inform potential actions. It is recommended that municipalities, public health units, and other community partners seek the advice of legal counsel when pursuing actions presented in this report.

**“The greatest contribution to the health of the nation over the past 150 years was made, not by doctors or hospitals, but by local governments.”**

*– Dr. Jessie Parfit, public health physician and author of *The Health of a City**

## BACKGROUND

There exists a strong basis demonstrating the need to reduce alcohol consumption and associated harms. Alcohol use is one of the three leading risk factors for global disease burden.<sup>2</sup> Alcohol consumption can result in a decrease in life expectancy by two years, and individuals who consume high levels<sup>i</sup> of alcohol experience a 1.2 times greater risk of early death than those who consume alcohol at lower levels.<sup>3</sup> Alcohol use is also associated with Type 2 diabetes, adverse cardiovascular outcomes, and chronic diseases. Heavy alcohol consumption is highly correlated with cirrhosis of the liver. Alcohol is a carcinogen, increasing a person's risk of oral, pharynx, larynx, esophagus, colon, rectum, liver, and breast (female) cancer.<sup>4</sup>

Canadian health care costs directly related to alcohol consumption were estimated at \$3.3 billion in 2012 and total direct and indirect costs were estimated at \$14.6 billion.<sup>5</sup> In addition to the above-identified health consequences, alcohol misuse is a detriment to others beyond the drinker, such as violence, domestic violence, child neglect, impaired driving, property damage, and absenteeism in the work place.<sup>6</sup>

In Ontario, 8 out of 10 adults consumed alcohol between 1998 and 2011.<sup>7</sup> Moreover, daily drinking in Ontario increased from 5.3% in 2002 to 8.8% in 2015, particularly among women.<sup>8</sup> Among reported drinkers, 14.6% of the adult population engaged in hazardous or harmful drinking.<sup>ii</sup> Median drink consumption was significantly higher among adults living in rural areas, among the most educated, among the highest income group, and among Canadian-born residents.<sup>9</sup>



<sup>i</sup> "Unhealthy alcohol consumption" is not defined in *Seven More Years: The Impact of Smoking, Alcohol, Diet, Physical Activity and Stress on Mental Health and Life Expectancy in Ontario*. Binge drinking represents the highest risk level and is defined as > 5 drinks among men per day and > 4 drinks among women per day in a previous week, or weekly bingeing behaviour in a previous month. p.15.

<sup>ii</sup> Hazardous/Harmful Drinking reflects a scoring of 8+ on the AUDIT screener, based on 10 items assessing alcohol intake and past 12 month alcohol-related harms. The AUDIT identifies hazardous alcohol use – an established pattern of drinking that increases the likelihood of future physical and mental health problems (e.g., liver disease) – as well as harmful consequences of that use – a pattern of drinking that is already causing damage to health (e.g., alcohol-related injuries, depression) and indications of dependence.

## POLICY DRIVERS FOR ALCOHOL POLICY DEVELOPMENT

Over the last ten years, various publications have established the need for policies and strategies to reduce alcohol availability and consumption. These publications and guidance documents identified policies and practices for investigation as part of this municipal feasibility assessment. The publications are presented as follows:

- *Reducing Alcohol-Related Harm in Canada: Toward a Culture of Moderation, 2007* by Murray Finnerty, Michel Perron, and Beth Pieteron included 41 recommendations on the topics of health promotion, prevention, treatment, and enforcement.<sup>10</sup>
- *Effectiveness and Cost-Effectiveness of Policies and Programmes to Reduce the Harm Caused by Alcohol, 2009* by Peter Anderson, Dan Chisholm, and Daniela C. Fuhr reviewed the effectiveness of cost effective strategies to reduce harm.<sup>11</sup>
- *Alcohol: No Ordinary Commodity – Research and Public Policy, 2010* by Thomas F. Babor et. al. presented evidence supporting seven alcohol policy areas: regulating the physical availability of alcohol; controlling affordability (through taxes and price controls); placing restrictions on marketing; developing drinking and driving prevention and countermeasures; modifying the drinking environment; developing education and persuasion strategies; and providing treatment and early intervention services.<sup>12</sup>
- *Global Strategy to Reduce the Harmful Use of Alcohol, 2010* by the World Health Organization identified policy recommendations addressing pricing, the physical availability of alcohol, drinking and driving, and other targeted interventions.<sup>13</sup>
- *Helping Municipal Governments Reduce Alcohol-Related Harms, 2010* by the Centre for Addictions Research of BC identified potential approaches for municipal governments and stakeholders to implement strategies.<sup>14</sup>
- *Making the Case: Tools for Supporting Local Alcohol Policy in Ontario, 2013* by Tamar Meyer, Monica Nunes, and Benjamin Rempel further examined policy approaches found in *Alcohol: No Ordinary Commodity – Research and Public Policy, 2010* and *Helping Municipal Governments Reduce Alcohol-Related Harms, 2010* to identify potential policy actions to be addressed by local governments. The local actions presented in *Making the Case: Tools for Supporting Local Alcohol Policy in Ontario, 2013* (pages 13-20) included physical availability restrictions through zoning regulations and licensing, maintaining venue closures, imposing pricing controls, advocacy, advertising restrictions, and education and awareness campaigns.<sup>iii 15</sup>
- *Reducing Alcohol-Related Harms and Costs in Ontario: A Provincial Summary Report, 2013* by the Centre for Addiction and Mental Health documented alcohol policy initiatives undertaken across Canada and provided recommendations to stimulate change.<sup>16</sup>
- In 2014, *Addressing Alcohol Consumption and Alcohol-Related Harms at the Local Level* by The Alcohol Locally Driven Collaborative Project (LDCP) team established recommendations and key areas of advocacy for local actions using evidence.<sup>17</sup> The recommendations were categorized into seven areas consistent with those cited in *Alcohol: No Ordinary Commodity – Research and Public Policy, 2011*.

<sup>iii</sup> Policies influencing the availability, accessibility, and marketing of alcoholic beverage on municipally-owned lands and municipal facilities are outside the scope of this report.

## PROVINCIAL LEGISLATION CONTROLLING THE PRODUCTION AND CONSUMPTION OF ALCOHOL

An understanding of Ontario's legislative environment is needed to determine whether municipalities have the ability to affect change in developing policies and/or implementing policies and regulations to reduce alcohol-related harms.

### ONTARIO MUNICIPAL ACT, 2001

Municipalities are governed by the Municipal Act to develop and enact legislation.<sup>iv</sup> The Municipal Act enables municipalities to determine when new by-laws or amendments to existing by-laws are needed. The Municipal Act grants municipalities permissive powers to pass by-laws on the following matters:<sup>18</sup>

- governance structure of the municipality and its local boards
- financial management of the municipality and its local boards
- public assets of the municipality acquired for the purpose of exercising its authority under this or any other act
- economic, social and environmental well-being of the municipality
- health, safety and well-being of persons
- services that the municipality is authorized to provide
- protection of persons and property, including consumer protection
- animals
- structures, including fences and signs
- business licensing

The Municipal Act establishes limitations for municipalities. Municipalities cannot enact their own policies that would infringe on regulations established by the provincial or federal government. Municipalities can only develop policies and exercise powers for matters affecting their geographic boundaries. Municipalities who are under a two-tiered system (lower and upper tier) can only regulate services, policies and by-laws that are provided by their own sphere of jurisdiction.

Under the Municipal Act, municipalities in Ontario have within their jurisdictional authority the ability to establish municipal regulations through licensing, zoning, and by-laws that would protect health and safety, minimize nuisances, and protect consumers. The Municipal Act (1511) provides a municipality the authority to establish restrictions that imposes conditions for some specific types of businesses in order to receive a license or a renewed license.<sup>v</sup> For example, the Municipal Act provides municipalities with the authority to establish restrictions for adult entertainment establishments (154.1) and payday loan establishments (154.1.1), including defining specific geographic areas where adult entertainment establishments may be allowed to operate, and limiting the number of establishments within a defined area (density controls).

<sup>iv</sup> For two-tier governments (governments with a county or regional level as well as a local level), these powers are spheres of jurisdiction (areas where municipalities have authority) and not broad permissive powers. As such, they are subject to certain rules. Single-tier municipalities have all eleven broad permissive powers. Municipalities in two-tier systems have the first eight broad powers plus the spheres of jurisdiction.

<sup>v</sup> Adult entertainment parlour means any premises or part thereof in which is provided, in pursuance of a trade, calling, business or occupation, goods or services appealing to or designed to appeal to erotic or sexual appetites or inclinations

The Municipal Act, 2001 was amended by the Municipal State Law Amendment Act, 2016 (Bill 130) in *Modernizing Ontario's Municipal Legislation Act*.<sup>19</sup> In 2016, the province introduced legislative amendments to update the Municipal Planning Act, resulting in changes regarding matters addressing accountability and transparency, municipal financial sustainability, and responsive and flexible service delivery. The amendment did not expand additional business restrictions and density controls beyond adult entertainment establishments and payday loan establishments.

## THE PLANNING ACT

The Planning Act establishes rules for land use planning. It provides a basis for municipalities to prepare official plans, planning policies, and tools to guide land use planning and development. It also guides municipalities in the preparation of official plans, which are prepared to establish policies that foster future land use planning. In addition, the Act provides a source for establishing a set of standards that municipalities can employ to regulate and control land uses, such as through zoning by-laws.

The Planning Act gives municipalities the authority to determine where liquor licensed establishments may be located. Part V, “Land Use Controls and Related Administration”, identifies the role of zoning by-laws, which are used to restrict the use of land, regulate minimum and maximum areas, densities, and height of a proposed development. Section 34 of the Planning Act establishes municipalities’ authority to regulate matters regarding land use and standards associated with land uses that include location, size, setback requirements, and parking. The employment of minimum separation distances serves as an opportunity to manage an overconcentration of specific land uses within a given geography and prompts challenges to its impacts on users as oppose to uses.

Section 38.1 provides authority of a local municipal council to pass an interim control by-law that prohibits the use of land, building, or structures in a given area. An interim control by-law “puts a temporary freeze on some land uses while the municipality is studying or reviewing its policies. The freeze can be imposed for only a year, with a maximum extension of another year. The Planning Act provides that an interim control by-law would remain in effect past the two-year period if the new zoning by-law which replaces the interim control by-law is appealed to the Ontario Municipal Board. The new by-law does not become law until the Ontario Municipal Board hears the appeal and makes a decision”.<sup>20</sup> It is important to note that the role of planning is not to restrict land uses, but to permit uses. Diversifying a concentration of undesirable uses, such as licensed facilities or alcohol outlets, can be done through Official Plan policies and zoning by-laws by permitting and promoting a variety of land uses in a given geographic area. Efforts to limit the development of specific establishments can be accomplished through site-specific zoning. An example of site-specific zoning is discussed in this report.

## Healthy Communities

Over the last several years, the Ontario planning profession has made considerable advancements towards supporting the development of healthy communities through Official Plan policies, design guidelines, zoning by-laws, and development standards. Current policy development efforts primarily focus on promoting and facilitating healthy eating and physical activity. These are interests that are also acknowledged in provincial planning policy directions in the *Provincial Planning Statement (2015)*.

There are no land use planning directions to create an environment that reduces alcohol-related harms. This allows leeway for municipalities to develop land use policies at their own discretion. The Hastings and Prince Edward Counties Health Unit's *Building Complete and Sustainable Communities: Healthy Policies for Official Plans (2012)* identified potential policy statements for inclusion in municipal Official Plans that identifies the importance of protecting community spaces used by vulnerable populations from incompatible uses that may cause adverse health impacts, such as alcohol retailers and establishments serving alcohol.

Associated implementation strategies cited in *Building Complete and Sustainable Communities: Healthy Policies for Official Plans (2012)* recommend that municipalities develop zoning by-laws with minimum separation distances between alcohol outlets, and/or specific land uses.



## THE LIQUOR CONTROL ACT

The Liquor Control Act, R.S.O 1990, controls the sale and pricing of alcohol in Ontario. The Liquor Control Act controls the retailers who can retail beverage alcohol in Ontario.<sup>21</sup> This act establishes minimum pricing regulations for all alcoholic beverages. The Liquor Control Act established the creation of the Liquor Control Board of Ontario.<sup>22</sup>

## THE LIQUOR LICENSE ACT

The Liquor License Act, R.S.O 1990, outlines laws regarding the sale and service of alcohol in Ontario. The act regulates the sale of alcohol in licensed establishments, as well as advertisements and promotions of alcohol. The Alcohol and Gaming Commission of Ontario (AGCO) is responsible for regulating the Liquor License Act pertaining to the sale and service of alcoholic beverages. The AGCO can grant liquor sales licenses, manufacturers' licenses, liquor delivery licenses, manufacturers' representatives licenses, ferment on premise facility licenses, and grant authorizations to sell Vintners Quality Alliance (VQA) wine and/or fruit wine at Farmers' Markets. The Liquor License Act provides upper or lower-tier municipal Council the authority to undertake the following with regards to controlling the availability of alcohol:<sup>23</sup>

- Prohibit the possession of liquor on municipally owned or controlled recreational areas (section 35 (1)).
- Hold a vote regarding the authorization of the sale of liquor across the municipality's jurisdiction, including the development of government liquor stores throughout the municipality (section 53 (2)).
- Prohibit the sale of liquor in government stores (section 53(3)) in which 60% of electors vote in favour of prohibition.

- Revoke the sale of liquor in all licensed premises (section 53(4)) in which 60% of electors vote in favour of prohibition as of the 31<sup>st</sup> day of March in the following year.

