

MANAGING ALCOHOL AT EVENTS ON MUNICIPAL PROPERTY

*Considerations to Reduce Risk Due to
Recent Regulatory Changes*

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PREPARED BY
OPHA'S ALCOHOL
WORKGROUP

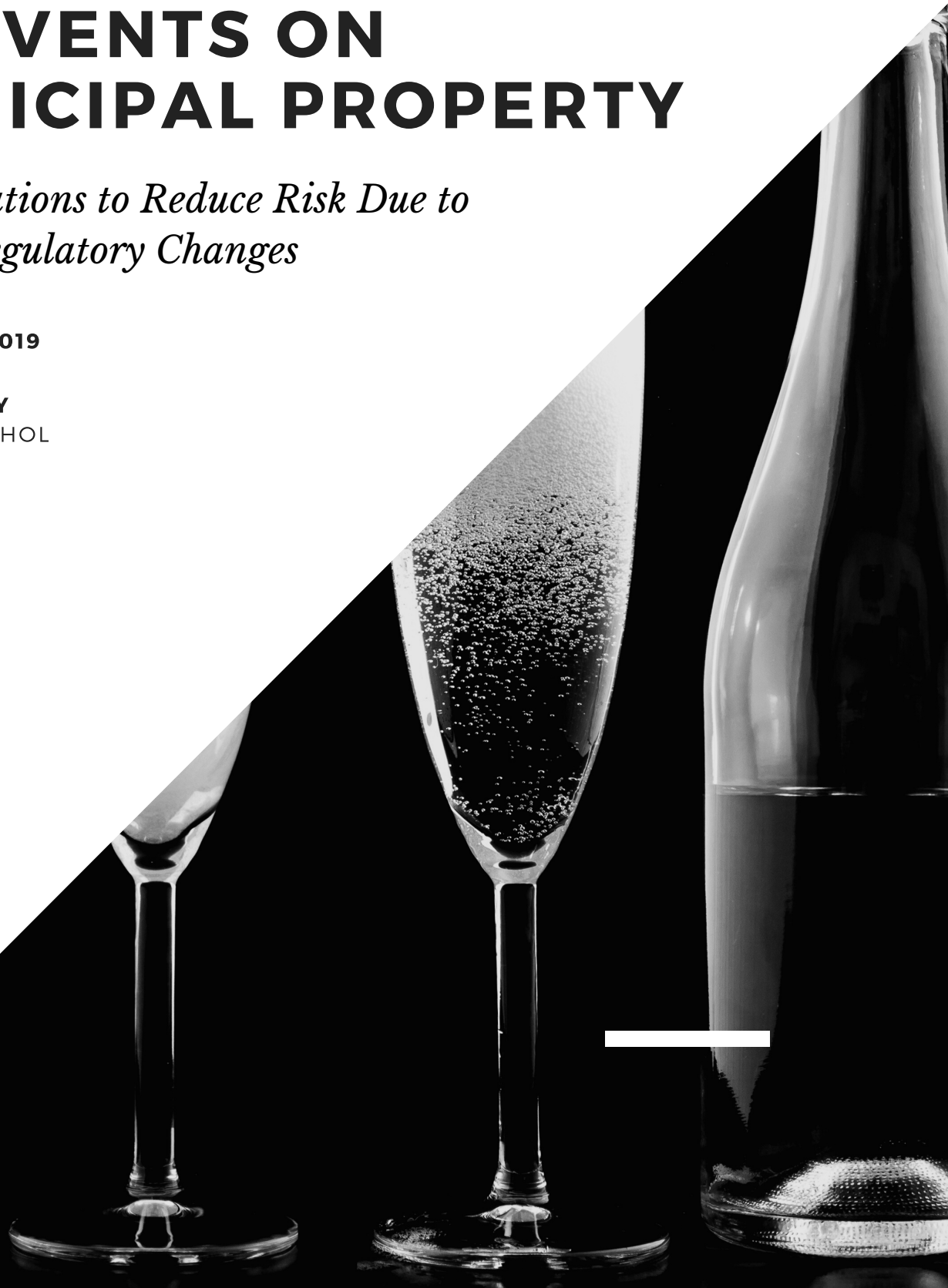


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Managing Alcohol at Events on Municipal Property

Considerations to Reduce Risk Due to Recent Regulatory Changes

Overview

Recent regulatory changes in Ontario affect how alcohol can be served and sold at events hosted on municipal property. Some of these changes may increase the risk of health harms to patrons, event staff, and the public due to alcohol use, which remains a leading, preventable cause of disease, injury, and death in Ontario. Municipalities have the authority to reduce these potential risks by requiring events to adopt additional mitigation measures; this also has the benefit of reducing liability to the municipality.

