

Schedule "A" to By-law 6579/34/18

THE CORPORATION OF
THE CITY OF PORT COLBORNE

ALCOHOL MANAGEMENT POLICY

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1. **PREAMBLE:**

- 1.1 The Corporation of the City of Port Colborne (“the City”) owns and manages properties and/or facilities that, for the purpose of this policy, are categorized into the following areas:
- (a) Those where alcohol consumption is not permitted; and
 - (b) Those where alcohol consumption is permitted under the authority of a Special Occasion Permit.
- 1.2 This policy has been adopted in order to prevent potential harms that may arise from alcohol consumption at these locations and to promote a safe and enjoyable environment for facility users.

2. **POTENTIAL HARMS:**

- 2.1 A range of potential harms can arise as a result of alcohol consumption. These harms can affect not only those consuming alcohol but also other facility users.
- 2.2 Such harms include, but are not limited to the following:
- (a) injury to the person consuming alcohol or others;
 - (b) police response required at a municipal property/facility;
 - (c) liability arising from alcohol related injury or death;
 - (d) increased insurance premiums as a result of alcohol related incidents;
 - (e) loss of insurability should the insurer’s risk assessment escalate;
 - (f) charges against the City or the Special Occasion Permit holder(s), under the *Liquor License Act*;
 - (g) suspension or loss of alcohol permit privileges by the Alcohol and Gaming Commission of Ontario;
 - (h) vandalism and/or destruction of City property/facilities;
 - (i) loss of enjoyment for those who do not consume and/or moderately consume alcohol;
 - (j) complaints and/or action lodged by offended parties;
 - (k) withdraw from use of City facilities by persons or groups concerned about alcohol consumption;
 - (l) loss of City revenue due to reduced participation; and
 - (m) increased public concern about alcohol consumption.
- 2.3 Such harms are generally not attributable to those who responsibly consume alcohol and to those who observe the rules regarding alcohol consumption. Generally, the majority of such harms arise when persons engage in four unsafe alcohol consumption practices:
- (a) Drinking to the point of intoxication;
 - (b) Drinking and driving;

- (c) Underage drinking; and
- (d) Drinking in prohibited areas.

2.4 Preventing engagement in such practices will correspondingly diminish the occurrence of alcohol related harms. This policy will be minimally intrusive to those that do not engage in the unsafe consumption of alcohol. This policy is not intended to inhibit the legal and responsible consumption of alcohol.

3. PURPOSE:

3.1 As the owner and operator of the properties and facilities outlined above, the City has a responsibility to promote the responsible use of alcohol at special events. The City must also take appropriate initiatives to protect itself from liability associated with the consumption of alcohol on City property and/or facilities.

3.2 This policy has been adopted in order to prevent the occurrence of alcohol related harms and to preserve and protect the public's enjoyment of City properties and facilities. By reducing the potential for alcohol related harms, the City concurrently reduces a user's loss of enjoyment of City facilities, and minimizes the risk of injury and death, and the risk of liability.

3.3 To this end, this policy establishes methods intended to reduce engagement in the unsafe consumption of alcohol, as outlined above.

4. LICENSED FACILITIES:

4.1 The following City facilities are designed as being eligible for hosting a Special Occasion Permit ("SOP") function:

- (a) Vale Health & Wellness Centre, 550 Elizabeth Street;
- (b) Sugarloaf Harbour Marina, 3 Marina Road;
- (c) Port Colborne Historical and Marine Museum, 280 King Street;
- (d) Roselawn Centre for the Arts, 296 Fielden Avenue, (Licence No. 40291);
- (e) Port Colborne Municipal Offices, 66 Charlotte Street;
- (f) Port Colborne Engineering & Operations Centre, 1 Killaly Street West;
- (g) Port Colborne Fire Hall, 3 Killaly Street West;
- (h) Fire Station No. 2, 126 Bell Street;
- (i) Port Colborne Bocce Club, 550 Elizabeth Street;
- (j) Port Colborne Visitor Information Centre, 6 Main Street West;
- (k) Bethel Community Centre, 2703 Chippawa Road;
- (l) Sherkston Community Centre, 4893 Sherkston Rd;
- (m) Port Colborne Tennis Club Building, 41 Helen Street;
- (n) Port Colborne Lion's Field Park, 148 Killaly Street West;
- (o) Municipal Street Events (various locations, as approved by Council); and
- (p) Parks and Pavilions (various locations, as approved by Council).