Section 6(2) of the Liquor License Act specifies that a liquor license is not in the public interest if it does not meet resident interests. Residents can provide a written submission to the Registrar of the AGCO to determine if issuance of a license is in the public interest. A public meeting can be held to review the application prior to determining issuance of a license.



## LICENSING AND ENFORCEMENT CONTROLS

Licensing is an effective approach in controlling physical access to on and off-premise establishments.<sup>24</sup> Evidence has also shown the benefits of multi-component approaches that include community mobilization, server training, and enforcement of licensing laws were effective in minimizing alcohol-related harms.<sup>25</sup> This section examines the role of municipalities in controlling access to alcohol through licensing and enforcement of private businesses. The AGCO and law enforcement agencies also have differing but equally important roles in regulating the physical availability of alcohol through licensing and enforcement. This section excludes the municipality's roles and responsibilities addressing the sale or service of alcohol at municipal facilities, which are established by policies and regulations under a Council approved Municipal Alcohol Policy.

### **Alcohol and Gaming Commission of Ontario (AGCO)**

The AGCO regulates administers the Liquor License Act, Wine Content and Labelling Act, and limited sections of the Liquor Control Act.

### **Liquor Control Board of Ontario (LCBO)**

The LCBO is a Crown corporation of the Ontario government that controls the sale of liquor for off-premise establishments through LCBO stores, Brewers Retail stores, and winery and distillery stores. The Liquor Control Act authorizes the LCBO to import and sell liquor.

### **THE ALCOHOL AND GAMING COMMISSION OF ONTARIO**

In Ontario, the AGCO regulates the sale and service of alcoholic beverages and establishes the application process for applicants seeking to obtain a liquor sales license. When assessing liquor licence proposals, the Registrar of the AGCO performs a risk assessment review of each applicant licensee. The Registrar of the AGCO may impose conditions to mitigate any potential risks. The Registrar may require the applicant to complete a plan to address one or more potential risks, or may impose a condition such as a closing time that is earlier than the prescribed hours. Mitigation Plans that the Registrar of the AGCO may impose include: Safety and Security Plan, Compliance Plan, Nuisance Mitigation Plan, Patron Control Plan, and Management Control Plan.<sup>26</sup>

The AGCO allows business owners to apply for a liquor sales license, regardless of whether they provide food, with the exception of home-based businesses.<sup>27</sup> Liquor sales licenses granted to on premise establishments such as bars, clubs, restaurants, etc., are categorized according to their risk level. The risk-based licensing regime assesses license applications and renewals in consideration of the applicant's risk to public interest. The AGCO has the authority to conduct reassessments during the lifetime of a license, triggered by changes in circumstances or conduct issues that may have come to the AGCO's attention.

### Regulatory Modernization of the Ontario Beverage Industry

In 2014, a review was undertaken by the AGCO regarding its regulation of wine, beer, and spirits manufacturers, manufacturers' representatives, ferment-on-premise operators, and liquor delivery services. The regulatory review resulted in the following reforms, which have since been adopted:

- New manufacturers are required to go through a risk-based licensing approach to obtain manufacturing licenses.
- Additional license classifications were created for cideries and craft distilleries that are tailored and supported the growth of these businesses.
- Other retailers can apply for liquor licenses, including salons, barber shops, cafes, and movie theatres.
- Low-risk licenses will no longer be required to prepare and submit a detailed Application Form and Personal History Report for owners, officers, directors, major shareholders, and partners to obtain a renewal.
- Higher risk applicants (i.e., those with poor compliance histories) are subjected to more intensive licensing reviews.

<sup>128</sup>Alcohol and Gaming Commission of Ontario. (2014). Regulatory modernization in Ontario's beverage alcohol industry: Findings report.

## MUNICIPALITIES

Municipalities have the power to grant business licenses under Section 151 of the Municipal Act. Through a licensing by-law, the municipality has the right to revoke or terminate a license. They may also impose conditions as a requirement of obtaining, continuing to hold, or renewing a license. This includes compliance with municipal land use control by-laws or other requirements under the Planning Act.

This municipal power provides them with the ability to exert indirect control on the sale of liquor. Municipalities can grant approval for on premise liquor licensed establishments as well as for alcohol retailers by issuing business licenses or granting site plan approval. Under the Municipal Act, municipalities can also suspend a business license if such a business poses an immediate danger to the health or safety of persons or properties (151.2). Municipalities may prohibit or regulate activities with respect to public nuisances or matters that could cause public nuisances, such as noise, vibration, odour, dust, and illumination (128.1). Nuisances can also include an increase in garbage, noise, traffic, or unusual traffic patterns, and activities that impact property values or result in an increase in harassment, intimidation, or graffiti. Municipalities have the authority to close a premises if there are activities that constitute a public nuisance (447.1). However, under Section 153(1) of the Municipal Act, the municipality cannot refuse to grant a license for a business solely based on the location of the business.

Municipalities play a supportive role in assisting the AGCO by providing compliance letters from the: (a) Building Department (as per the Building Code Act, 1992), (b) Fire Protection Officer or Fire Marshall (as per the Fire Protection and Prevention Act, 1997) and (c) Public Health Department (as per the Health Protection and Promotion Act) to affirm a liquor license applicant's abilities to meet applicable standards and by-laws. Inspections are conducted by fire services, building departments, and public

health departments to ensure that applicants comply with applicable by-laws and building or property standards.

The AGCO may impose conditions (as approved by the AGCO Board) when granting licensing to applicants in accordance with their risk based assessment process. The AGCO may include conditions that reduce the hours of operation and that require the provision of a safety and security plan,<sup>28</sup> but it cannot impose conditions on licenses for matters that are outside of the mandate of the Liquor License Act and the AGCO. Municipalities may impose conditions concerning matters under the municipality's jurisdictional authority. Acceptable conditions may include: installing notification signage to address arising concerns, restricting patio hours, restricting amplified music in outdoor spaces, installing security cameras, and ensuring the enclosure of garbage receptacles.<sup>29,30</sup> Any issues with the liquor license application must be resolved before the AGCO issues the license.<sup>31</sup>

Municipal processes for issuing clearance certificates and approvals differ among municipalities. For example, a municipality may require applicants to complete municipal application forms as part of the approvals process. Others may conduct inspections by an architect, engineer, or planner to ensure that the applicant complies with property standards and zoning by-laws. The issuance of clearance certificates by public health departments and law enforcement may differ as well. In some municipalities (such as in the Town of Caledon), applicants are required to notify these parties, while in the City of Hamilton, the municipality forwards applications to public health and law enforcement to conduct their investigations and inspections.

In addition, a municipality may require applicants to enter into a site plan agreement. The agreement is a vehicle by which the municipality can impose provisions, such as restricting when alcohol can be served. However the provisions are unenforceable unless the municipality files a suit for breach of agreement, which may be costly to implement and consume human and financial resources. Enforcement responsibility then is passed on to local law enforcement (local police departments or the AGCO). For example the City of Hamilton's Licensing Department identified that any public complaints filed against on premise establishments concerning liquor license infractions is best enforced by the local police department and the AGCO.<sup>32</sup>

### Primary Use

An amendment to the Liquor License Act (Regulation 719) allows retailers who do not primarily serve food or drinks to serve liquor. However, engagement with the AGCO identified that despite this change in regulation, few retailers apply for liquor licenses. Municipalities can establish licensing by-laws that grant liquor licenses to businesses primarily serving food and beverages. For example, in the City of Vaughan's By-Law and Compliance Department requires that a business must be licensed as an Eating Establishment in order to receive a signed Municipal Information Form. The City's Business License By-Law restricts the sale of liquor to only businesses which are established as eating establishments, and does not enable other businesses, such as salons, barber shops, etc., to serve liquor.

<sup>129</sup>Alcohol and Gaming Commission of Ontario. (n.d). Info Bulletin No.26 - Highlights of Amendments to Regulation 719 of the Liquor Licence Act (Licences To Sell Liquor). <https://www.agco.ca/bulletin/2011/info-bulletin-no26-highlights-amendments-regulation-719-liquor-licence-act-licences>.

City of Vaughan. (n.d). Liquor License. <https://www.vaughan.ca/cityhall/departments/occ/Pages/Liquor-Licence.aspx>

## LAW ENFORCEMENT AGENCIES

Enforcement activities can be conducted by the AGCO, the Ontario Provincial Police or local law enforcement agencies in accordance with enforcement of the Liquor License Act, the Criminal Code, Controlled Drugs and Substances Act and municipal by-laws to address issues such as public disturbance, nuisance issues, and violence.<sup>33</sup> Municipalities are responsible for enforcing their municipal by-laws, which can include control of nuisances and property standards.



## MUNICIPAL LICENSING REQUIREMENTS

Municipalities in Ontario have within their jurisdiction the ability to request that the AGCO not issue liquor licenses within a municipality without allowing the municipality an opportunity to undertake a formal review process to determine conditions that would protect public interest. In 2012, the City of Hamilton created a comprehensive Liquor License Application Review Process. The review process requires the AGCO to notify the City about new applications or applications for renewing liquor licenses. Applicants would require signed compliance letters from the City Clerk, Zoning, Public Health Services, and Fire Prevention. An architect completes inspections to ensure that properties meet applicable property standards and by-laws.

The City of Barrie requires businesses to complete a liquor license questionnaire as part of the Liquor License Application that addresses social responsibility considerations.<sup>34</sup> The questionnaire includes questions regarding: floor area, use of interior and exterior spaces, seating capacity, distances to other establishments serving alcohol; distance to nearest residential use; hours of operation; on-site security staff; crowd management approaches; percentage of liquor sales to gross sales; and information regarding past infractions and convictions. An applicant's completed questionnaire is circulated to municipal departments and the Simcoe Muskoka District Health Unit. The application, including the questionnaire is then forwarded to the AGCO for review. Discussions held with the City of Barrie in 2017 identified that the municipality establishes limits regarding the number of business licenses issued for liquor licensed establishments at a neighbourhood level. Limits are established in accordance to community concerns regarding noise, security, and public disturbances.<sup>35</sup>

According to the AGCO, a municipality must have strong grounds for objection to a liquor license application, provided that the application meets zoning by-law requirements. Commonly cited grounds for rejection include concerns regarding public safety and noise, fire code violation, and property standards concerns, which may emerge through the public review process.<sup>36</sup> Municipalities can issue additional conditions on licensed establishments through municipal by-laws demonstrating the requirement for businesses to maintain public safety and comply with property standards. For example, the City of Toronto has additional by-laws for cafes (Chapter 313-36) that prohibit outdoor music or amplified sound and reduced hours of operation (11:00 pm). In 2015, the City of Toronto initiated a review of its by-laws in regards to licensing. This includes expanding its definitions and clarifying licensing requirements, specifically in regards to restaurant and entertainment uses.

### **Sale of Liquor in Farmers Markets**

Sales of Vintners Quality Alliance (VQA) wine, fruit wine, and ciders are permitted at Farmers' Markets in Ontario. Wineries and cideries must receive authorization for an occasional extension of its on-site winery retail store from the AGCO. Occasional extensions are only permitted to operate within Farmers' Markets as defined in Regulation 720. Municipalities can prohibit the sale of VQA wine and/or fruit wine at any or all Farmers' Markets within their jurisdiction at any time by providing a written objection to the AGCO.<sup>37</sup> If a municipality informs the AGCO that it is objecting to the sale of VQA wine and/or fruit wine at a specific Farmers' Market, the AGCO will notify the winery or cidery that it must immediately cease selling wine at that market. Municipalities may also impose conditions that limit the hours of sale for Farmers' Markets that are located on municipal lands.

### **Sale of Liquor in Grocery Stores**

In 2013, the AGCO initiated a Regulatory Modernization in Ontario's Beverage Alcohol Industry to modernize its regulatory approach to the liquor industry. Recommendations include the sale of wine beer and cider in grocery stores.<sup>38</sup> As of June 2017, there are 130 grocery stores across Ontario authorized to sell beer and cider, including up to 70 that can sell wine. According to the provincial government, beer and cider will become available in up to 450 grocery stores, including up to 300 that will also sell wine (target date not specified).<sup>39</sup> LCBO express outlets will be introduced in large grocery stores.

In British Columbia, modernization of the B.C Liquor Policy Review in 2013 resulted in recommendations that would expand the sale of liquor to grocery stores (i.e., wine on shelves or store in store models) commencing April 1, 2015.<sup>40</sup> The sale of liquor in B.C grocery stores prompted some municipalities to amend their business by-law application processes and zoning by-laws to control the sale of liquor in grocery stores, including New Westminster, Burnaby, Coquitlam, and Richmond. In 2016, the City of Richmond amended its zoning by-law and developed a policy framework to establish consistency in evaluating and approving liquor license applications from grocery stores.<sup>41</sup> The amendment requires grocery stores to enter into a rezoning process when seeking a license for a stand-alone liquor or wine store, or for the sale of liquor within the grocery store.<sup>42</sup> The City of Richmond also established a larger minimum retail floor space requirement to ensure that the provision of liquor in grocery stores is directed to larger community shopping centres. As part of the zoning by-law amendment process, the municipality conducts a neighbourhood survey and seeks council input for applications for new or permanent changes to liquor licenses.<sup>43</sup>

The Ontario government's decision to permit the sale of alcohol (beer, wine, and cider) on grocery store sales floors (i.e., integrated in existing shelves and at cash checkouts) may prompt similar revisions to business license processes similar to B.C. An environmental scan was undertaken as part of this research report to identify whether municipalities in Ontario have amended business license practices, classifications, or zoning by-laws to address the sale of liquor in grocery stores. No precedence was found among Ontario's municipalities.

