



AGCO

Alcohol and Gaming
Commission of Ontario

**Alcohol and Gaming Commission of
Ontario**

90 Sheppard Avenue East
Suite 200
Toronto ON M2N 0A4

Jun 8, 2020

(La version française suit la version anglaise)

Ontario amends Regulation 719 under the *Liquor Licence Act* to support liquor sales licensees in temporarily extending their patios and provide additional flexibility for the location of tied houses

Liquor Sales Licensees may temporarily increase the size of their patios or add a new patio once they are again permitted to welcome patrons on-site and until January 1, 2021, provided that the municipality in which the establishment is located does not object and all other applicable requirements are met. During this temporary period, licensees who meet the eligibility criteria and requirements are not required to apply to the AGCO for a temporary extension of premises or pay any fee.

In addition, liquor manufacturers and other applicants for a tied house licence now have increased flexibility regarding the location of a proposed tied house. Interested applicants may apply through [iAGCO](#).

Please read additional details in:

- [AGCO News Release: Ontario Extending Outdoor Patios to Allow for Social Distancing During COVID-19](#)
- [Info Bulletin: Liquor sales licensees may extend their patios for the duration of 2020 once permitted to open](#)
- [Info Bulletin: Changes to Tied House Liquor Sales Licence Requirement](#)

What are the requirements for a temporary patio extension under these new temporary measures?

The Government has amended Regulation 719 under the *Liquor Licence Act* (LLA) to provide flexibility for liquor sales licensees (e.g. licensed bars and restaurants) to temporarily extend their physical premises beyond 14 days provided they have municipal approval and meet certain requirements.

In order to be eligible for a temporary patio extension, licensees must have a valid liquor sales licence and be permitted to open and welcome patrons on-site under the province's phased reopening process. In addition, the following requirements must be met:

1. The physical extension of the premises is adjacent to the premises to which the licence to sell liquor applies;

2. The municipality in which the premises is situated has indicated it does not object to an extension;
3. The licensee is able to demonstrate sufficient control over the physical extension of the premises;
4. There is no condition on the liquor sales licence prohibiting a patio; and,
5. The capacity of any new patio, or extended patio space where the licensee has an existing licensed patio, does not exceed 1.11 square metres per person.

What role do municipalities currently play in the temporary extension of premises application process and what has changed under the new temporary measures?

Usually, licensees who wish to extend their licensed patio are required to apply to the AGCO for a temporary extension of premises, which may be authorized for up to 14 days and for a maximum of four times each year. As part of that process, licensees are required to obtain a letter of non-objection from their municipality.

Under these new temporary measures and for the duration of 2020, licensees do not need to notify or submit an application to the AGCO for a temporary extension of premises, provided that they meet all the eligibility criteria and applicable requirements. One of the criteria is that the municipality in which the establishment is located does not object to an extension. This non-objection or approval can take a variety of forms. While licensees are not required to submit any documentation to the AGCO to demonstrate compliance with this requirement, licensees are required to produce such documentation, if requested by the AGCO.

Is there a certain document that municipalities are required to use to confirm they do not object to a patio extension?

The AGCO does not require a specific format for municipal non-objection. Municipalities have flexibility to determine how best to approve patio extensions. This might be by blanket resolution, by application process, by letter from the City Manager, or any other suitable format. Municipalities are not required to send their non-objection to the AGCO. Licensees are required to produce documentation demonstrating municipal approval, if requested by the AGCO.

Can patios be extended onto municipal sidewalks or roadways?

Municipalities have the flexibility to determine how best to permit temporary patio extensions on municipal property. The temporary physical extension of the premises must be adjacent to the premises to which the licence to sell liquor applies.

In accordance with section 48 of Regulation 719 under the LLA, the licensee or its employees may carry liquor between two licensed areas across an unlicensed area (e.g. from the establishment and across the sidewalk, in the case where the patio extension is on a roadway). However, patrons may only carry liquor across the area not under the licensee's control if it is in a closed container.

Are licensed establishments who do not currently have a patio space eligible under these temporary measures?

Provided that they have municipal approval and meet all other requirements, temporary new licensed patios are also permitted under this temporary measure. Licensees who wish to maintain the patio extension beyond January 1, 2021 must apply through iAGCO and must meet all applicable requirements and pay the required fees.

The capacity for a temporary new patio is 1.11 square metres per person, which is the maximum capacity of premises to which neither the *Building Code Act, 1992* nor the *Fire Protection and Prevention Act, 1997* applies. Please see [this](#) webpage for more information on calculating the dimensions of a proposed extended licensed area.

If a licensee with an existing patio now has an extended space, can they accommodate more patrons than their current maximum capacity as stated on their licence?

The maximum capacity for all existing patios continues to apply for the existing patio space. The licensee may accommodate patrons over and above their capacity as long as the capacity of any extended patio space allows for a minimum of 1.11 square metres per person. All physical distancing requirements, as well as any other requirements imposed by any level of government, continue to apply regardless of maximum capacity, and will likely mean that patios will operate at well below maximum capacity.

Can a licensee who does not meet the requirements for a patio extension under these temporary measures still be approved for a temporary patio extension?

Licensees that do not meet requirements under this temporary measure are required to follow the usual application process for a temporary extension of premises and apply through [iAGCO](#). As part of the usual application process, a letter of municipal non-objection would be required.

How do I get more information?

The requirements for a temporary patio extension under this temporary measure and other helpful information can be found within the [Information Bulletin](#). Municipalities may also email municipal@agco.ca with additional questions.