4.2 The following City owned properties and/or facilities shall not be used to host SOP events:

- (a) Nickel Beach, as it is owned by Vale Canada Ltd., and it is against the company's corporate policy.
- (b) Westside Arena Baseball Fields, as it is a youth user oriented facility.

4.3 Eligible facilities known as the Bethel Community Centre, Sherkston Community Centre, and the Port Colborne Visitor Information Centre are permitted to host SOP functions, as the management organization/group/City of Port Colborne, Council deems acceptable.

5. CONTROLS:

5.1 In order to be eligible to utilize a City owned property and/or facility for a SOP function, the SOP Permit Holder must demonstrate to the satisfaction of the Department Director, or designate, that there are sufficient controls in place to prevent intoxicated or rowdy patrons from entering the event.

5.2 Further, the SOP Permit Holder must ensure that any intoxicated and/or rowdy patrons shall be refused service and shall be removed safely from the event, forthwith.

5.3 For the purpose of establishing and maintaining control, as outlined above, the Permit Holder shall be responsible for implementing and ensuring compliance with the following controls :

- (a) The person(s) whose name(s) appear on the SOP (the "Permit Holder") (being the person(s) responsible for the event) may identify a designate(s), however in doing so, the names of such designate(s) shall appear on the SOP, and such person(s) shall be made known to the City.
Individuals/groups named on Special Occasion Permits and facility owners are responsible for the safety and sobriety of the people attending the event.
- (b) The Permit Holder and/or designate(s) shall possess a valid Smart Serve Certification.
- (c) The Permit Holder and/or designate(s) shall be present throughout the SOP event at all times.
- (d) The Permit Holder and/or designate(s) shall familiarize themselves and comply with all requirements specified in the Special Occasion Permit issued by the AGCO.

- (e) The SOP shall be posted in a conspicuous location at all times during the event, shall be readily available for presentation upon request by AGCO Inspectors or police officers.
- (f) The only identification accepted for the purpose of establishing a patron's age shall be: valid provincial Driver's Licence, or out-of-province photo driver's licence, valid Passport, Government Issued Military Card, Canadian Citizenship Card (including Native Status Card), and/or photo identification issued by the Alcohol and Gaming Commission of Ontario ("AGCO").
- (g) The sale of alcoholic beverages shall be by ticket and the number of alcoholic beverages permitted to be purchased by one (1) person at any one time shall be limited to two (2), unless other restrictions specific to the event are established by the AGCO, in which case adherence shall be to that limit. Glass containers shall not be used for serving beverages at an SOP function.
- (h) At the time of purchase, servers shall open all alcoholic beverages prior to proffering same to the patron.
- (i) At least two (2) persons shall supervise all entrances, and at least one (1) person shall supervise exits. Those supervising the entrances and exists shall be the age of majority. Monitors shall not consume alcohol prior to or while undertaking their duties at the event.
- (j) For licensed venues with a capacity over 2,000 people, floor monitors shall be provided, including an appropriate number of licensed security guards and Special Duty Police Officers, with a minimum ratio of one (1) per two hundred participants.
- (k) All monitors shall be nineteen (19) years of age or older and shall hold a valid Smart Serve Certification.
- (l) Prepare and maintain a list that includes the names and Smart Serve Identification numbers, of all monitors and servers. This list shall be submitted to the Department Director, or designate, at the time the application for the special event is submitted to the City list shall be posted during the event in the same location as the SOP.
- (m) In accordance with the rules and regulations of the AGCO, in the case where the designated area must be enclosed by fencing, a minimum of one (1) monitor shall be utilized to "patrol" the area outside of the fenced area.
- (n) Staff and/or volunteers responsible for selling tickets to patrons for the purchase of alcohol must possess a valid Smart Serve Certification.