**“Policy controls strive to achieve a balance between business and economic interests, as well as the health and safety of the population.”**  
– *Ontario Public Health Association*



## ENFORCEMENT

The AGCO's enforcement of the Liquor License Act includes public drunkenness, selling or serving of alcohol outside prescribed hours, disorderly behaviour, overcrowding, and selling or provision of alcohol to minors. Enforcement is primarily undertaken by AGCO officers or the police to ensure that establishments adhere to the Liquor License Act. Charges against a licensed establishment are adjudicated by the License Appeal Tribunal of Ontario and laid by law enforcement officials. The Registrar of the AGCO issues a Notice of Proposal to Review the License Application for licenses that are refused, revoked or suspended.<sup>44</sup> A charge can also be laid on the establishment with an offence under the Liquor License Act that arises out of the same circumstances.<sup>45</sup> This process then goes through the Ontario Court of Justice. A discussion with the AGCO in May 2017 explored additional approaches in enforcing infractions.

The discussion identified that public health inspectors may also report liquor infractions observed during food and tobacco inspections to the AGCO. In addition, public safety concerns cited by law enforcement (police) are an effective ground for rejection during an application process on the basis of protecting public interest.<sup>46</sup> The City of Hamilton's Liquor License Application Review Process circulates applications to the police where comments are provided based on their police data and past investigations. Comments and concerns regarding applicants are identified by the police and sent directly to the AGCO for their review. Municipalities generally do not have access to police incidence reports, as information is restricted pending on-going investigations. During the review period, municipalities may seek to access incident reports prior to reviewing applications for licenses. Municipalities will need to legally access incidence reports with their local police departments to obtain data.<sup>47</sup>

### Enforcement Programs

In 2014, the pilot project Open Ontario Compliance Initiative was undertaken in London, which included collaboration among three levels of government, as well as the local health unit. Project partners included the Ministry of Community Safety and Correctional Services, the AGCO, the City of London, and the Middlesex-London Public Health Unit. The project included information sharing and risk-based compliance inspections. The Open Ontario Compliance Initiative focused compliance inspections on higher-risk businesses, including bars, restaurants, and convenience stores.

<sup>130</sup> Stobo, L. & Pavletic, D. (2013). Open Ontario compliance initiative: London pilot project. CIPHI Ontario Annual Conference, Middlesex-London Health Unit.



## FEASIBILITY FOR ONTARIO MUNICIPALITIES

### Opportunities

Based on the preceding analysis, municipalities have within their jurisdiction the authority to undertake the following licensing and enforcement measures to control the access and availability of alcohol:

- Establish licensing by-laws that grant liquor licenses to businesses primarily serving food and beverages
- Grant, revoke, suspend, or terminate a business license if such a business poses an immediate danger to the health or safety of persons or properties (as per Section 151 of the Municipal Act)
- Impose conditions concerning matters under the municipality’s jurisdictional authority (signage with contact information for public complaints, restricting patio hours of operation, restricting amplified music in outdoor spaces, installing security cameras, and ensuring the enclosure of garbage receptacles)
- Establish requirements for applicants to enter into a site plan agreement to ensure compliance with local land use by-laws under the Planning Act (enforcing the provisions may also be a municipal responsibility unless it is passed on to local law enforcement)
- Close a premise if there are activities that constitute a public nuisance (garbage, noise, traffic, or unusual traffic patterns)
- Provide compliance letters as per the Building Code Act, 1992, Fire Protection and Prevention Act, and Health Protection and Promotion Act) to affirm a liquor license applicant’s abilities to meet applicable standards and by-laws
- Conduct inspections (fire services, building departments, and public health departments) to ensure that applicants comply with applicable by-laws and building or property standards.
- Establish a process for issuing clearance certificates and approvals (i.e., liquor license questionnaire, application circulation procedures)

- Request that the AGCO not issue liquor licenses within a municipality without allowing the municipality an opportunity to undertake a formal review process to determine conditions that would protect public interest
- Prohibit the sale of VQA wine and/or fruit wine at any or all Farmers’ Markets within their jurisdiction
- Participate in a task force to investigate establishments

### Challenges

While opportunities are available for municipalities to control the access and availability of alcohol through licensing and enforcement, there may be challenges that affect implementation, as follows.

Strong grounds must be cited by municipalities when objecting to a liquor license application.<sup>48</sup> A decision to suspend a license or close a business would be determined based on the licensee’s violation of municipal by-laws such as a noise by-law, licensing, or property standards. The AGCO has the primary authority to suspend liquor licenses and close liquor licensed establishments. Municipalities and health units are encouraged to report infractions or violations to the AGCO or law enforcement authorities. Enforcement authorities are responsible for taking the appropriate corrective action (which may include suspensions, business closures, and fines).

The Ontario government’s decision-making process in authorizing the sale of beer, wine, and cider at grocery stores focuses on “ensuring fair competition and distribution”, which includes independent and large grocers alike; and applies an unspecified “geographic and concentration restriction” to ensure that most licenses are not issued to any single grocer.<sup>49</sup> The creation of a new business license category may be of interest for municipalities wishing to limit supermarket retailers selling alcohol, which may warrant engagement with internal and external stakeholders to determine local need and feasibility.

## RECOMMENDED ACTIONS

### Municipalities

- Update and/or revise municipal by-laws that strengthen the protection of public safety and property standards. Consideration may be given to examine public concerns (nuisances, property standards violations) in geographic areas with a higher number of liquor licensed establishments and nuisances.
- Continue to establish business license conditions through a municipal by-law on the basis of protecting public interests and minimizing nuisances, where warranted.
- Create a new business license category that includes supermarket retailers licensed to sell alcohol. This establishes specific requirements for the application to go through a rezoning process, including a public hearing.
- Continue to work with enforcement authorities (AGCO, police) during an application process on the basis of protecting public interest.
- Where warranted, develop conditions for liquor license establishments addressing municipal jurisdictional matters (e.g., signage with contact information for public complaints, restricting patio hours of operation, restricting amplified music in outdoor spaces, installing security cameras, and ensuring the enclosure of garbage receptacles).

### Public Health Units

- Report potential liquor license infractions to the AGCO and local law enforcement officials when observed/documented during routine inspections at licensed premises.
- Where applicable, participate in a task force with the local municipality and local law enforcement officials.

## ENGAGEMENT QUESTIONS FOR MUNICIPALITIES

- What is your municipality's role in granting business licenses to establishments that serve alcohol?
- What process is in place for establishments interested in obtaining liquor licenses in your municipality?
- Does your municipality impose conditions for establishments seeking to acquire liquor licenses?
- What policies and by-laws exist in your municipalities to address community nuisance issues? How are these issues currently being addressed? Who (internal departments and external agencies) are involved in addressing these issues?
- Does your municipality experience concerns with regards to liquor licensing and alcohol-related concerns for licensed establishments (restaurants, bars and entertainment venues)?
- What community nuisance issues does your municipality experience with licensed establishments?
- How does your municipality deal with establishments that receive nuisance complaints and/or contravene municipal by-laws? What follow-up actions are undertaken with the establishments to address the issues?
- Are coordinated inspection and enforcement initiatives being undertaken in your municipality?

## REGULATING PHYSICAL ACCESS THROUGH DENSITY AND LOCATION RESTRICTIONS

Limiting the availability of alcohol by controlling its physical availability is an effective approach to managing alcohol-related harm.<sup>50</sup> Regulating the density of alcohol outlets has been proven to lower alcohol consumption and reduce alcohol-related injuries, assaults, public disorders, and violence at the population level.<sup>51, 52, 53</sup> McInney et al. (2009) identified that violent crimes increase exponentially when alcohol establishments exceed twenty-five units per postal code.<sup>54</sup>

A recent study from Peel Region examined the density of on premise establishments, such as restaurants, bars, pubs, social clubs, and hotels in comparison to EMS ambulance calls per 1000 residents over age nineteen. The study found a correlation between EMS ambulance calls for injuries, particularly trauma, associated with density of licensed establishments.<sup>55</sup> Dissemination areas with a higher density of on premise licensed establishments have a higher risk of EMS ambulance calls by a factor of seven.<sup>56</sup> For example, dissemination areas with more than eleven licensed alcohol establishments reported the highest number of medical-related EMS calls (859) and trauma-related EMS calls (381) per 1000 population, compared to other areas with a lower density of licensed establishments. The study found that trauma is particularly an issue among licensed outlets where there is a tobacco vendor at the same location. The findings identify the importance of establishing zoning regulations that limit the number of licensed establishments in dissemination areas with a higher density of licensed establishments.<sup>57</sup>

The AGCO's requirement for applications of an on premise liquor license to comply with municipal by-laws, including zoning by-laws/requirements, provides merit for municipalities to establish zoning regulations as per their powers of authority under the Ontario Municipal Act and the Planning Act.<sup>58</sup> Zoning by-laws are appropriate in determining the appropriate location of specific land uses and retail establishments. Compliance with municipal zoning by-laws is also required for off-premise retail store authorizations and the sale of VQA wine and/or fruit wine at farmers' markets.<sup>59</sup>

### Site Specific Zoning and Exceptions

Lands may be subject to a Zone Exception, or Site Specific Zoning, that includes a set of site-specific permissions, exceptions, and regulations that may be different from a parent zone. This may include different sets of regulations that limit, permit, or prohibit uses that only apply to specific lands. Such lands are denoted in Zoning Schedules (maps) delineating the properties subject to the exceptions or site-specific regulations.

## OFF-PREMISE LICENSED ESTABLISHMENTS

This section examines municipal approaches to regulating the density of off-premise licensed retailers – establishments that sell alcohol for consumption off-site. Off-premise alcohol retailers in Ontario include Agency Stores, LCBO outlets, Brewers Retail, farmers' markets, ferment on premise outlets, off-site wineries, on-site wineries, on-site breweries and distilleries, and some grocery stores.<sup>60</sup>

Land use controls to regulate the density of off-premise outlets is a practice undertaken in countries around the world. In California, where the state government does not have the capacity to regulate and manage the distribution and operation of retail alcohol outlets, local municipalities control where alcohol outlets can be located through zoning, which informs licensing decisions by the California Alcohol Beverage Control Department. This department has an “undue concentration” law, which does not exist in the Ontario legislative environment. This law allows local jurisdictions the authority to block a license for a bar or alcohol outlets and is exercised in areas where there is a higher degree of crime or socioeconomic disparity.<sup>61</sup>

Municipalities have the ability to use land use planning tools to control where alcohol outlets can be located.<sup>62,63</sup> Regulating the density of off-premise retailers can be approached through the establishment of separation distances, site-specific zoning, and interim control by-laws, which are all regulated through municipal zoning by-laws. These land use planning tools are discussed in this section. Municipalities are also required to consult with the public prior to determining land use planning decisions as per the Planning Act.

Minimum separation distances between alcohol retailers to control alcohol retail density are well-practiced in municipalities in Alberta, Saskatchewan, and British Columbia. For example, in Alberta,

the City of Calgary's zoning by-law establishes a minimum distance of 300 m and 500 m between alcohol retailers, while the City of Edmonton has a separation distance of 500 m. The City of Surrey in B.C. adopted a separation distance by-law that does not allow primary license holders to be located within 1.6 km of one another.<sup>64</sup> In the Northern Saskatchewan Administration District\*, retail stores selling alcohol are restricted by a 40km separation distance from one another.<sup>65</sup>

In Alberta, interest to introduce a separation distance requirement between liquor stores was initiated at the request of the Alberta Liquor Store Association (ALSA), who was interested in maintaining a responsible alcohol retail environment. Separation distance requirement between liquor stores (500 m) was developed to limit further proliferation of liquor stores along established commercial shopping corridors following the privatization of alcohol outlets, which resulted in an increase in the number and density of alcohol outlets in some neighbourhoods.<sup>66</sup>

Minimum separation distances can also be established to separate the distance between retailers and specific land uses—such as parks, schools, and recreation facilities. In Surrey, development applications for on premise establishments and off-premise retail outlets, including ferment on premises retailers, are subject to municipal review that considers social and health impacts. This includes a review of the proposed location and its proximity to residential lands, schools, parks, and playgrounds. The development application is reviewed to identify whether buffers and setbacks have been incorporated into the site plan to separate the proposed use from sensitive land uses as well as existing liquor licensed establishments. For example, Surrey has a separation distance by-law that does not allow primary license holders to be located within 1.6 km of one another. Specific consultation is needed with adjacent school districts to identify potential concerns regarding the application.<sup>67</sup> In Spruce Grove, Alberta, the

\*A previous version of this report misstated the location of this restriction as being applicable to the province of Saskatchewan. The restriction applies to the Northern Saskatchewan Administration District.

city's zoning by-law establishes a smaller separation distance of 100 m between alcohol establishments and community/recreation facilities, including public parks, and public or private educational facilities.

In western Canada, zoning by-laws are used to regulate the sale of alcohol within grocery stores. The sale of alcohol in grocery stores is permitted in British Columbia and regulated by the Provincial Liquor Control and Licensing Branch. British Columbia established provincial policy that does not permit a new or relocated licensed retail store (including a grocery store wishing to sell liquor) to be located within 1 km of an existing liquor retail store or government liquor store to minimize over supply (this 1 km separation distance does not include wine store licensees as there are fewer wine store licenses in BC).<sup>68</sup>

The British Columbia government provides municipalities with the authority to establish greater restrictions than those established by the province to control alcohol retail density. This allows municipalities to prohibit the sale of alcohol in grocery stores, establish greater separation distances between retailers, increase a grocery store's minimum retail floor space, or establish limits where liquor stores can be located. For example, the City of Vancouver utilized site-specific zoning that prohibits new liquor retail outlets in specific neighbourhoods.<sup>69</sup> The City of Vancouver also does not permit the sale of wine or liquor in grocery stores.