In this document, the Ontario Public Health Association (OPHA) outlines some of the associated public health and safety concerns and provides detailed mitigation measures for consideration by municipalities.

Introduction

Following the release of the [2019 Ontario Budget](#), the Government of Ontario made a number of regulatory changes that impact the sale and service of alcohol, including at events hosted on municipal property under a [Special Occasion Permit](#) (SOP) or [Catering Endorsement](#). These changes include extended alcohol service hours, a new [Tailgate Event SOP](#) where patrons can bring their own alcohol, lowering retail prices, allowing alcohol-only events (i.e. providing food is no longer required), and changes related to physical barriers. The introduction of edible cannabis and the potential for its co-use with alcohol is also a concern.

To mitigate the potential harms due to these changes, the [Ontario Public Health Association](#) (OPHA) advises that municipalities work with their public health unit and community partners to update their Municipal Alcohol Policy (MAP). Municipalities should also consider enhancing other aspects of their MAP, such as how SOP events are promoted.

This resource was prepared by the [OPHA Alcohol Workgroup](#) to outline the public health and safety concerns and provide mitigation measures for consideration. The issue of municipal councils' [new authority](#) to designate public spaces for alcohol use (commonly known as public drinking or open container laws) will be addressed in a future resource.

Summary of Recommended Revisions to Municipal Alcohol Policies

OPHA advises that Ontario municipalities revise their Municipal Alcohol Policy to:

- Specify the times permitted for alcohol service and retain previous permissible times
- Not allow events sanctioned under a Tailgate Event Special Occasion Permit
- Ensure that existing (minimum) pricing requirements remain relevant (in light of recent policy changes that have effectively lowered the retail price of alcohol)
- Require that food be made available (i.e. do not permit alcohol-only events)
- Require that designated alcohol service and consumption areas are physically separated from non-designated areas
- Prohibit the mixing of alcohol and edible cannabis (including cannabis beverages) by event staff and discourage mixing by patrons

What is a Municipal Alcohol Policy?

Municipal property, buildings, and venues (e.g. town squares, parks, beaches) are often used to host events that sell and serve alcohol such as weddings, sporting events, and festivals. The [Alcohol and Gaming Commission of Ontario](#) (AGCO) authorises these events to sell and serve alcohol through the issuance of a SOP or Catering Endorsement (in the case of Liquor Sales License holders such as bars and restaurants).

One condition of a SOP or Catering Endorsement is that the event is approved by the property owner. For events that are to be hosted under the auspices of a municipality (e.g. property that is owned or leased), a municipal council (or delegate) is the authority that may review and grant approval. A municipal council may also include other requirements to advance municipal interests, such as promoting responsible alcohol use, limiting liability, safeguarding public and private assets, and mitigating public health and safety risks. These requirements are typically outlined in a [Municipal Alcohol Policy](#) (MAP).

For nearly three decades, MAPs have been used by Ontario municipalities to balance the responsible provision and use of alcohol while reducing alcohol-related risk, harm, costs, and liability during events hosted on municipal property. Additional [resources](#) are presented at the end of this document to assist local governments develop or strengthen their MAPs.

Extended Alcohol Service Hours

Policy Context and Impact for Municipalities

Liquor Sales License holders (e.g. bars, restaurants), SOP holders, and manufacturers with “[By the Glass](#)” licences are now able to sell and serve alcohol starting from 9 AM (previously 11 AM) and ending at 2 AM the next day, on all days. Municipalities may now receive requests for approval to sell and/or serve alcohol starting as early as 9 AM for events that are hosted on municipal property. The Government of Ontario also announced plans for consultation for additional changes to alcohol service times; a potential outcome is for permissible service times to be extended past the current 2 AM closing time (e.g. to 4 AM).