- (o) Those identified by this policy as requiring Smart Serve Certification shall carry their Smart Serve Identification Card on their person, at all times during the event.
- (p) "Last call" announcements are not permitted and shall not be made.
- (q) Any incident and/or occurrence that could reasonably be expected to endanger the health and safety of a patron or other participant, whether it be on or off the event premises, shall be the responsibility of the SOP permit holder.
- (r) In the case where the AGCO provides approval under the SOP Permit for persons under the age of majority ("minors") to be present within the designated area identified under the Permit, single fencing with a minimum height of four (4) feet shall be securely erected
- (s) In the case where the AGCO, under the SOP Permit, indicates that minors are not allowed to be present within the designated area identified under the Permit, double fencing with a minimum height of four (4) feet, shall be securely erected.
- (t) The Permit Holder, designate or responsible person(s) must be present throughout the SOP event.
- (u) Food shall be available for patrons at all times when alcohol is being served and at no greater price than the cost to purchase alcoholic beverages. Further, non-alcoholic beverages shall be available at all times and at no greater price than the cost to purchase alcoholic beverages.
- (v) Thirty (30) percent of the total amount of beer and draft beer available for sale shall be classified as "light" beer, and notice of same shall be posted.
- (w) Ensure adequate lighting is provided for the event, signs are visible, and stairs are clear. . Adequate and accessible washroom facilities shall be available on site. As the occupier of the premises, the Permit Holder is required to ensure the physical setting is safe for persons who are and are not consuming alcohol. The Permit Holder may be held liable if an accident occurs due to the physical set-up of the event.
- (x) The Permit Holder shall ensure signs are displayed, near the serving area, indicating the following:
 - It is a Provincial Offense to serve an intoxicated person, or serve anyone to the point of intoxication.
 - Provisions of the *Liquor License Act* authorize servers to cut off over indulgent consumers.

- The SOP holder has the right to refuse admittance to persons who are under the age of majority.
- (y) In the event a patron is intoxicated and/or sales have stopped to the patron, the patron shall be escorted out of the designated area and event. The patron shall then be left in the responsibility of someone who has not consumed alcohol and such an occurrence shall be recorded in a logbook. Police can be called to assist in managing intoxicated or rowdy participants
- (z) The Permit Holder is responsible for ensuring at all times that no violation of the Criminal Code occurs within the licensed area. This includes, but is not limited to: drunkenness, violence, use of narcotics, mischief, nudity, lewd or lascivious action, defecation outside designated washroom areas, throwing objects at the stage or at others , spitting at or on others, pick pocketing or theft, possession of concealed weapons, uttering threats, or trespass in restricted areas.

6. RATIONALE:

- 6.1 In accordance with the *Occupiers Liability Act*: special event participants must be protected from foreseeable harm.
- 6.2 Relevant case law: *Jacson v. Kinsmen Club of Nanaimo(1976) - Kinsmen Club of Nanaimo* sponsored a beer party in a large arena. During the party, patrons climbed one of the support beams. One patron lost his grip on the beam and fell onto the plaintiff, knocking him unconscious. Although thirty volunteers were supervising the event, the only step taken to discourage the climbers were shouts from certain volunteers. The court found that the Club breached its statutory obligation as an occupier by failing to prevent the patrons from climbing.

7. STATEMENT OF INTOXICATION:

- 7.1 The use of City owned property and/or facilities is primarily for the purpose of public enjoyment, recreation and social gatherings. An SOP event shall not pose an unreasonable risk to public safety, the public interest and the public, nor any unreasonable risk of non-compliance with the *Liquor Licence Act of Ontario* or this policy.
- 7.2 It is against the *Liquor License Act of Ontario* for licensed establishments to serve customers to the point of intoxication.
- 7.3 Servers in City facilities are required to obey the law and not serve anyone to the point of intoxication.

- 7.4 Should a patron wish to purchase a non-alcoholic beverage, they may request a soft drink, coffee or other alternative. Should a patron wish to purchase a smaller portion of alcohol, they may request a beer, cooler or other beverage with a lower alcohol content.
- 7.5 Should a breach of the *Liquor Licence Act of Ontario* or the provisions of this policy be observed, or if there is an immediate threat to public safety, the Department Director, an AGCO inspector or a police officer may revoke an SOP while the event is underway.

8. PENALTY:

- 8.1 An individual or group bringing alcohol onto designated municipal properties must have a Special Occasion Permit.
- 8.2 Special Occasion Permit Holders violating city policy and procedures and/or the *Liquor Licence Act* may be refused future rental privileges.
- 8.3 Future rentals to such individuals or groups will depend on them demonstrating to the Department Director or designate and/or City Council that all the rules will be followed at future functions.
- 8.4 Policy violators will be penalized so as not to jeopardise the use of the facility by other responsible organizations or individuals. The Alcohol and Gaming Commission of Ontario has the authority to refuse to issue an SOP for a particular premise if there has been evidence that the laws have been violated during the event.

