

Committee of the Whole (1) Report

DATE: Tuesday, November 22, 2022

WARD(S): ALL

TITLE: REGULATION OF LOUNGES/NIGHT CLUBS

FROM:

Gus Michaels, Deputy City Manager, Community Services

ACTION: DECISION

Purpose

This report seeks approval from City Council to adopt and implement licensing regulations on businesses that operate as lounges or night clubs in order to address a number of issues, including public safety concerns, public nuisances, and excessive noise.

Report Highlights

- The City's new Zoning By-law recognizes restaurants and night clubs as two distinct land uses with significantly different levels of impact on the communities in which they operate.
- Although the new Zoning By-law significantly restricts where night clubs can set up, existing establishments that are determined to have legal non-conforming status can continue to operate; however, regulations imposed through the City's licensing powers can still be applied to all operating lounges and night clubs.
- The recommendations in this report propose a regulatory regime for lounges and night clubs, largely in line with similar regimes in other Ontario and Canadian jurisdictions, that is expected to address public safety and nuisance issues much more effectively.

Recommendation

1. THAT a by-law amending Business Licensing By-law 122-2022 in a form satisfactory to the City Solicitor be brought forward for approval by Council as soon as practicable.

Background

The City of Vaughan, like most municipalities in Ontario, licenses establishments that serve food and beverages. Many municipalities also differentiate, for regulatory purposes, between such establishments, depending on the specifics of the business. For example, in Vaughan the regulatory regime has been different for restaurants, take-out establishments, and banquet halls, with the land use driving the regulatory differentiation. Land use is regulated through the City's Zoning By-law and is intended to ensure that such uses are compatible. Licensing regulations are intended to provide a fair and equitable framework that supports various local business activities, while mitigating against and supporting consumer protection, public health and safety, and to mitigate public nuisances.

Municipal Comparisons

Night clubs are municipally regulated establishments in all major cities. In some cities they are regulated as any other eating establishment, while in others they are subject to specific regulations that are often intended to address concerns of public safety and security. Table 1 provides a summary of the Ontario municipalities reviewed and whether or not they have dedicated night club licensing provisions.

Table 1: Municipal Regulation of Nights Clubs in Major Ontario Cities

Municipality	Dedicated Provisions	Notes
Toronto	Yes	The City of Toronto licenses eating establishments, public halls, and night clubs as separate categories. The fee is \$506.33.
Mississauga	Yes	The night club licensing fee is \$3,498.75.
Ottawa	No	The City of Ottawa licenses eating establishments and raves as separate categories.
Brampton	No	The City of Brampton captures night clubs in its eating establishment licensing provisions.
Hamilton	Yes	The night club licensing fee is \$417.
London	No	The City of London captures night clubs in its eating establishment licensing provisions.
Markham	No	The City of Markham captures night clubs in its eating establishment licensing provisions.
Kitchener	Yes	The night club licensing fee is \$296.

Waterloo	Yes	Depending on type of night club, licensing fees range from \$172 to \$313.
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The City of Vaughan currently does not have dedicated licensing provisions for lounges or night clubs; they are currently categorized as eating establishments. The licensing fee for an eating establishment is \$437.

Previous Reports/Authority

1. Business Licensing [By-law 122-022](#), as amended.
2. Vaughan Initiatives for Public Protection in Restaurants & Night Clubs, [Closed Session report from the City Solicitor](#), September 20, 2022.

Analysis and Options

Given the riskier profile of lounges and night clubs with respect to public security and safety, the dedicated regulation of this category of businesses has been the established approach in other major GTA municipalities. In reviewing the emergence of similar issues and concerns in Vaughan, staff are recommending that lounges and night clubs be licensed as a separate category of business with heightened measures to better ensure the security of people and property, protect public safety, and control both direct and peripheral public nuisances.

Proposed Regulations

The purpose of specific regulations for lounges and night-clubs is to create a category that allows for the safe operation of night clubs and lounges, while providing the necessary requirements that meet the primary intent as noted above, particularly from a security and safety perspective. As such, staff's recommendations draw from models used in other cities and across other industries. Staff focused on five main regulatory areas: definitions, operational requirements, security requirements, safety requirements, and nuisance control requirements.

1. Definitions

At the centre of the proposed regulatory approach is the determination of what type of business should be subject to requirements that are more stringent than those imposed on restaurants. The definition proposed by staff will be informed by those of other GTA municipalities, mainly Toronto and Hamilton, as well as a review of relevant case law. Toronto and Hamilton define a night club by the percentage of seating dedicated to the service of food and beverages. In the case of Toronto, this percentage was set at 50%; in the case of Hamilton, it was set at 65%. Staff are recommending that in Vaughan, in addition to meeting the requirements as a permitted use under the City's Zoning By-law,

a restaurant, as opposed to a lounge or night club, dedicate at least 60% of the floor space accessible to its patrons to the service of food and drinks. In addition, such service must take place at the same table or counter from where the food and drink were ordered and are to be consumed.

Staff are clarifying that this percentage of the floor space must be maintained 100% of the time and that food offerings must be provided through an on-site full-service kitchen (i.e., where food is cooked and prepared). These requirements are intended to address lounges or night clubs that may also choose to operate as restaurants during the day; thus, effectively operating under a hybrid business model. Under the proposed by-law, a restaurant, to be defined as such, could only operate as a restaurant at all times. Operating under a hybrid model or any other model would, by default, place the establishment in the category of lounge/night club.