Health, Safety, and Liability Concerns

Evidence indicates that increased hours of alcohol service are related to increased alcohol consumption.¹⁻⁵ Increasing the availability of alcohol also contributes to the normalization of alcohol use.⁶ A potential emerging issue is the use of alcohol by participants of mass sporting events (e.g. triathlons, marathons),⁷ which typically take place early in the morning (e.g. alcohol use may impact post-event hydration efforts).⁸⁻¹¹ Furthermore, the potential for closing times to be extended past 2 AM may present challenges related to municipal services, for example, public transportation and enforcement staff may not be available at later hours. Later closing times are associated with heavy drinking and acute harms, including violence and injury and with public nuisance issues such as noise and public intoxication.^{4,5,12-13}

Mitigation Considerations

OPHA advises that municipalities specify the permissible times for alcohol service in their MAP and that these times remain unchanged from previous times.

Should a municipality choose to authorise an event with alcohol service before 11 AM, the following considerations are provided as potential requirements:

- Require that events are adequately insured, based on an assessment of liability in authorizing alcohol service for the new times
- Ensure that municipal staff are able to monitor and enforce relevant municipal bylaws at all times that alcohol service is authorized
- If the event is related to a mass participation sporting event (e.g. marathon, triathlon, cycling event), require measures to protect the health and wellbeing of participants such as additional floor staff to monitor the wellbeing of participants
- Limit the availability of some types of alcohol during early hours (e.g. no sale of high alcohol beers [5.6% ABV or higher] or liquor shots before 11 AM)
- Require that food service is available
- Limit number of drinks that can be obtained by each patron before 11 AM

Additional considerations for events with closing times past 2 AM

Note: At the time of publication, the latest permissible closing time for alcohol service is 2 AM. As part of the 2019 Budget report, the provincial government announced consultations for additional changes to permissible alcohol service times. The follow considerations are being provided pre-emptively to address later alcohol service times:

- Require a transportation plan demonstrating how the event host will address any shortfall in public transportation options past 2 AM (or when public transportation effectively ends)
- Limit the availability of some types of alcohol during later hours (e.g. no sale of high ABV beers or liquor shots after 12 AM)
- Require that entry to the event is stopped at a set time (e.g. no entry after 2 AM)
- Prohibit entry of intoxicated individuals (may require screening at entry)
- Require the event host to have a demonstrated track record of hosting similar events with no significant public health or safety concerns or incidents
- Require the posting of a public notice to inform local residents and businesses about the upcoming event, including details such as estimated number of participants, alcohol service hours, and information on reporting public nuisance issues
- Require enhanced security measures during the later hours
- Require review of event planning by local first responders (e.g. requirement may be triggered based on planned number of patrons)

Tailgate Event Special Occasion Permits

Policy Context and Impact for Municipalities

In May 2019, AGCO began accepting applications for a new type of SOP for [Tailgate Events](#). The primary feature of this SOP is that patrons must be permitted to bring and consume their own alcoholic beverages. This practice is commonly known as 'bring your own booze' or BYOB and is more consistent with US-style 'tailgating', in contrast to similarly promoted, non-BYOB 'tailgate' events in Ontario. For example, the Toronto Raptors hosted a number of 'tailgate parties' throughout spring 2019. However, these events did not permit patrons to bring and consume their own alcohol (despite having 'tailgate' in the event name).¹⁴

AGCO [guidelines](#) require that Tailgate Events are held at ground level, outdoors, and in close proximity to a live professional, semi-professional, or post-secondary sporting event. There is no requirement for approval or endorsement from the sporting event entity connected with the Tailgate Event (e.g. team owner, league). These events may be hosted on private or public property with approval from the property owner (e.g. a municipality). Municipalities will be notified of all Tailgate Event SOPs (occurring in their municipality) but will have no further role or input. AGCO may require [additional conditions](#) of the event host, on a case-by-case basis. Event hosts may also choose to sell and serve alcohol within designated areas.