In Ontario, language in municipal zoning by-laws includes wine, beer, and liquor retailers as part of a list of permitted uses within commercial zones. For example, the Municipality of West Perth zoning by-law Commercial Zone includes a list of permitted uses, which includes a Liquor, Beer, and Wine Store (retail store devoted to the sale of spirits, beer, and/or wine).<sup>70</sup>

## **Barrie Zoning By-Law**

### **4.13 NIGHTCLUBS**

#### 4.13.1 General Provisions

- a) Maximum capacity: 600 persons, including outdoor patio areas, where capacity is the lesser of licensed capacity or occupancy load as calculated under the Building Code or Fire Code requirements.
- b) Minimum setback from any Residential zone including residential exception zones: 200 m.
- c) Minimum distance setback from any other nightclub: 200 m, measured from the property boundary.

<sup>131</sup> The City of Barrie. (2016). City of Barrie: Comprehensive zoning by-law.

The Planning Act allows for site-specific provisions to be applied to a given property in a municipality that exempts specific uses from being permitted. Uses permitted within a commercial zone can specify exceptions for specific uses, which may include beer, liquor, or wine stores.<sup>71</sup> For example, alcohol retailers selling beer, liquor and wine were deleted from the list of permitted uses for a proposed general merchandise retail store in the City of Waterloo.<sup>72</sup>

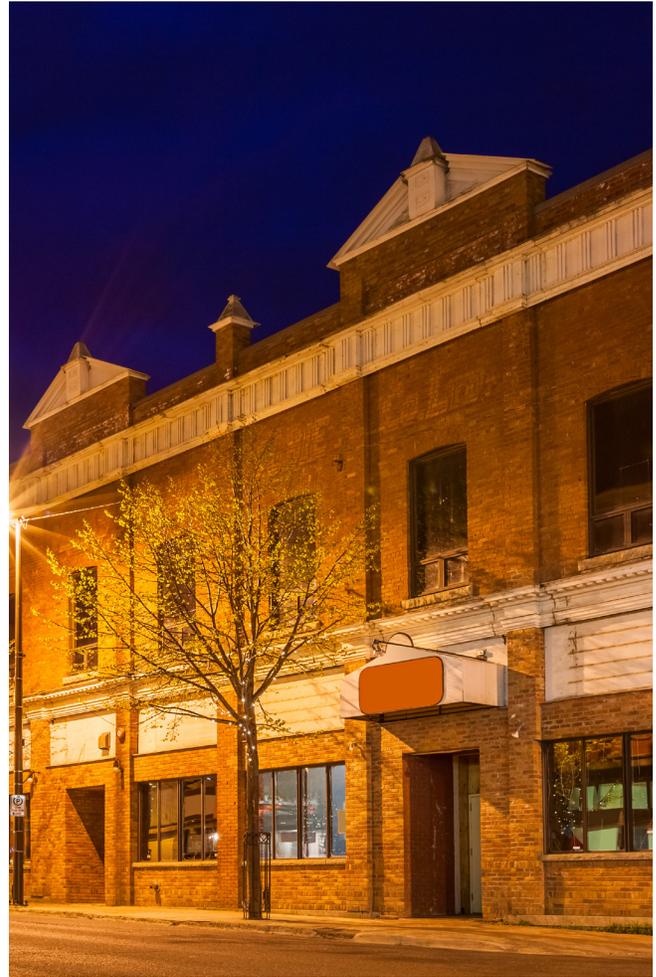
An environmental scan of Ontario zoning by-laws did not identify a similar precedence in regards to separation distance standards or policies restricting the locations of alcohol retailers, such as those found in Alberta. However, trends may change as the alcohol retail environment continues to evolve towards expansion and privatization in Ontario, as witnessed in other Canadian provinces.

For example, in 2007, the City of Edmonton's minimum distance requirement was established to limit the further proliferation of liquor stores resulting from the province's decision to privatize alcohol retail sales.<sup>73</sup> The separation distance requirement between liquor stores was initiated at

the request of the Alberta Liquor Store Association (ALSA), who was interested in maintaining a responsible alcohol retail environment. Prior to this 2007 by-law, the City's separation distance requirement established a 100 m buffer between liquor stores and parks, schools, and recreation facilities. The 100 m separation distance was adopted to mitigate potential land use impacts associated with liquor consumption in public spaces such as parks, schools, recreation centres etc.

For other municipalities interested in implementing a minimum separation distance by-law to control the density of off-premise establishments, resources need to be in place to monitor alcohol retail outlets, including closures, mapping existing liquor stores, and mapping new approved liquor stores. Resources required to maintain the necessary database will be influenced by many factors, including historic record keeping practices, the number of existing liquor stores, the number of proposed liquor stores, and the level of detail included in by-law amendment regulations.<sup>74</sup>

In Ontario, grocery store operators can apply to sell beer, wine, and cider. The Ontario government does not have a policy in regards to establishing density restrictions or minimum separation distances in its approvals of grocers seeking authorizations for the sale of beer, wine, or cider. The province's current allocation process applies an unspecified "geographic and concentration restriction" to ensure that most licenses are not issued to any single grocer.<sup>75</sup> The province's decision-making process in authorizing the sale of beer, wine, and cider at grocery stores focuses on "ensuring fair competition and distribution", which includes independent and large grocers alike.<sup>76</sup> The AGCO's Application for an Authorization to Sell Beer and Wine or Beer and Cider in a Grocery Store was silent in regards to an applicant's compliance with municipal laws, including municipal zoning by-laws and associated requirements.



## ON-PREMISE LICENSED ESTABLISHMENTS

On-premise establishments are venues where liquor can be consumed on-site, including hotels, restaurants, lounges, bars, pubs, nightclubs, and other retailers. Precedence exists in Canada to control the density of on premise licensed establishments. However, attention has focused primarily on controlling the density of bars and late-night venues. Cities that have destination entertainment, tourist districts, and post-secondary institutions tend to have these issues.

Zoning is used to restrict the density of bars and late-night establishments, and this is commonly practiced in municipalities across Ontario. Between 1991 to 2013, Toronto entertainment establishments grew from 3,100 to 4,100, with lounges and bars growing at a rate of nearly 5% per year, from 169 in 1991 to 485 in 2013.<sup>77</sup> The growth was predominantly located within Toronto's Entertainment District in the King St. and Spadina Ave. area. The concentration of nightclubs resulted in community concerns including property damage, overcrowding, crowd control, and unacceptable noise. The City of Toronto employed a combination of approaches to reduce the concentration of nightclubs in the Entertainment District. An interim control by-law (see page 13 for a definition) passed in the early 2000s prohibited the development of new entertainment facilities and patios in the Toronto Entertainment District. Official Plan policies also introduced a greater mix of uses within the area, including high density residential developments, which have resulted in a significant reduction of nightclubs. The City also utilized their municipal role to reduce the number of nightclubs through a moratorium on night club licenses. The City of Toronto passed a by-law in 2016 that created a new category of business license for "entertainment establishment/nightclub". Creating a new class of business licenses enacted stricter operating conditions on nightclubs.

Similar to off-premise establishments, minimum separation distances can also be applied to on premise licensed establishments. In Barrie, a zoning by-law requires nightclubs to have a 200 m separation distance from one another and a 200 m buffer from residential areas. Edmonton's zoning by-law establishes restrictions for an entertainment area bounded by 82nd Ave (Whyte Avenue). Zoning for this area does not specify a separation distance, but applies a maximum occupancy and gross floor area to limit the number of bars and nightclubs. In 2014, the City of St. Catharines considered the establishment of a Downtown Entertainment District as a means of regulating the density and size of licensed establishments in the downtown core. The initiative was considered in order to control incidents of vandalism, noise, and undesirable behaviour of patrons in downtown bars and nightclubs. Council did not approve the establishment of a Downtown Entertainment District due to public concern for noise, drunkenness, and public disturbances, and directed and approved the formation of a revitalization committee in partnership with the police and the AGCO to monitor incidents of vandalism, noise, disturbances, and property damage in the area.<sup>78</sup>

### City of Toronto Entertainment Establishment/ Night Club Definition

A premises used to provide dance facilities for patrons and where food or beverages may be offered for sale, such as a dance hall or disco. A cabaret, an entertainment place of assembly, an eating establishment, or an adult entertainment use is not a nightclub.

<sup>132</sup> City of Toronto. (2016). City of Toronto zoning by-law 569-2013 (office consolidation).

A zoning by-law amendment can regulate where licensed accessory outdoor patios will be permitted within a given neighbourhood or geographic boundary. The employment of a land use planning tool would minimize or prevent noise-related nuisances to sensitive land uses, such as residential, institutional, or parks and open space. These sensitive land uses may correlate to uses that are predominantly used by children, older adults, or other vulnerable populations. A zoning by-law regulating outdoor patios thus gives a municipality the ability to regulate hours of operation and the hours that alcohol can be served. The AGCO's liquor license application process requires applicants to consult their local municipalities prior to submitting an application to ensure compliance with municipal zoning by-laws.<sup>79</sup>

The use of zoning by-laws to regulate the locations of licensed accessory outdoor patios is well practiced in Ontario. The City of Hamilton has enacted zoning by-laws 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.

In 2005, the Town of Ajax enacted an outdoor patio by-law (Zoning By-Law 95-2003) that regulated the location of restaurants with licensed accessory outdoor patios. The Town of Ajax identified their site plan agreement as ineffective, and had recommended the development of an Outdoor Patio By-Law that would work in conjunction with the Zoning By-Law. The outdoor patio by-law would give the town the authority to regulate hours of operation of outdoor patios and to regulate the hours when alcohol can be served.

Different sets of restrictions can be established for different patios based on their proximity to adjacent community land uses to ensure that public nuisance is minimized. The zoning by-law introduced two definitions addressing outdoor patios, including Licensed Outdoor Patio, and Unlicensed Outdoor Patio. The by-law permitted licensed accessory outdoor patios to continue to be permitted in specific zones (i.e., commercial, downtown mixed use, prestige employment), and does not allow the licensed outdoor patio to be located next to residential areas, institutional uses (nursing homes, places of worship, day care, hospital, schools, libraries), and open space zones (parks and recreational settings). In the Town of Ajax, buildings were deemed as suitable buffers to reduce noise. Restrictions can be enacted for each outdoor patio, which would be established based on where they are located in proximity to sensitive land uses.



**Town of Ajax Zoning By-Law 95-2003**

**LICENCED OUTDOOR PATIO** (New definition as incorporated by By-law 75-2005) An outdoor area where seating accommodation is provided, and where meals or refreshments are served to the public for consumption which is used on a seasonal basis in conjunction with, and in immediate proximity to, a restaurant or a drive-thru restaurant. The establishment shall be licensed by the Alcohol and Gaming Commission of Ontario for the consumption of alcohol within the establishment or accessory outdoor patio.

**UNLICENCED OUTDOOR PATIO** (New definition as incorporated by By-law 75-2005) Shall mean an outdoor area where seating accommodation is provided, and where meals or refreshments are served to the public for consumption which is used on a seasonal basis in conjunction with, and in immediate proximity to, a restaurant or a drive-thru restaurant. The selling, serving and consumption of alcohol shall not be permitted on the outdoor patio.

**Commercial and Mixed Use Zones:** A Licensed Accessory Outdoor Patio is permitted provided that the licensed accessory outdoor patio meets the provision in Section 6.3.1.1.

**6.3.1.1 Licensed Accessory Outdoor Patios**

a) A licensed accessory outdoor patio situated on a property that does not abut a residential, institutional or open space zone shall be permitted. b) A licensed accessory outdoor patio situated on a property that abuts a residential, institutional or open space zone shall be permitted provided the licensed accessory outdoor patio meets one of the following two provisions: i) There is a building situated between the licensed accessory outdoor patio from the abutting residential, institutional or open space zone; or ii) The accessory outdoor patio is separated from an abutting residential, institutional or open space zone by Harwood Avenue or a Type A or B Arterial Road.

<sup>133</sup>Town of Ajax. (2014). The corporation of the town of Ajax zoning by-law 95-2003 (office consolidation).

The City of Vancouver's Liquor License Policy represents a comprehensive approach that restricts the number of on-premise establishments and off-premise retailers within a defined geographic area in the Central Business District. The policy also identifies considerations where on-premise establishments may be permitted, subject to consultation with nearby residents and businesses.



### **City of Vancouver Central Business District Liquor License Policy**

#### **Downtown-Eastside and Gastown**

1. **THAT no new liquor licenses** or amendments to existing licenses to increase seating capacity or extend hours of sale (except restaurant Class 1 “B” license) be permitted in the Downtown Eastside or Gastown areas.
2. **THAT no new liquor retail outlets** be permitted in the Downtown Eastside or Gastown areas.
3. **THAT new liquor licenses** forming part of a new hotel or major complex be considered on a case-by-case basis in the Downtown Eastside.

#### **Robson Street (Howe To Homer) and Yaletown.**

Favourable consideration be given to relaxing the one mile minimum distancing requirement for endorsing several applications for Class D “local pubs” on Robson Street (Howe to Homer), or Yaletown, subject to a legal agreement indicating there will be no outdoor patio seating, off-site sale, exotic dancing, amplified music or a dance floor on the premises, and that it will not be operated in conjunction with an adjacent restaurant.