9. ACCOUNTABILITY:

- 9.1 Signs must be posted at all SOP events informing the public where they can direct their concerns. The sign will name the sponsor of the event, the name of the Permit Holder and the addresses and telephone number of the Community Services Department of the City of Port Colborne, the Niagara Regional Police and the Alcohol and Gaming Commission of Ontario.
- 9.2 There shall be the uniformity in the signs outlining:
- (a) Event Sponsor
 - (b) Name of Special Occasion Permit Holder
 - (c) Community Services Department, City of Port Colborne
66 Charlotte Street
Port Colborne, Ontario L3K 3C8 (905) 835-2900
 - (d) Niagara Regional Police Service
501 Fielden Avenue
Port Colborne, Ontario (905) 735-7811 ext. 3270

- (e) Alcohol And Gaming Commissions Of Ontario
55 Lakeshore Boulevard East
Toronto, Ontario (416) 326-0431

9.3 It is not always possible for the police and Liquor License Inspectors to check on Special Occasion Permit functions. Therefore, the sign serves notice to the permit holder that while enforcement personnel may not attend the event, concerned participants will know where to lodge a complaint.

10. APPLICATIONS – CONDITIONS OF APPROVAL:

10.1 When considering endorsement of a Liquor License Application submitted to the Alcohol and Gaming Commission of Ontario, recommended approval by the City shall be contingent on the event sponsor agreeing, in writing, to conditions including, but not limited, to the following:

- (a) Adherence to the City's Alcohol Management Policy.
- (b) Provide 5 million dollar liability insurance naming all necessary parties as additional insured.
- (c) Site plan drawing of the footprint of the facility or venue where serving of alcohol is taking place. To include fencing, security/police locations, entrances and exits.
- (d) Adherence to the Liquor Licence Act and the Rules and Regulations of the AGCO.

11. PROMOTION:

11.1 Once endorsed by the City, a presentation to the community will be set up. All previous event sponsors will be sent a letter recommending attendance, as it may affect future events sponsored by them.

11.2 The general public will be invited to attend through media advertisement.

11.3 All of the reviewing members of this policy be present to facility discussion.

12. SIGNS:

12.1 Signage shall be posted at each venue where alcohol is being served.

12.2 Signage that is required by the AGCO and the Liquor Licence Act must be adhered to and posted at:

- (a) All entrances
- (b) All serving locations
- (c) All ticket sales locations if applicable
- (d) All exits

12.3 Depending on the final designation sign size (min 24 inches wide by 14 inches high)

12.4 Examples of signage are as follows:

Example 1:

NO ALCOHOLIC BEVERAGES PERMITTED
-Minimum 3 inches height

VIOLATORS IMMEDIATLEY FORFEIT ALL RIGHTS
TO USE OF FACILITY
Minimum 2 inches height

Example 2:

ALCOHOLIC BEVERAGES BY PERMIT ONLY
-Minimum 3 inches height

VIOLATORS MUST IMMEDIATLEY FORFEIT ALL
RIGHTS TO USE FACILITY
-Minimum 2 inches height

13. SAFE TRANSPORTATION:

13.1 The only individuals, groups or organizations implementing a safe transportation strategy involving designated driver program combined with an additional alternate home transportation option (to prevent intoxicated participants from driving) be permitted rental/use privileges of facilities for Special Occasion Permit functions.

13.2 The City of Port Colborne assumes no liability with any third party safe transportation means or services.

Examples:

- ✓ Designated Drivers Program to be advertised at the event
- ✓ Designated Drivers to be identified to servers and monitors
- ✓ Designated Drivers to receive free or low cost non-alcoholic drinks(i.e. coffee, pop, water)
- ✓ Intoxicated persons to be driven home by a sober friend whom will assume the responsibility of the intoxicated persons that the details be so documented by the Licensed Group or be provided with a taxi ride home.

14. TRAINING:

14.1 To be eligible for a facility rental for a SOP function, the sponsor must demonstrate to the satisfaction of the Department Director or designate, that the person signing the SOP , and all events alcohol servers, floor and door monitors, all ticket sellers and takers have completed the Smart Serve Ontario Certification training through the Hospitality Industry Training Organization of Ontario, or an equivalent coarse as endorsed by the AGCO (note: a serving Police Officer is considered to have the equivalent of a Smart Serve).

15. INSURANCE:

15.1 Individuals or group sponsoring a SOP function at a City owned property and/or facility, as previously listed, must show proof to the Department Director or designate, at least two (2) weeks prior to the event, that they have a minimum of \$5,000,000.00 liability insurance coverage and that the City is named as an additional insured.

16. NOISE:

16.1 The playing of music either by band, DJ, radio, or other form at special events held outdoors, sanctioned by a SOP on City owned property MUST apply for and receive a Noise Variance, by application to the By-law Enforcement Division.