Health, Safety, and Liability Concerns

The primary concern with the Tailgate Event SOP is that access to alcoholic beverages will not be managed or monitored in any meaningful way due to the 'BYOB' provision. Although 'BYOB' is common practice in private and non-commercial settings, introducing 'BYOB' in a public setting presents a significant and avoidable risk to the health and wellbeing of patrons, event staff, and the public.

Overall, the guidelines for Tailgate Events require that event hosts ensure that there is no intoxication, disorderly conduct or promotion of immoderate consumption, and that patrons less than 19 years of age are not consuming alcohol at the event. These are reasonable objectives. However, there are no guidelines as to how event hosts are expected to accomplish this or how these expectations will be enforced. The Tailgate Event SOP also lacks basic requirements that would support these objectives such as [SmartServe](#) training for event staff and perimeter fencing with controlled entry and exits. These are established requirements in standard SOPs and many MAPs.

Another major concern is related to the hosting of Tailgate Events for post-secondary sporting events, where many participating students will be under the legal drinking age or may be inexperienced alcohol users (e.g. they may not know their limits). In places where it is permitted, tailgating is related to increased alcohol use by students¹⁵ and is an environment where alcohol misuse may be modelled by students.¹⁶ Tailgate Events also have the potential to place an undue burden on surrounding neighbourhoods and increase the use of police and paramedic services.

Mitigation Considerations

OPHA advises that municipalities do not allow (SOP) Tailgate Events to be hosted on municipal property given the exclusion of many established alcohol control measures designed to ensure the safety and security of patrons, event staff, and the public. There may also be some benefit for private property owners to be informed of the risks involved and their liability for hosting such events featuring BYOB elements.

If a municipality chooses to authorize a Tailgate Event on municipal property, the following measures should be considered to protect the health and safety of patrons, event staff, and the public and minimize liability. The following measures were compiled and adapted from tailgate policies adopted by US post-secondary institutions and professional sports teams and venues:

- Require that the event space is physically separated from non-event space (this may require temporary fencing) and create controlled entry and exit points
- Restrict entry to individuals 19 years of age and older
- Do not authorise Tailgate Event SOPs that are connected to sporting entities from post-secondary institutions
- Require the availability of free drinking water
- Require SmartServe training for all event staff
- Prohibit drinking games, activities, and paraphernalia that encourage excessive drinking
- Require an enhanced number of floor staff to ensure compliance with regulations and policies (e.g. drinking by minors)
- Require review of event planning by local first responders (e.g. requirement may be triggered based on planned number of patrons)
- Post responsible drinking messaging throughout the venue
- Post signage that states 'Alcohol Consumption is Prohibited Beyond this Point' (or similar) at exits
- Screen exiting vehicles for impaired driving or open containers

Appendix A presents additional administrative and operational measures that municipal licensing staff may wish to require to reduce risk to patrons, event staff, and the public.

Price

Policy Context and Impact to Municipalities

Recent policy changes in Ontario have made alcohol more affordable. In August 2018, the Government of Ontario lowered the minimum retail price of a standard strength beer from \$1.25 to \$1.00. Following the release of the 2019 Budget, legislation was also passed to pause the scheduled, annual wine tax increase. Over time, the lower retail cost of alcohol may impact alcohol sales and consumption at events on municipal property. These changes are concerning as alcohol price is closely related to problematic consumption.

Health, Safety, and Liability Concerns

Evidence demonstrates that alcohol consumption is inversely correlated with price; as price increases, consumption decreases.⁴ This is especially evident with the lowest priced alcohol because problematic drinkers, which often include youth and those with [alcohol use dependence](#), tend to favour inexpensive alcohol products.^{4,6} These are two groups at risk for some of the greatest alcohol-related harms.

Mitigation Considerations

OPHA advises that municipalities revise minimum pricing requirements, as necessary, to account for provincial policies that have effectively lowered the retail price of alcohol. Minimum price policies have been demonstrated to reduce consumption and protect the public's health and safety. Indexing increases in the minimum price with inflation and setting prices according to alcohol strength (i.e. products with higher alcohol content should be priced higher) are two additional strategies that may be adopted to reduce alcohol-related harms.