Favourable consideration should be given to endorsing applications for Class 2 restaurants (in Yaletown) limited to 150 seats on a case-by-case basis, subject to polling nearby residents and property owners.

Favourable consideration should be given to endorsing applications for hotel pubs and lounges, Class 2 restaurants, and neighbourhood pubs on a case-by-case basis along Robson Street (Howe to Homer), subject to polling of nearby residents and property owners.

<sup>134</sup> City of Vancouver, 1997, *Liquor licensing policies and procedures*.

## FEASIBILITY FOR ONTARIO MUNICIPALITIES

### Opportunities

The policy analysis explored and confirmed the use of zoning by-laws to control the location and density of on and off-premise alcohol retailers and licensed establishments in Ontario. Based on the preceding discussion, the following policy approaches are feasible within the municipality's legal authority to regulate physical access to alcohol through density and location restrictions:

- Site-specific zoning to control the locations of on and off-premise establishments
- Zoning that restricts where licensed outdoor patios can be located
- Zoning that regulates hours of operation of licensed establishments and the hours that alcohol can be served (limited to outdoor patio by-laws)
- Zoning regulating sale of alcohol in grocery stores (legally feasible, however no precedence yet established in Ontario)
- Interim control by-law limiting the development of entertainment facilities and patios to restrict the location and density of on and off-premise establishments.
- Policy restrictions that establish limits regarding the number of liquor licensed establishments by neighbourhood
- Pass a moratorium to limit the number of business licenses for late night entertainment and night club establishments
- Location restrictions to protect sensitive land uses, such as schools and parks, and to address clustering by establishing minimum distance requirements between alcohol outlets.

### Challenges

While opportunities are available for municipalities to regulate physical access to alcohol through density and location restrictions, there may be challenges that affect implementation, as follows:

- Further efforts to control the location and density of licensed establishments should be approached in a manner that is mindful to the specific needs and context of the local community. The trends towards privatization of the alcohol environment will encourage policy-makers and decision-makers to develop regulations that protect the public's interest.
- Zoning by-laws controlling the use of land are scrutinized by tribunals. Municipal by-laws must be passed for proper planning purposes, but ensure no human rights codes or infringements of rights are violated. The purpose of zoning is to prevent nuisance and physical interference with the land and to ensure land uses are compatible. Municipalities should demonstrate whether the proposed use would result in a public nuisance, which would strengthen a municipality's position of serving a public good.

## RECOMMENDED ACTIONS

### Municipalities

- Update municipal zoning by-laws to establish a minimum floor area requirement that is at least greater than the provincial requirement for a grocery store to allow the sale of wine, beer, or cider.
- Develop minimum separation distances between liquor license establishments. Undertake community engagement to identify whether separation distances are warranted in specific neighbourhoods to reduce public disturbances and to improve public safety and security.

- Investigate the need for site specific zoning to limit the location of alcohol retailers and liquor licensed establishments.

## Public Health

- Advocate for provincial policies that allow local jurisdictions the authority to block on premise and off-premise licenses and is exercised in areas where there is a higher degree of crime or higher socioeconomic disparity, similar to that established by the State of California.<sup>80</sup>
- Advocate for provincial policies to develop a separation distance between alcohol retailers, including grocery stores selling alcohol, similar to that established by the British Columbia government. The AGCO does not impose any location restrictions in regards to maintaining proximity from other licensed retailers, but only identifies that “authorizations are to be distributed fairly across geographic regions” to promote even competition.
- Advocate for provincial policies that encourage municipalities to establish restrictions to control alcohol retail density during a statutory review of provincial land use planning policies.
- Participate in municipal strategic plans such as Tourism Plans, Arts and Culture Plans, Economic Development Plans, and Municipal Retail Market studies to provide feedback on municipal actions that affect retail services, business development, tourism, and culture.
- Work with municipalities to identify priority neighbourhoods to limit alcohol retailers and licensed establishments. These areas would then need to be cross-referenced with licensed establishments and a review of restaurant-nightclubs.

- Develop mapping to monitor the location of alcohol retail outlets and licensed establishments. On-going updates will be needed to map closures and new licensees. Data can be obtained from the AGCO and LCBO.

## Municipal Retail Market Analysis

A retail market analysis is a study undertaken by municipalities to evaluate the existing supply of commercial lands in a municipality and informs the demand for additional commercial lands. A retail market analysis includes a review of the existing and potential commercial space in a given municipality. A review of the local market assesses the future retail and service needs in association with the municipality’s existing and future commercial land supply to accommodate need. A broad range of retail space needs and facilities are examined, including beer, wine, and liquor. The study would identify whether there is market demand to support an additional beer, wine, or liquor store (including ancillary retail space within grocers). Commercial inventories/market studies are commonly undertaken to inform official plan policy recommendations as part of a municipality’s comprehensive five-year official plan review. Stakeholder participation during an official plan review is an appropriate approach for public health units to inform the development of land use policies that address commercial lands.

## ENGAGEMENT QUESTIONS FOR MUNICIPALITIES

The following questions for public health are to engage with municipalities to determine potential interest and opportunities in controlling the physical availability of alcohol outlets and licensed establishments through zoning:

- Do you see a trend in your municipality of an increasing number of bars and late night establishments? Are you aware of whether these venues are causing disturbances or nuisances for nearby residents and businesses?
- Does your municipality have parcels subject to site-specific zoning to control the location of specific uses?
- Do you think that site-specific zoning could be applicable in your municipality to control the numbers and densities of licensed establishments? Are there specific locations within your municipality where site specific zoning could be applied?
- Would your municipality consider establishing minimum distance requirements to provide a separation between alcohol retailers, or between alcohol retailers and other sensitive land uses? Why or why not? What implementation challenges do you foresee?
- Does your municipality have a maximum size restriction for bars and late night establishments?

Discussion is needed with municipalities to discuss the municipality's zoning by-law review timelines and process to determine opportunities to introduce definitions and regulations addressing the sale of alcohol within grocery stores.

**“Municipal alcohol policies are not about prohibition...they’re about promoting and supporting safe and viable communities with fewer drinking harms.”**  
– *Union of Nova Scotia Municipalities*

## HOURS OF SALE LIMITATIONS

Regulating the hours of operation of licensed facilities is another approach to control the physical availability of alcohol. Evidence has shown that increased hours of sale correlates with an increase of alcohol-related harms, including road traffic casualties, alcohol-related diseases, injury, and assaults.<sup>81</sup> Restricting hours of sale for two or more hours were shown to effectively decrease alcohol-related harms.<sup>82</sup>

The Municipal Act provides municipalities with the authority to require business establishments to be closed at any time (Section 148.1). However, as per Section 148.4b, establishments licensed under the Liquor License Act are exempt from the municipal by-law addressing the closure of retail businesses.

Regulating the hours of operation of licensed facilities is a provincial responsibility under the Liquor License Act. Under the AGCO, alcohol sales and service is permitted from 11:00 am to 2:00 am (3 am on New Year's Eve) for licensed establishments and Special Occasion Permit events. The AGCO prescribes permissible hours for retail sales of alcohol at retail outlets from 9:00 am to 11:00 pm, Monday to Saturday and 11:00 am to 6:00 pm on Sundays. Under section 62.1 (1) of the Liquor License Act, hours of sale can be extended for on premise establishments during events of municipal, provincial, national or international significance.

Outside of Ontario, municipalities have established restrictions regarding hours of alcohol sales and service through business licensing by-laws. A study conducted by the City of Vancouver in 2004 examined municipal approaches to restricting hours of service in over fifteen municipalities internationally. The study found varying levels of success in restricting hours of liquor service for late-night establishments and effectiveness was best approached through controlling, managing, and regulating on-premise licensed premises.<sup>83</sup> In Vancouver, as per the City's business licensing

by-law, newly licensed establishments go through a probationary period where hours of liquor service are restricted to midnight for a period of three months.<sup>84</sup> The probationary period allows the municipality to monitor the business in its adherence to health and safety considerations.

In Nova Scotia, the Alcohol and Gaming Division defers to municipal development agreements to dictate earlier closures for licensed facilities. Municipalities in Nova Scotia can use development agreements to establish closures for licensed facilities earlier than the hours permissible by the Province.<sup>85</sup> For example, in the Town of Wolfville, hours of operation for licensed establishments restrict the closing time to 1:00 am through site-specific agreements.<sup>vi</sup> Restricting hours of alcohol service may be a cost effective measure for municipalities to consider compared to the cost of developing regulations, legal requirements, and enforcement of on-premise businesses, and particularly in neighbourhoods with a higher number of licensed establishments. However, enforcement conducted by municipal law enforcement officers can be a challenge to implementing such provisions if resources are not available.<sup>86</sup>

An environmental scan of practices being undertaken by Ontario municipalities with regards to restricting hours of liquor service for on and off premise establishments found limited precedence. Current practice was found with regards to restricting hours of service on outdoor patios, and restricting hours of sale for wines and fruit wines at Farmers' Markets (located on municipal lands).

### La Victoria, Peru

In 2007, the municipality of La Victoria passed a law that banned the sale of alcohol during specific times of the day. The ban resulted in a decrease of violent incidents, homicides, and suicides.

<sup>135</sup> World Health Organization. (2014). Global Status Report on Alcohol and Health.

<sup>vi</sup> The Nova Scotia Liquor Control Act regulates hours of operation for on-premise establishments to sell and serve liquor varies, reflecting closing times that include 2:00am and 3:30 am. For more information see: [https://novascotia.ca/just/regulations/regs/llicens.htm#TOC2\\_58](https://novascotia.ca/just/regulations/regs/llicens.htm#TOC2_58).

## FEASIBILITY FOR ONTARIO MUNICIPALITIES

### Opportunities

Based on the preceding discussion, municipalities have within their jurisdiction the authority to undertake the following measures with regards to regulating the hours of service:

- Impose site plan agreements to minimize nuisances such as noise and disturbance to nearby residents restricting hours of service on outdoor patios<sup>87</sup>
- Establish a probationary period for newly licensed establishments imposing restrictions regarding hours of liquor service
- Establish an hours of service policy for licensed establishments that includes lengthening the time between last call and closing hours and prohibiting new patrons from entering late night establishments within one hour of closing time<sup>88</sup>

### Challenges

While opportunities are available for municipalities to control the access and availability of alcohol, there may be challenges that affect implementation, as follows:

- Municipalities have within their jurisdiction the authority to limit hours of sale for licensed establishments and retailers that are more restrictive than the AGCO, which can be established through site-specific agreements. However, an environmental scan identified limited practice in Ontario. Municipalities may face resource challenges that affect their ability to enforce a breach of contract.

## RECOMMENDED ACTIONS

### Municipalities

- Municipalities who are interested in restricting hours of sale/service should issue site specific conditions when warranted (i.e., to address issues of public concern and nuisances) and where applicable.

### Public Health

- Provide best practices research and supporting evidence to municipalities, where warranted, regarding risks and alcohol harms associated with hours of sale.
- Participate in advocacy efforts to strengthen provincial regulations that provide municipalities with a greater authority to restrict hours of alcohol service.

## ENGAGEMENT QUESTIONS FOR MUNICIPALITIES

- Are there areas, such as entertainment districts, within your municipalities that could benefit from reduced hours of alcohol beverage service?
- Is additional policing deployed in neighbourhoods with late-night establishments or entertainment districts? What is the associated cost for deploying additional officers? How is this cost recouped by the municipality?
- Does your municipality have a transit system with a late-night service for patrons in areas with late-night establishments? What is the cost of providing this transit service?
- What is the extent of municipal resources directed to clean up (garbage pick-up, etc.) neighbourhoods with late-night establishments?

## PRICING STRATEGIES

Interventions to decrease the affordability of alcohol can reduce alcohol consumption levels, particularly among heavy alcohol consumers, and also decrease alcohol-related harms.<sup>89, 90</sup> Studies have shown that a 10% increase in alcohol prices can reduce alcohol consumption ranging from 4.5% (wine) to beer (10%).<sup>91</sup> In addition, negative impacts associated with heavy alcohol consumption, such as, crime, alcohol-related deaths and hospitalization due to intoxication, have been proven to decrease in association with increases in minimum alcohol prices.<sup>92</sup> In British Columbia, a 10% increase in minimum alcohol prices resulted in a decrease of alcohol-related traffic violations by 18.8% and a reduction of crimes against persons by 9.4%.<sup>93</sup>

A literature review conducted in *Addressing Alcohol Consumption and Alcohol-Related Harms at the Local Level, 2014* found that rates of alcohol sales and self-reported drinking declined as alcohol prices and taxes increased. Moreover, the report cited a review of seventy-eight studies which found that alcohol taxes had resulted in a reduction in excessive alcohol consumption and alcohol-related harms. Pricing strategies identified in *Making the Case: Tools for Supporting Local Alcohol Policy in Ontario, 2013* and *Addressing Alcohol Consumption and Alcohol-Related Harms at the Local Level, 2014* include:

- Establishing minimum prices for alcoholic beverages based on volumetric pricing;
- Regulating discounts on alcoholic beverages and retail sales;
- Applying taxation on alcoholic beverages (including municipal taxes);
- Indexing alcohol prices to cost of living;

- Establishing incentives for lower-strength products; and
- Regulating retail sales including mark-ups.

### Minimum Pricing

A standard size drink may not be sold below the minimum price of \$2.00 as per ss.20(3) of Regulation 719 of the Liquor License Act.