17. MUNICIPAL ALCOHOL POLICY REVIEWING MEMBERS:

Reviewing Member:

Chief Administrative Officer
City Clerk
Event Coordinator
Fire Prevention Officer
Staff Sergeant
Inspector

Organization:

City of Port Colborne
City of Port Colborne, Corporate Services
City of Port Colborne, Community Services
City of Port Colborne, Fire Department
Niagara Regional Police Services, District 6
Alcohol and Gaming Commission of Ontario

**CITY OF PORT COLBORNE
SPECIAL OCCASION PERMIT HOLDER AGREEMENT**

Name of Team/Group/Organization/Individual/Event: _____

Name of Contact Person: _____

Phone: _____

Email: _____

CERTIFICATION:

1. The Permit Holder has received and reviewed a copy of the Municipal Alcohol Management Policy.
2. The Permit Holder agrees to adhere to the conditions of this policy and the *Liquor License Act of Ontario*.
3. The Permit Holder understands that if an infraction of the policy occurs, the City of Port Colborne may refuse future rentals. The length of the suspension will be determined by the municipality.
4. The Permit Holder understands they can be held liable for injuries and damage arising from failing to adhere to the Liquor License Act of Ontario, or from otherwise failing to take action that will prevent foreseeable harm from occurring.
5. The Permit Holder understands that the Police and/or a Liquor License Inspector can lay charges for infractions of the *Liquor License Act of Ontario* or other relevant legislation.

Signature

Date

OFFICE USE ONLY

S.O.P. Permit No.

MUNICIPAL APPROVAL DATE (by resolution)

Agreement received by: _____
COMMUNITY SERVICES DEPARTMENT

Date: _____

RESPONSIBILITIES OF SPECIAL OCCASIONS PERMIT HOLDER:

As the contact person of a Special Occasion Permit, your group can be held liable, among other things, for injuries and damages arising from failing to adhere to the *Liquor License Act of Ontario*. These conditions include serving someone to intoxication, serving someone who is already intoxicated, serving a minor and failing to prevent impaired individuals from driving.

The City suggest that organizations pass by-laws specifically indemnifying directors for the costs arising from any law suits that might arise out of their work as a Director.

A typical by-law might read as follows:

The Board of Directors shall indemnify all Directors or Officers for any expenses they might incur in the course of the defending themselves from, or from any damages arising from any legal actions taken against the Directors or Officers from any acts or omissions undertaken on behalf of the Board of Directors.

While such a by-law might make a director feel more comfortable, it must be kept in mind that indemnification may serve little purpose if the organization does not have the funds necessary to indemnify. While indemnification provisions may protect directors in areas where directors liability will not (see Director's Liability, below), the Board does not likely have the power to indemnify a director against any and all acts that they might to in their capacity as director.

While indemnification by-laws are not pointless, directors are better served by making sure the organization has adequate insurance coverage.

RATIONALE

It is illegal for a non-profit organization to reimburse its members for expenses incurred through lawsuits unless so permitted by the organizations By-Law. The use of Off Duty Police Officers shall be recommended at events that are warranted.

CITY OF PORT COLBORNE AND
SPECIAL OCCASION PERMIT HOLDER

EVENT EVALUATION FORM

(To be completed by the Event Holder and the Municipal Staff Designate)

- 1) Name of Event: _____
- 2) Location of Event: _____
- 3) Date(s) of Event: _____
- 4) Time(s) for Alcohol Service: _____

5) Inventory Control:

Product	Quantity	Size/Kind (bottle/can/tallboy/draft)	Purchased	Sold
Beer				
Light Beer				
Liquor				
Wine Red				
Wine White				
Coolers				
Kegs				
Other				

- 6) Types of Non-Alcoholic Beverages being served: (check all that apply)
 Water Pop Juice Coffee/Tea Other
- 7) Estimate number of paid participants attending and/or participating: _____
- 8) Estimate number of minor attending and/or participating: _____
- 9) Were there any areas of the facility that were difficult to monitor? If yes, explain briefly.
Exits: No
 Yes _____

Entries: No
Yes _____

Washrooms: No
Yes _____

Parking Lot(s): No
Yes _____

10) Do you feel there were sufficient monitors in place?

No Yes

11) If you didn't employ off-duty police officers, do you now feel that they would have been of benefit?

No Yes

Name of Event Person Completing This Evaluation:

Name of Person

Signature of Person

**Your evaluation form must be returned to the City of Port Colborne,
Community Services Department no later than 48 Hours after the completion of your event.**