Despite this, establishments licensed as lounges and night clubs, when operating as restaurants during the day, would be permitted to follow the regulations intended for restaurants, as long as the licensed is endorsed for such activity. So, for example, while lounges and night clubs would be required to implement security measures at night when operating as a lounge or night club, they would not be required to do so during the day when serving lunch. Additionally, while this approach will allow a lounge or nightclub to operate within the appropriate zoning requirements and permitted area as a restaurant by day, it will not allow a restaurant to operate as a lounge or nightclub within a zone/area where lounges and nightclubs would not be permitted. Staff believe that this approach offers a flexible and realistic approach to regulation, while continuing to ensure that public security and safety remain paramount.

2. Operational Requirements

As with other high-risk businesses, staff are proposing that lounges and night clubs be required to always have a designated “Person of Authority” on site that can act as a point of contact for enforcement officers, when attending. This requirement already exists for a number of other businesses, including adult entertainment establishments, body rub parlours, and short-term rentals. The “Person of Authority” is to act on behalf of the “Owner” of the establishment when she or he is not on site and must have the authority to facilitate any requests from enforcement officers or other City officials.

3. Security Requirements

Security requirements are measures intended to deter or prevent actions by individuals that increase the risk of violent or confrontational behaviour, supporting a safe environment for attending patrons. In response, staff are recommending three specific requirements:

- (A) Security guards at a minimum ratio of one for every hundred patrons (or fraction thereof);
- (B) Metal detectors, whether stationary or portable, to be used on every patron entering the establishment; and
- (C) High-definition security cameras to be placed at every point of ingress and egress, and signs posted advising patrons of the cameras; such security video shall be kept for a minimum of 30 days and made available upon request by and to enforcement personnel and/or a police service.

These measures are intended to deter and prevent safety issues. Security cameras were first required as a condition of business licensing in Toronto in the early 2000s for taxicabs. The number of robberies quickly dropped and other municipalities followed suit. Today, closed-circuit cameras are used by police forces across the world, including the Toronto Police Service, which has been increasing their deployment in that city. Staff therefore believe that when used in conjunction with signs advising patrons that security cameras are present, these cameras can act as a deterrent to violent or other illegal behaviour at lounges and night clubs. Coupled with proper screenings upon entering the lounge or club, the unwanted behaviours are further deterred. In addition, incidents that do result from non-compliance with the Business Licensing By-law's proposed requirements, or with other City by-laws, would lead to the issuance of penalties and potentially to other follow-up action such as additional conditions, suspension, non-renewal or revocation of a licence.

4. Safety Requirements

Safety requirements are measures intended to prevent or mitigate unsafe conditions that could result in injury to persons or damages to property. Although not in Vaughan, there have been some high-profile night club incidents in other jurisdictions where blocked points of egress played a role in patrons being trapped during fires. As such, explicit requirements are being placed on lounge and night club owners to ensure that all exits are free of obstructions and provide unfettered egress and that a fire inspection take place prior to the issuance of a licence.

5. Nuisance Control Requirements

A common issue with lounges and night clubs is the nuisances they can create for area residents, including noise, littering, and overcrowding of public and private spaces. As a result, staff are recommending that all lounges and night clubs be required to have and implement noise, litter and crowd management plans.

Regulatory Transition

There are lounges and night clubs across the City that under prior zoning and licensing regulations may have been considered eating establishments. Such businesses could be legal non-conforming under the new Zoning By-law's proposed definitions. All lounges and night clubs currently holding an eating establishment licence will be given until June 30, 2023 to be in full compliance with the Business Licensing By-law's lounge/night club regulations and to obtain a lounge/night club licence. Failure to comply by the prescribed date will result in an automatic revocation of the establishment's owner's licence. The licensing fee for both restaurants and lounges/night clubs would continue to be the same as the current budgeted fees for eating establishments.

Financial Impact

There are no direct financial impacts to the City as a result of the adoption of the recommendations of this report. As the City continues to grow in size and expand the complexity of its regulatory framework, staff will continue to assess resource needs, including the necessity to increase staff complements through the appropriate future budget approval processes.

Broader Regional Impacts/Considerations

There are no broader regional impacts as a result of the recommendations of this report.

Conclusion

The emergence of lounges and night clubs in Vaughan is a further sign of the City's growth and evolution into a metropolitan community. It is important to recognize the vitality and diversity that such establishments bring to the City. At the same time, it is important to recognize that such establishments operate differently than standard restaurants and that as a result, different regulatory measures are required to ensure the security, safety and well-being of patrons and the public, as well as to mitigate any potential nuisances to the community. For this reason, staff are proposing a specific business licence for lounges and night clubs that imposes requirements to address these issues and will continue to make Vaughan a city of choice for residents, visitors and businesses alike.

For more information, please contact: Susan Kelly, Director and Chief Licensing Officer, By-law and Compliance, Licensing and Permit Services, ext. 8952.

Attachments

No attachments.

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Approved by

A handwritten signature in blue ink, appearing to read "Gus Michaels".

Gus Michaels, Deputy City Manager
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Reviewed by

A handwritten signature in black ink, appearing to read "Nick Spensieri".

Nick Spensieri, City Manager