Standard serving sizes of liquor varies by type of liquor, as follows: 341 ml (12 oz) of beer, cider or cooler; 29 ml (1oz) of spirits, 142 ml (5 oz) of regular wine; and 85 ml (3 oz) of fortified wine.

In Ontario, alcohol sales prices are regulated by the provincial government. It has the power to make regulations governing prices, including minimum prices.<sup>94</sup> In Ontario, the provincial government controls the sale and pricing of alcohol through the Liquor Control Act. Minimum prices for licensed liquor stores (off-premise retailers) are established under Reg. 116/10 of the Liquor Control Act and vary by beverage type, container size, product origin, and alcohol content and are indexed annually, based on a three-year average of the Ontario Consumer Price Index. On-premise establishments (liquor sales licensees) are required to adhere to a different set of minimum prices, as outlined in Regulation 719 of the Liquor License Act, which varies by type of liquor and size of serving provided.<sup>95</sup> A standard size drink may not be sold below the minimum price of \$2.00 as per ss.20(3) of Regulation 719 of the Liquor License Act.<sup>vii</sup> The AGCO provides flexibility for licensees to change their drink prices throughout the day, as long as prices do not fall below the minimum.

<sup>vii</sup> Standard serving sizes of liquor varies by type of liquor, as follows: 341 ml (12 oz) of beer, cider or cooler; 29 ml (1oz) of spirits, 142 ml (5 oz) of regular wine; and 85 ml (3 oz) of fortified wine.

A review of provincial alcohol pricing interventions undertaken by Gisbrecht et al. (2013) found that the Ontario government was rated highly in regards to mandating the indexation of minimum prices for all alcoholic beverages and adjusting minimum prices based on alcohol content. However, the same study provided a comparison of average minimum prices on and off-premise per standard drink, and found that the minimum prices of alcoholic beverages in Ontario are lower than the Canadian average, particularly in comparison to Canada's eastern provinces. Maintaining low pricing was cited by the Government of Ontario as a means of improving convenience and increasing choice to consumers.<sup>96</sup> Grocery store operators selling wine are not permitted to sell wine lower than the price prescribed by the LCBO in Policies & Procedures Manual for Authorized Store Owners, however, prices are higher than the provincially prescribed minimum prices for off-premise retailers.

In 2017, the federal budget identified a 2% excise duty increase for wine, liquor, and beer. The federal government will increase excise taxes on beer and wine to keep up with the Consumer Price Index (CPI), commencing in April 2018 and will continue to be adjusted to the CPI annually.

The Municipal Act does not allow municipalities other than the City of Toronto to impose alcohol taxes. Municipal taxation on alcoholic beverages is well-practiced in the United States, and can include taxation at the point of sale or a volume-based tax embedded in the price. However, in Ontario, only the City of Toronto has the authority to impose a tax on the purchase of alcohol (i.e., liquor, beer, or wine, as defined in Section 1 of the Liquor License Act) at the point of sale, as per the City of Toronto Act. The City of Toronto is currently undertaking a review to address the taxation of alcoholic beverages and products, including alcohol sold at LCBO stores.<sup>97</sup> Other municipal jurisdictions are limited unless an amendment is passed to the Municipal Act allowing such taxation.

Pricing interventions to reduce alcohol consumption have been implemented in some jurisdictions outside Ontario.<sup>98</sup> In British Columbia, where there was absence of provincial minimum alcohol price policies, the municipalities of Victoria, Vancouver, Kamloops, and Nanaimo implemented minimum drink prices on liquor sold in licensed establishments.<sup>99</sup>

Published reports identified the need to pursue local regulations but did not identify the specific regulations that could be pursued under the jurisdiction of the municipality.<sup>100</sup> A Submission to the Inquiry into Modernizing British Columbia Liquor Laws, prepared by the Centre for Addictions

#### **City of Kamloops Business License By-Law**

Section 516 of By-Law-60 identifies that businesses licensed under the Liquor Control and Licensing Act must not sell, or offer for sale, alcoholic beverages at a retail price of less than \$3.00 per standard serving, inclusive of taxes. Section 517 of the City of Kamloops Business License By-Law defines standard serving sizes for a variety of alcoholic beverages. The City's minimum pricing is \$1.00 higher than the minimum price of \$2.00 in Ontario.

<sup>136</sup> City of Kamloops. (2012). Business license and regulation by-law no. 9-60.

Research of BC identified the limitations municipal governments face in determining pricing policies. They have recommended that provincial governments provide them with greater powers to influence pricing policies.<sup>101</sup> A review by the Regional Municipality of Peel echoed the findings of the Centre for Addictions Research of BC, identifying a lack of municipal influence in addressing pricing interventions.<sup>102</sup>

## FEASIBILITY FOR ONTARIO MUNICIPALITIES

### Opportunities

- Municipal efforts to influence the price of alcoholic beverages can be approached through advocacy. This is consistent with the recommendations established in *Making the Case: Tools for Supporting Local Alcohol Policy in Ontario*, and in the Locally Driven Collaborative Project, where efforts to control alcohol affordability can best be achieved through advocacy to the provincial government to increase minimum alcohol prices.
- Establish minimum prices on alcoholic beverages served on municipal lands or at municipal facilities, established through a Municipal Alcohol Policy.

### Challenges

- While the practice exists in other provinces, the literature review did not find precedence in Ontario with regards to establishing a minimum price for alcoholic beverages as a condition of granting a business license. Consultation with legal counsel should be undertaken to assess a municipality's feasibility of establishing business licensing by-laws addressing the pricing of alcoholic beverages.
- The ability to apply a municipal tax on alcoholic beverages is only currently available to the City of Toronto.

## RECOMMENDED ACTIONS

### Municipalities

- Participate in advocacy efforts to strengthen provincial regulations in controlling access and affordability to alcohol.
- Explore the development of minimum pricing standards for alcoholic beverages as a condition of a business license application.

### Public Health

- Continue to advocate to the provincial government for stronger alcohol pricing interventions to reduce alcohol-related harms.

## ENGAGEMENT QUESTIONS FOR MUNICIPALITIES

- Should prices for alcohol products sold in stores be increased? Should alcoholic beverage prices be increased in on premise facilities?
- Do you feel municipalities should have more control in influencing the price of alcohol? Why or why not?



## MARKETING

Exposure to alcohol advertisements can occur through TV, radio, internet, social media, magazines, and billboards in public spaces. Alcohol advertisement and promotion contributes to the normalization of alcohol consumption, particularly among youth.<sup>103</sup> Advertisements on public transit, including bus and transit shelters, are a particularly strong contributor in exposing youth to alcohol.<sup>104</sup> A study conducted by Simon (2008) identified the importance of restricting outdoor advertising in public spaces, particularly on transit ads, to reduce youth exposure.<sup>105</sup> Evidence has shown that policies restricting alcohol exposure through marketing and advertisements reduce first-time alcohol use (protecting children and youth)<sup>106</sup> and alcohol-related harms.<sup>107</sup>

Various guidelines regulate advertisements promoting liquor, including the Canadian Radio-television Telecommunications Commission (CRTC) code, the Liquor License Act and Regulations, as well as the AGCO, and LCBO guidelines.

Broadcast advertisements must be in compliance with the CRTC's Code for Broadcast Advertising of Alcoholic Beverages, which restricts advertising according to six key themes pertaining to the promotion of general consumption or irresponsible use of alcohol, targeting youth, associating alcohol with achievements or activities requiring specific skill and contest and sponsorship requirements. In regards to the Liquor License Act, license holders are permitted to advertise liquor within specified criteria as per Section 87 of Regulation 719 and Section 5 of Regulation 720. The AGCO provides guidelines to support responsible advertisements and promotions through the Alcohol and Gaming Commission of Ontario Liquor Advertising Guidelines: Liquor Sales Licensees and Manufacturers. The LCBO adheres to the AGCO guidelines and promotes social responsibility by displaying drink sizes that are consistent with Canada's low-risk alcohol drinking guidelines in their advertisements.<sup>108</sup>

However, studies have found that compliance to self-regulated guidelines (CRTC, AGCO) is problematic.<sup>109</sup> Moreover, the guidelines do not cover all forms of marketing, including social media, event sponsorships, and merchandising.

Consultation with the AGCO in May 2017 identified that municipalities have jurisdiction to control the promotion of alcoholic beverages on municipally-owned lands or facilities. Discussions with the AGCO identified that interest to limit marketing for private businesses and public facilities and spaces owned by other levels of government may be determined on an individual basis in collaboration with the applicable business/facility owner. Further engagement is recommended with legal counsel to confirm a municipality's legal authority to affect alcohol marketing for businesses on non-municipal premises.

### Happy Hour

Advertisements promoting immoderate consumption, such as Happy Hour, are not currently permitted by the AGCO. However, on-premise licensed establishments can promote reduced pricing for alcoholic beverages on any given day or time.

The AGCO is currently developing updated guidelines to refine permissible advertisements and promotions. The current guideline prohibits the usage of the phrase "happy hour". However, daily drink specials are permitted provided that prices do not fall below the minimum regulated prices.

<sup>137</sup> (L. O'Brien, et al., AGCO, personal communication, May 12, 2017) Discussion with the Alcohol and Gaming Commission of Ontario.

Municipal jurisdiction for advertisements and promotions concerning advertisements are limited to those located on municipally-owned properties and municipal public spaces, and are addressed through Municipal Alcohol Policies, which are outside the scope of this report. Municipal public spaces can include both indoor and outdoor spaces that are municipally-owned, such as community centres, indoor and outdoor recreation spaces, transit stops, and right-of-ways (such as sidewalks). *Municipal Alcohol Policy Guide for Nova Scotia Municipalities* (2015) provides municipalities with a valuable resource for best practice policies applicable to Municipal Alcohol Policies. Examples of jurisdictions that have restricted alcohol (and tobacco) advertisements on transit facilities include Saskatoon, Seattle, San Francisco, Boston, New York and Philadelphia.<sup>110, 111</sup>

In 2015, the Ontario Public Health Association (OPHA) identified restricting alcohol marketing and advertising as a strategy to reduce alcohol-related harms in Ontario. Proposed policies include: developing a public health informed advertising standards code for alcoholic beverages, prohibiting price or sale incentives by all alcohol retailers, and developing stronger restrictions regarding sponsorship targeted to youth and young adults.<sup>112</sup>

### King County Seattle Metro Transit Advertising Policy

Any advertising that (i) promotes or depicts the sale, rental, use of, or participation in, or images of the following products, services, or activities; or (ii) that uses brand names, trademarks, slogans or other material that are identifiable with such products, services, or activities are prohibited:

- (a) Tobacco. Tobacco products, including but not limited to cigarettes, cigars, and smokeless tobacco;
- (b) Alcohol. Beer, wine, distilled spirits or any alcoholic beverage licensed and regulated under Washington law.

<sup>118</sup> King County. (2012). King County department policies and procedures: Transit advertising policy. King County Department of Transportation, Transit Division.



## FEASIBILITY FOR ONTARIO MUNICIPALITIES

### Opportunities

Based on the preceding discussion, municipalities have within their jurisdiction the authority to undertake the following measures to control alcohol marketing:

- Establish policies controlling the promotion of alcoholic beverages on municipally-owned lands or facilities (e.g. transit).

### Challenges

While opportunities are available for municipalities to control alcohol marketing, there may be challenges that affect implementation, as follows:

- Municipal interest to limit alcohol marketing on private premises and/or public facilities and spaces owned by other levels of government may be determined on an individual basis in collaboration with the applicable business/facility owner.

## RECOMMENDED ACTIONS

### Municipalities

- Develop policies that prohibit the promotion, sale, of alcoholic beverages on municipally-owned lands or facilities, including public transit and associated amenities.

### Public Health

- Continue to advocate to the Province for stronger policies to restrict alcohol marketing and advertising.

## ENGAGEMENT QUESTIONS FOR MUNICIPALITIES

- Does your municipality have a policy that prohibits the marketing of alcoholic products on municipal lands or at municipally-owned or controlled facilities?
- Does your municipality have a policy that prohibits the marketing of alcoholic products on transit buses, facilities and shelters?



## INFORMATION SHARING

The WHO's *Global Strategy to Reduce the Harmful use of Alcohol, 2010* identified the importance of collaboration and coordination to allow information exchange and data sharing across different sectors.<sup>113</sup> This section examines potential data collection and monitoring efforts that municipalities may explore to observe trends in alcohol-related harms, which may be used to inform municipal policy development. While the results focus on efforts that would continue to be led by public health, there are potential areas of collaboration that would involve other sectors, including local government, law enforcement, and emergency service responders.

A literature review of municipal practices found precedence established by Australian municipalities. In Australia, municipalities collect wholesale alcohol sales data to monitor alcoholic beverage consumption by neighbourhood and hour of service, informing targeted alcohol harm-reduction policies and determining public resources allocation (i.e., marketing, enforcement) to support responsible consumption.<sup>114</sup>

In one particular municipality, wholesale alcohol sales and taxation data were collected in high risk neighbourhoods to determine differential taxation approaches to reduce localized levels of alcohol consumption, alcohol-attributable emergency department visits, and hospitalization.<sup>115</sup> However, sales data was only available for wholesale alcohol transactions between wholesalers and retailers.<sup>116</sup>

Australia's experience highlighted the need to access alcohol sales data at the retail level (amount of retail sales by establishment) to better inform policy development. For example, better access to retail sales data can identify preferred alcoholic beverages by population group, track the quantities of beverages purchased by time of day, and the frequency of purchases.<sup>117</sup> However, the Australian National Drug Research Institute (2016) reported that published sales data is aggregated and there are no known global practices where alcohol sales data is publicly accessible at the retail level.<sup>118</sup>

### **Auckland, New Zealand**

Auckland Council's alcohol reduction strategy includes recommendations for information sharing and service alignment to reduce alcohol-related crime. It provides an effective model for Canadian municipalities.