Other Issues

Provision of Food

Provincially issued SOPs [no longer require](#) that event hosts provide food (e.g. meals, snacks) for patrons; that is, alcohol-only events are now permitted. Event hosts may now seek municipal approval to host an event that only sells and serves alcohol on municipal property. Providing and encouraging the consumption of food when drinking alcohol is a well-established prevention strategy to reduce the risk of harm from alcohol intoxication.¹⁷⁻¹⁹

Mitigation Considerations

OPHA advises that municipalities require that food is made available at all events on municipal property that also serve alcohol (i.e. do not permit alcohol-only events). This has been a longstanding requirement in Ontario and is strongly supported by evidence to reduce intoxication and risk of harm. Additional requirements may include providing food at the beginning of an event where alcohol is being served, throughout the duration of the event, and offering food that qualifies as a meal.

Requirement for Barriers (Partitions)

Event hosts may now seek municipal approval to host an event on municipal property where the designated alcohol service area is [not fully separated](#) by a physical barrier. This change may have little impact on events in spaces with existing physical boundaries. However, events hosted at venues without a defined physical separation may be affected, such as parks and beaches, public squares, community centres, arenas, and stadiums.

The lack of a complete physical barrier may compromise existing safety requirements, such as monitoring and controlling entries and exits, ensuring that no outside alcohol is brought into the venue, and ensuring that expelled patrons remain out. Enforcing existing alcohol sales regulations, such as not serving underage patrons, would also be more complicated.

Mitigation Considerations

OPHA advises that municipalities require that designated alcohol sale and consumption areas be fully separated from alcohol free areas, including through the use of temporary fencing where necessary.

Edible Cannabis and Beverages

The sale of edible cannabis, including cannabis beverages, [began in October 2019](#) in Canada. Federal regulations do not permit the sale of packaged, premixed alcoholic-cannabis beverages and cannabis edibles must have a label stating "No elements that would associate the product with alcoholic beverages, tobacco products, or vaping products".²⁰

An important effect of consuming alcohol and cannabis is elevated THC (the main psychoactive component of cannabis) in the bloodstream (compared to using cannabis alone), which may enhance symptoms related to "greening out" (nausea, dizziness, vomiting) and increase impairment.^{21,22} Individuals who co-use alcohol and cannabis also tend to drink more alcohol, with consequences related to increased intoxication and risk of alcohol poisoning.^{21,23}

The sale of cannabis edibles are not expected to be a major part of SOP events given the stringent licensing requirements. However, the inherent portability and ease-of-use of cannabis edibles (compared to smoking or vaping) may encourage and facilitate its co-use with alcohol at SOP events. It is conceivable that patrons may use edibles before attending the event, bring and consume their own cannabis edibles or beverages, or use cannabis edibles in mixed drinks.

Mitigation Considerations

OPHA advises that municipalities revise their MAP to reduce the risk from the co-use of cannabis edibles and alcohol by patrons at events on municipal property. The following measures are proposed for consideration.

- Prohibit event staff from mixing alcoholic beverages with cannabis edibles or beverages for patrons
- Prohibit the consumption and use of alcohol and recreational cannabis by event staff during the event
- Require event staff to be aware of the potential harms of consuming alcohol and cannabis, including cannabis edibles and beverages, and their responsibilities with respect to patrons who are intoxicated from alcohol or other substances
- Require the posting of signage related to the harms of consuming alcohol and cannabis, including cannabis edibles and beverages

Note: In October 2019, SmartServe [updated](#) its curriculum to include issues related to recreational cannabis use, including recognising signs of cannabis intoxication. Event staff with older SmartServe certifications may not have received this type of training.

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Additional Resources to Develop a Municipal Alcohol Policy

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Appendix A. Additional Administrative and Operational Requirements for Tailgate Events Hosted on Municipal Property

Note: The following are additional administrative and operational requirements that a municipality may consider for the approval of Tailgate Event SOPs on municipal property. This list was compiled and adapted from a scan of tailgate policies adopted by US post-secondary institutions and professional sports teams and venues. Municipalities are encouraged to conduct their own review and consultations in developing their Tailgate Event SOP policies.

General requirements

- The sporting event is of municipal significance
- Approval for the Tailgate Event SOP is granted from a municipal council (i.e. not delegated approval from a clerk's office)
- Endorsement of the Tailgate Event SOP is received from the sporting event authority (e.g. owner/operator of teams, league)
- The sporting event is related to professional or semi-professional teams (i.e. sporting events related to post-secondary institutions are not permitted)
- Public notice is posted to inform local residents and businesses about the upcoming event, including details such as estimated number of participants and contact information to communicate public safety and nuisance issues related to the event

Requirements and restrictions related to event operations

- Physical space
 - Provision of adequate washroom facilities (including for patrons with disabilities) and recycling and disposal containers
 - Plan for cleanup and remediation
 - Venues that include bodies of water or swimming pools are not permitted
 - One car, one space policy (oversized vehicles must find appropriate spot)
 - First-come, first serve policy (no advance ticketing or saving of parking space)
 - No idling of parked vehicles
- Preventing excessive and underage drinking
 - Screen all exiting patrons for open alcohol containers
 - Wristband policy
- Safety and security
 - Plan to ensure the safety of patrons, staff, and the public when patrons travel from the Tailgate Event venue to the sporting event (e.g. event hosts must ensure that patrons do not consume alcohol while on their way to the sporting event venue)
 - Security deposit for post-event site cleanup and remediation
 - Plan for emergency evacuations
 - Plan for post-event vehicle traffic management
 - Documentation and reporting of incidents of violence, injury, drinking by minors, and all other contraventions of municipal permit terms
 - Staffing of all entrances and exits
 - Enhanced ratio of staff to patrons (e.g. using MAP guidelines as a starting point)
 - No consumption of alcohol or cannabis by event staff during the event
 - Maintenance of adequate clearance for access by emergency vehicles
 - Set limits on the number of patrons and vehicles; appropriate to the venue

- Plan to address any shortcoming in public transportation
- Plan to address public complaints related to the event, including complaints related to the behaviour of patrons of the event.
- Require that every vehicle where food will be cooked or heated has an operational fire extinguisher
- Charge a fee for entry with wristband policy
- Require proof of attendance at related sporting event (e.g. ticket, credentials)
- Alcohol delivery services are not permitted in the designated Tailgate Event area
- Hours of operation
 - Tailgate Event may start 3 hours before the start of the sporting event and must end before the start of the sporting event (tailgating during and after the event is not permitted)
 - Patrons must pack up their vehicles and belongings and clean up their area before the closing of the Tailgate Event (and beginning of sporting event)

Patrons are prohibited from bringing, using, or engaging in the following

- Alcohol use behaviour
 - Drinking games, paraphernalia, or activities that promote or facilitate rapid or excessive drinking
 - Kegs, half-barrels, pony kegs, or other multi-serve formats that facilitate rapid alcohol distribution and consumption
 - Glass bottles and drink containers (cups, mugs, etc.)
 - Sale of food or alcohol between patrons
- Behaviours and activities
 - Standing on vehicles (including pick-up truck beds) and sitting on vehicle roofs
 - Drones, kites, or other remote controlled or tethered flying objects
 - Skateboards, scooters, pogo sticks, rollerblades, bicycles, unicycles, and other motorised or non-motorised wheeled forms of transportation, including those that are improvised but excluding those which are required to accommodate a disability (e.g. wheelchair, mobility scooter)
 - Ball playing or any object throwing or kicking games in the vehicle parking area
 - Selling access to the event
- Cooking related
 - Open fires, wood burning, and use of charcoal
 - Deep fryers and any oil -based cooking
 - Commercial catering (e.g. food trucks)
 - Large, pull-behind grills or trailers
- Other
 - Use of fuel-based electric generators
 - Use and setting up of large electronic audio and video equipment, e.g. televisions, amplified sound systems, projectors, solar panels
 - Couches or upholstered furniture
 - Tents or awnings in the vehicle parking area
 - Carpets or other temporary ground covering in the vehicle parking area
 - Animals with the exception of service animals
 - Use of fireworks, baseball bats, golf clubs

- Distribution of or placement of flyers or brochures on vehicles
- Banners or signage identifying a business or business product
- Use of or creation of personal toilets or unregulated washroom facilities