In Auckland, collaborative projects are endorsed by regional councils that direct municipal departments, industry stakeholders, and service providers to work together to gather data, conduct surveys, and perform impact assessments in informing alcohol harm-reduction policies and strategies. The program includes the ongoing collection and monitoring of data that includes property damage, noise, litter, traffic, crime, breach of liquor bans, and alcohol-related issues.

Much attention has focused on examining the influence of alcohol access and alcohol misuse on criminal behaviour. Livingston (2008) identified a strong correlation between neighbourhoods with a frequency of crime and licensed establishments with a history of infractions. Livingston's study recommended the development of a surveillance program to identify specific "hot spots" in a municipality to inform targeted police and by-law enforcement.<sup>119</sup> However, a literature review of ninety quantitative studies conducted between 1950 and 2014 by Fitterer and Nelson (2015) examined alcohol-attributable crimes, and identified inaccuracies associated with an over-reliance of causation indicators (i.e., density of alcohol outlets, hours of sales, and alcohol sales volumes) and its influence on criminal behaviour.<sup>120</sup> The review recommended the inclusion of other indicators to better correlate alcohol misuse and criminal behaviour, including square footage of licensed establishments, seating capacities, and social media with information about potential patrons.

A recent study identified shortfalls in establishing a municipal or region-wide program of alcohol-attributable offences.<sup>121</sup> Utilizing administrative health data, a study of Canadian surveillance programs found a need to gather information to identify locations where alcohol-related injuries and offences occur to inform targeted law enforcement and municipal by-law enforcement programs.<sup>122</sup>

In Ottawa, the municipality's police and public health departments work together to collect and monitor alcohol-related offences. Offences are monitored to identify specific areas within the downtown core that have the highest density of alcohol-related offences and paramedic responses.<sup>123</sup> Consultation was undertaken with Ottawa Public Health, who noted the benefits of the city's organizational structure to facilitate public health and the police department sharing of data and collaborative work.<sup>124</sup>

## FEASIBILITY FOR ONTARIO MUNICIPALITIES

### Opportunities

- Establish partnerships involving community services departments, planning, public health, and/or police to collect and monitor alcohol-related offences.

### Challenges

- Access to alcohol sales data is limited, which creates challenges for municipalities to use it as a basis to inform local policy development. Alcohol sales data is available from the LCBO only (in licensed establishments and grocery stores). Sales data is unavailable from other retailers, such as the Beer Store, off-site wine retailers, etc. Sales data is also not collected by the AGCO. Statistics Canada collects data through the Control and Sale of Alcoholic Beverages program questionnaire, however information is not available at the municipal level.<sup>125</sup>
- Public health units may face data limitations in accessing statistics from municipalities and/or police departments, particularly for jurisdictions where public health is independent from the municipality.

## RECOMMENDED ACTIONS

### Municipalities

- Municipalities should seek available local data. Municipalities interested in accessing data from local police departments would need to refer to municipality or public health unit's legal counsel when seeking authorization. The AGCO also provides data. Some datasets are publicly available while others are restricted.<sup>126</sup> This information is presented in the Appendix. Municipalities and public health units interested in obtaining access to the AGCO's restricted data will need to go through their legal department to engage with the AGCO.<sup>127</sup>

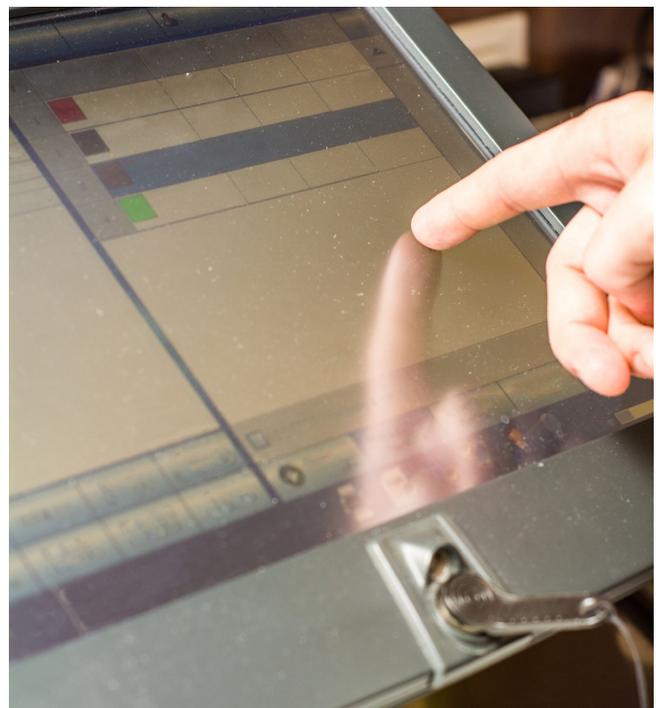
### Public Health

- Share the findings of the policy review with municipalities and encourage them to adopt a policy approach to reducing alcohol risk and harm.
- Advocate to the provincial government for changes to access alcohol sales data from licensed establishments to support policy development.

## ENGAGEMENT QUESTIONS FOR MUNICIPALITIES

- Does your municipality have a GIS department that undertakes mapping of land use development, socio-demographic trends, or community trends?
- Does your business license department collect (independently or through the AGCO) and monitor the location of establishments with liquor licenses?
- What data sources do you use to inform municipal approvals for liquor license applications?
- Would your municipality's business licensing department be interested in accessing data to support municipal decision making?
- Is your municipality currently engaged with other partners, such as public health or the police, in reviewing applications?

- Is your municipality currently working with public health, police, fire, or the AGCO in preventing and reducing alcohol-related harms at licensed establishments?
- What data sources would you like to obtain to support liquor license application reviews or monitor trends in alcohol-related harms?
- Does your municipality have readily available access to a local police database of licensed premises where people were drinking prior to their arrest for impaired driving?
- Is your municipality currently undertaking mapping to identify the location of alcohol retail outlets and licensed establishments?
- Are there challenges facing your municipality that make it difficult for you to collect data?
- If data can be obtained, does your municipality have the capacity to undertake analysis to inform licensing approvals or monitor trends?



## APPENDIX A: METHODOLOGY

### Project Scoping

Research topics were identified in consultation with the project team, which included representation by Wellington-Dufferin-Guelph Health, Durham Region Health Department, and Thunder Bay District Health Unit. The following policy areas of interest were identified as part of a project initiation meeting:

- Pricing strategies, including approaches to taxing and pricing
- Locational restrictions and limitations on outlet densities for both on premise and off-premise establishments
- Hours of sale limitations, including controls on Happy Hour
- Modifying the drinking environment, including server training, municipal license programs, crime prevention strategies, collaborative approaches, and trends in surveillance.

### Review of Guidance Documents

Over the last ten years, various publications have been developed to establish the need for policies and strategies to reduce alcohol exposure and consumption. The documents were reviewed to identify research regarding alcohol-related harms and its rationale for supporting the policy areas of interest framing this project. The publications also included proposed recommendations for municipal governments and other stakeholders, which were identified and inventoried.

### Review Ontario's Legislative Environment

A review was conducted of Ontario's legislative environment to understand the roles and responsibilities of municipal, provincial, and federal governments in establishing regulations addressing access to, and consumption of, alcohol. A review was

undertaken of the Ontario Municipal Act, Planning Act, Liquor Control Act, and Liquor License Act. Research was conducted online to secure and review electronic copies of the legislation from e-laws. Secondary sources were also consulted to identify peer reviewed literature and/or analysis of the various acts with respect to framing municipal jurisdiction and responsibility in influencing the policy areas of interest (i.e., pricing strategies, locational restrictions, hours of sale limitations, and modifying the drinking environment). In addition, AGCO publications were reviewed to identify further details regarding provincial acts and regulations.

### Research Regarding Municipal Policies/Practices

Academic and grey literature were reviewed to identify promising municipal policies and practices across Canada, and internationally. An online search was undertaken through Google and Google Scholar to identify policies, by-laws, standards, and policies using keywords relevant to each of the policy areas of interest. Guidance documents consulted in Task B also served as a starting point to identify promising municipal practices.

Telephone interviews were conducted where relevant, to gather additional information and seek clarity, regarding provincial and municipal policies, standards, guidelines and practices. Canadian municipalities were contacted following a review and analysis of municipal policies and practices based on publicly available information found through online searches. Contacts were sought with municipalities in the following instances:

- When clarity is needed to better understand existing municipal policies, by-laws, standards, or practices secured through online research;
- To secure information addressing policies, by-laws, and standards that are referenced, or that are not publicly available.

Municipalities were approached by telephone to secure their participation in a telephone interview. Email follow up was also undertaken to secure specific interview dates and times. The following municipalities were contacted by the project consultant:

- City of Barrie
- City of Calgary
- City of Edmonton
- City of Hamilton
- City of Ottawa
- City of Surrey
- City of Toronto

Telephone interviews were conducted between February 2017 and June 2017. In some cases, interviews were undertaken to acquire access to reports or verify information provided online. In other cases, interviews asked questions of clarification regarding current policies, initiatives, or procedures. Telephone interviews with municipal staff were semi-structured and varied in length. Questions differed between interviewees and were dependent upon the specific policies, by-laws, standards or practices being undertaken by the municipality. Interviews were undertaken with:

- City of Barrie, By-Law Enforcement Officer
- City of Barrie, Municipal Clerk
- City of Hamilton, By-Law Enforcement Officer
- City of Hamilton, Liquor License Coordinator
- City of Edmonton, Zoning By-Law Officer
- Ottawa Public Health, Public Health Nurse
- Alcohol and Gaming Commission of Ontario

A teleconference meeting was arranged with the Alcohol and Gaming Commission of Ontario's Director of Corporate Affairs on May 12 along with three other AGCO representatives. Questions were sent in advance based on the findings of the literature review and based on potential challenges and barriers experienced by municipalities uncovered during the secondary source research and interviews. The following topics were discussed during the teleconference:

- Permissible alcohol beverage promotions and advertisements, including those located on public spaces, and during Happy Hour
- Delineation of responsibilities between the AGCO, municipalities, and law enforcement regarding liquor licensing approvals, enforcement, suspension, and termination
- Approvals process for grocery store licenses for alcohol sales (on floor and within kiosks)
- Current trends regarding on-premise establishments and off-premise licensed retailers in Ontario
- AGCO regulatory review of 2013 and forthcoming changes to regulations

## APPENDIX B: AGCO DATA INVENTORY

Data Inventory	Description	Access Level
<b>Licensing and Retail</b>		
Liquor License Applications Processed	Details on application type, status, and license risk level. Data is updated weekly.	Restricted. Data may be open to the public upon removal of exempted data.
Retail Store Database	Identifies numbers and locations of on-site and off-site liquor retail stores. Data is updated daily.	Open/public.
Farmer's Market Authorization	Identifies the numbers and locations of wineries and farmers participating in VQA Wine Sales program.	Open/public.
List of Liquor Sales License Applications	Liquor sales license application where public notification is required.	Open/public.
Current active liquor sales licenses, licensed wineries, breweries, distilleries, liquor delivery services, brew-on-premise, bring your own wine	Lists of licensed establishments.	Open/public.
<b>Inspections</b>		
Performed Inspections Count	Weekly inspections performed in the last 53 weeks. Data is updated weekly.	Open/public.
Weekly Inspection	Detailed data on establishments that were inspected, including risk level.	Restricted. Information identifies investigation techniques.
<b>Infractions</b>		
Infraction Count	Count of weekly infractions in the last 53 weeks.	Open/public.
Big 5 Infraction Count	Count of weekly Big 5 infractions in the last 53 weeks.	Open/public.
Weekly Infraction	Detailed infraction data.	Restricted. Information identifies investigation techniques.
Inspection and Infraction Report	Data that identifies inspected establishments, and infractions, by geographic location.	Restricted. Information identifies investigation techniques.
Infraction Detail Report	Historical information documenting infractions by establishment.	Restricted. Confidentiality.
<b>Law Enforcement</b>		
Police Reports Tracking Sheet	Data on charges laid by local police and through internal AGCO workflows.	Restricted. Information may be subject to ongoing investigations.
Investigations and Enforcement Internal Tracking Sheet	List of ongoing investigations.	Restricted. Information may be subject to ongoing investigations.
OPP Last Drink Tracking Report	Documents 'last drink' establishments consumed by patrons associated with police reports.	Restricted. Information may impair enforcement operations.

Source: AGCO. Data Inventory. Available from: <https://www.agco.ca/data-inventory>.

## APPENDIX C: CITY OF BARRIE LIQUOR LICENSE ONLINE APPLICATION

### How to Apply for a Liquor Licence

#### Checklist for new Restaurants/Taverns or Restaurants not previously serving Alcohol\*

\*All permits and applications can and should be started at the same time. Some agencies/departments listed may take up to two weeks or longer to provide their signatures so it is suggested that you make application with them **THE SAME DAY** that the Municipal Liquor Licence Application is commissioned and circulated. This will avoid unnecessary delays in the issuance of the licence by the AGCO.

PROCESS	LOCATION	Licence/Permit Fees
<p><b><u>Alcohol and Gaming Commission of Ontario (AGCO) Licence</u></b></p> <ul style="list-style-type: none"> <li>Apply for your Alcohol Licence with the Alcohol and Gaming Commission of Ontario (AGCO)</li> </ul>	<p>1-800-522-2876 www.agco.ca</p>	
<p><b><u>Simcoe Muskoka District Health Unit</u></b></p> <ul style="list-style-type: none"> <li>Contact the Simcoe Muskoka District Health Unit and ask to have an inspection for a Liquor Licence Application.</li> </ul>	<p>15 Sperling Drive, Barrie 705-721-7330</p>	
<p><b><u>Building Permit (if applicable)</u></b></p> <ul style="list-style-type: none"> <li>Apply for a building permit (if your location is a new building or renovations are being made)</li> </ul>	<p>City Hall, 8<sup>th</sup> Floor - Planning and Building Services, Building Division</p>	<p>Fee Depends on type of permit required</p>
<p><b><u>Municipal Liquor Licence Application</u></b></p> <ul style="list-style-type: none"> <li>Visit Legislative and Court Services Department to pick up and fill out the Municipal Information Form (MIF- AGCO form) and City of Barrie Liquor Licence Questionnaire.</li> <li>The MIF Form and the questionnaire must be commissioned in the Legislative and Court Services Department, Legislative Services Division or by personal lawyer once complete.</li> </ul> <p><b>Legislative and Court Services retains the original copy of the MIF and questionnaire to circulate to partners and stakeholders for a two week public comment period.</b></p> <ul style="list-style-type: none"> <li>The Legislative and Court Services Department will not issue an approval letter to the AGCO unless Load Occupancy Reports have been received from the Building Services Department and the Barrie Fire and Emergency Services Department. Confirmation that a Restaurant/Tavern and/or Patio Licence Application has been completed from the Enforcement Services Branch must also be received. See below for further details.</li> </ul>	<p>City Hall – 1<sup>st</sup> Floor – Legislative and Court Services Office 705-739-4204</p>	<p>Commissioning Fee \$40.00 (adjusted yearly)</p>

PROCESS	LOCATION	Licence/Permit Fees
<p><b><u>Building Services - Inspection Branch</u></b></p> <ul style="list-style-type: none"> <li>Book an appointment with the Building Services - Inspection Branch for an inspection and to have the occupancy calculations completed for your location.</li> </ul>	<p>City Hall, 8<sup>th</sup> Floor – Planning and Building Department/ Building Division 705-739-4212</p>	<p>Fee \$210.00 (adjusted yearly)</p>
<p><b><u>Barrie Fire and Emergency Services - Inspection</u></b></p> <ul style="list-style-type: none"> <li>Call the Barrie Fire and Emergency Services Department and request an inspection for liquor licence approval (once the Building Services – Inspection Branch has completed its inspection).</li> </ul>	<p>705-739-4242, ext. 3238, or ext. 3246</p>	<p>Fee 179.30 (2017 fee - adjusted yearly)</p>
<p><b><u>Municipal Restaurant/Tavern and/or Outdoor Patio Licence</u></b></p> <ul style="list-style-type: none"> <li>Fill out a Business Application form for a Restaurant/Tavern and/or Outdoor Patio Licence.</li> </ul> <p><b>The Application Form will indicate departments or agencies that must provide signatures of approval. It is your responsibility to obtain the signatures on the paperwork.</b></p>		
<ul style="list-style-type: none"> <li>Visit the Planning Services Division to obtain a signature for approval of the zoning of the restaurant location.</li> </ul>	<p>City Hall, 1<sup>st</sup> Floor – Planning and Building Department/Planning Division</p>	
<ul style="list-style-type: none"> <li>Visit the Barrie Police Services and have them sign the approval form.</li> </ul>	<p>29 Sperling Drive, Barrie 705-725-7025</p>	
<ul style="list-style-type: none"> <li>Visit the Simcoe Muskoka District Health Unit for a signature on approval form.</li> </ul>	<p>15 Sperling Drive, Barrie 705-721-7330</p>	
<p><b><u>Enforcement Services – Business Licence</u></b></p> <ul style="list-style-type: none"> <li>Once all parties have signed the Business Licence application, or provided approvals, you can submit the licence applications to Enforcement Services and the required documents.</li> <li><b>Note:</b> You must provide a copy of \$2,000,000 liability insurance to Enforcement Services.</li> </ul>	<p>Enforcement Services 45 Cedar Pointe Drive, Barrie 705-739-4241</p>	<p>Business Licence Fee \$217.00 – adjusted yearly</p>

**GENERAL INFORMATION**

Name of Establishment: (Registered name and Operating name, if different)	
Street Address of Establishment:	
Closest Intersection:	
Mailing Address: (If different from the location of the establishment)	
Name of Owner: (Indicate individual sole proprietor, partnership or corporation, as appropriate) If partnership or corporation, provide names and contact information for all shareholders	
Name of Applicant: (if different from owner)	
Mailing Address for Applicant:	
Applicant Business Phone/Fax Number:	
Applicant Business E-mail address:	

Purpose of the Liquor Licence Application:

\_\_\_\_\_ New establishment

\_\_\_\_\_ New owner/operator of existing establishment

Name of previous business \_\_\_\_\_

\_\_\_\_\_ Change to indoor occupant load/seating capacity (including addition or alteration to interior)

\_\_\_\_\_ Change to outdoor occupant load/seating capacity (including addition or alteration to outdoor patio)

\_\_\_\_\_ Other. Describe below

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**SIZE AND LOCATION**

What is the size (floor area) of the establishment?	<u>CURRENT</u>	<u>PROPOSED</u>	<u>CURRENT</u>	<u>PROPOSED</u>
	<u>Indoor Area</u>	<u>Indoor Area</u>	<u>Outdoor Area</u>	<u>Outdoor Area</u>
	_____ ft <sup>2</sup> / m <sup>2</sup>	_____ ft <sup>2</sup> / m <sup>2</sup>	_____ ft <sup>2</sup> / m <sup>2</sup>	_____ ft <sup>2</sup> / m <sup>2</sup>
What is the occupant load and/or seating capacity of the establishment?	<u>CURRENT</u>	<u>PROPOSED</u>	<u>CURRENT</u>	<u>PROPOSED</u>
	<u>Indoor Area</u>	<u>Indoor Area</u>	<u>Outdoor Area</u>	<u>Outdoor Area</u>
	_____ occupant load	_____ occupant load	_____ occupant load	_____ occupant load
	_____ licensed capacity	_____ licensed capacity	_____ licensed capacity	_____ licensed capacity
	_____ seating capacity	_____ seating capacity	_____ seating capacity	_____ seating capacity

Is the entire operation enclosed? (i.e. the operation is interior space only)  
 Yes \_\_\_\_\_ No \_\_\_\_\_

**An accurate diagram/scaled floor plan indicating the proposed location of the licenced area(s) (ALL licenced areas including indoor and outdoor areas) is required to be attached to this form.**

What is the distance to the closest other establishment(s) serving alcohol? \_\_\_\_\_ ft/ m

Please provide the operating name(s) and describe the target market of other establishments serving alcohol within a 120 m (approximately 400 ft) radius of the proposed location:

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Note: If you require more space please attach additional documentation to this form.

What is the distance to the closest residential dwelling unit? \_\_\_\_\_ ft/ m

Does the subject property contain residential units?  
 Yes \_\_\_\_\_ No \_\_\_\_\_

**OPERATING HOURS, TARGET MARKET, NATURE OF BUSINESS**

Hours of Operation of the business:      Indoor Area                              Outdoor Area  
 \_\_\_\_\_

Hours associated with alcohol sales      Indoor Area                              Outdoor Area  
 \_\_\_\_\_

What is the primary nature of the establishment? (i.e. family restaurant, fine dining, lounge/nightclub, bar/tavern, coffee house, etc)

Before 10 PM:

\_\_\_\_\_

After 10 PM:

\_\_\_\_\_

Describe your target market:

\_\_\_\_\_

\_\_\_\_\_

Describe the proposed security both internally and exterior to the establishment (i.e. total number of staff, training or experience of staff, number of security persons):

Before 10 PM:

\_\_\_\_\_

After 10 PM:

\_\_\_\_\_

Note: If you require more space please attach additional documentation to this form.

Are all security personnel trained and licensed? Yes \_\_\_\_\_ No \_\_\_\_\_ Describe (i.e. in-house or hired service)

\_\_\_\_\_

\_\_\_\_\_

Note: If you require more space please attach additional documentation to this form.

Are exterior line ups (queues) anticipated for your establishment? Yes \_\_\_\_\_ No \_\_\_\_\_

**OPERATING HOURS, TARGET MARKET, NATURE OF BUSINESS (Continued)**

Describe the nature of the proposed seating for the venue (i.e. dining tables, cocktail tables, stand up bar):	Indoor Area
	Outdoor Area
Describe any food preparation facilities for the venue:	Indoor Area
	Outdoor Area
Describe any other type of business to be operated from the establishment on a permanent basis, or from time to time (i.e. bakeshop, variety store, grocery store, billiard hall, take-out restaurant, adult entertainment, non-motorized refreshment vehicles, etc?):	Indoor Area
	Outdoor Area
If yes, are the businesses physically separated from the licensed area(s) so that access or exits to and from the other business are not through the licensed area(s)? Provide full details:	Indoor Area
	Outdoor Area
Describe any ancillary entertainment (i.e. video games, pool tables, etc):	Indoor Area
	Outdoor Area

**OPERATING HOURS, TARGET MARKET, NATURE OF BUSINESS (Continued)**

Describe any musical entertainment to be provided (i.e. dance floor, live/recorded music, amplified sound , etc)	<u>Indoor Area Only</u>
	Dance Floor
	Yes _____ No _____
	Live Music
	Yes _____ No _____
	Recorded Music
	Yes _____ No _____
	Amplified Sound
	Yes _____ No _____
	Unamplified Sound
	Yes _____ No _____
	<u>Outdoor Area Only</u>
	Dance Floor
	Yes _____ No _____
Live Music	
Yes _____ No _____	
Recorded Music	
Yes _____ No _____	
Amplified Sound	
Yes _____ No _____	
Unamplified Sound	
Yes _____ No _____	

**OWNERSHIP/MANAGEMENT INFORMATION**

Describe the owner or operator’s performance record including any by-law violations, building, health, fire code deficiencies noted on an inspection report, and any pending charges or convictions or liquor licence offences within the last 3 years:

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Has a principal officer of the business or a manager of the business been charged with or convicted of a liquor licence related offence? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, provide details of any pending charge or conviction

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Do any of the principal officer(s) or managers of the business have a criminal record? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, provide a copy of the criminal records check

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Is there a pending charge or conviction against the business related to a liquor related offence? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, provide details

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List the names and addresses of any other licensed establishments in Canada owned or operated by the same operator or owner:

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Note: If you require more space please attach additional documentation to this form.

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I \_\_\_\_\_ (name of applicant/owner), hereby certify that the information provided pursuant to this liquor licence application questionnaire is true, accurate and complete to the best of my knowledge and ability. I understand and acknowledge that if the information with respect to the establishment changes materially, I am responsible for completing and submitting an updated questionnaire. I further understand and acknowledge that the submission of an incomplete questionnaire or the inclusion of false statements is deemed to be a breach of any business licence issued by the City and may be grounds for such licence to be revoked.

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Signature of Applicant

Sworn (Affirmed) before me at The City of Barrie,  
in the Province of Ontario on the \_\_\_\_\_ day

\_\_\_\_\_, 20 \_\_\_\_.

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A Commissioner, etc.

**NOTE:** This is a sworn (affirmed) affidavit of the deponent only. No investigation has been conducted by this authority to confirm or verify the above sworn information.

The CRIMINAL CODE OF CANADA provides that: everyone commits perjury who, with intent to mislead, makes before a person who is authorized by law to permit it to be made before him a false statement under oath or solemn affirmation by affidavit, solemn declaration or deposition or orally, knowing that the statement is false, is guilty of an indictable offence and liable to a term of imprisonment not exceeding fourteen years (Section 131, 132), or by summary conviction (Section 134).

Personal information on this form is collected to determine any concerns with zoning, non-compliance with any by-laws or general objections to the application by City Council, the municipality, residents, and/or organizations within the municipality. The document and any associated submissions will be made available on the City's website and distributed to various stakeholder organizations and resident associations as well as the Alcohol and Gaming Commission of Ontario. This document is a public record, despite anything in the *Municipal Freedom of Information and Protection of Privacy Act (1990)*, and, until its destruction, may be inspected by any person at the City Clerk's Office at a time when the office is open. Questions about this collection can be directed to the City Clerk, 70 Collier Street, Barrie, Ontario L4M 4T5 (705) 739-4220 Ext 4421.

## END NOTES

<sup>1</sup> Wittman, F.D. (2012). Restaurants that “morph” into bars and nightclubs in California communities: What’s the problem and what can be done about it? Community Prevention Initiative (CPI) Policy Brief. Center for Applied Research Solutions.

<sup>2</sup> Meyer, T., Nunes, M., & Rempel, B. (2013). Making the case: Tools for supporting local alcohol policy in Ontario. CAMH Health Promotion Resource Centre and Public Health Ontario.

<sup>3</sup> Manuel, D.G., Perez, R., Bennett, C., Rosella, L., Taljaard, M., Roberts, M...Manson, H. (2012). Seven more years: The impact of smoking, alcohol, diet, physical activity and stress on health and life expectancy in Ontario. Institute for Clinical Evaluative Sciences and Public Health Ontario.

<sup>4</sup> Ibid.

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