

## **Liquor Licensing for Outdoor Services for Bars and Restaurants webinar Q&A – 6/4/20**

**In communities, coordination has become increasingly important, whether it's for infrastructure planning, etc. what is the LCC doing to coordinate with municipalities to make sure local requirements are met before issuing licenses to applicants?**

The Commission has certain things it is required to do before it issues a license. Sometimes we don't know if the local unit has signed off on everything that the licensee needs to do to comply with those local zoning issues –the licensee may need to pay back taxes or fix building. Our license doesn't authorize a licensee to do anything but sell alcohol, if it's following local ordinances. If a local official/employee reaches out to us and tells us an applicant doesn't comply, we will wait for compliance before moving ahead. The local unit has to take action to make sure licensees/individuals are compliant with the local unit's ordinances.

**Business owners cannot invest in new furniture for something that may go away in October...What are the chances of making it long term?**

The 2020 Limited Permanent Outdoor Service Permission is only good for the time period of 6/1/20 to 10/31/20. Any licensees who wish to add an Outdoor Service Permit for a permanent area that will be used year after year and which permit renews with the liquor license each year will need to apply for the Permanent Outdoor Service Permit on form LCC-204.

**Is there a reason the commission decided not to do anything that would have a direct financial gain for licensees?**

The Commission has taken several steps to assist licensees financially during the COVID-19 situation, such as the Spirit Buy-Back Program, delaying license renewal until 6/15/20, and creating the 2020 Limited Permanent Outdoor Service Permission. The MLCC continues to work with licensees to make processes more user friendly and to issue licenses and permits faster. All these steps taken by MLCC should assist licensees in a variety of ways, including financially, by getting them into business and allowing licensees to have more customers at once at their businesses.

**Can one use the Limited Permanent permission to expand a previously permitted outdoor area? i.e., can they temporarily expand an existing patio into the parking lot?**

No – they would have to use the normal outdoor service area application (LCC-204). If only doing it temporarily, they could then apply to cancel that expanded area when done.

**Does MLCC/Administration have a position on HB 5781 and SB 0983?**

It's the League's understanding the MLCC officials participating in today's webinar will not be addressing the recently introduced liquor legislation.

**What about an infrequently used alley?**

An alley is municipal land and you would need written local government unit approval.

**Business owners are having difficulty obtaining outdoor furniture due to a run on outdoor furniture and are back ordered into September. Which means only two months of use for expensive furniture.**

Licenses can apply for the 2020 Limited Permanent Outdoor Service Permission if they wish. It is their choice if they wish to accommodate more patrons faster by using this expedited process. Costs may be incurred by licenses if they need furniture for the Outdoor Service area. Licenses may want to share information about good sources for equipment for their businesses.

**What form should local approval on public property take? Specific form? General letter?**

MLCC can accept a few forms of written local approval to use municipal property for Outdoor Service areas: executed Resolution, local permit application and approval, and written letter from the municipality. All of these documents must indicate the specific name of the applicant/licensee and specific written approval from the municipality for use of municipal property for the purpose of sale and consumption of alcohol consumption. If the approval is for a specific time period (ex. One year) the document must reflect that.

**FYI, City of Southfield has just passed a resolution to expedite expansion of outdoor dining areas in case anyone is interested: <https://www.cityofsouthfield.com/sites/default/files/inline-files/temporary-approval-for-outdoor-dining-spaces-and-personal-service-stations-5-26-20.pdf>**

**We already have a sidewalk seating permit. What permit will we need to expand that area into the road which was just approved for in front of our business by the city for Friday-Sunday?**

If a local unit issued a different permit and licensee wants to expand, we need an LCC-204 submitted along with a copy of the new permit. Whatever the local unit is issuing to authorize the licensee to have access to that area, the licensee would have to submit that documentation with the application.

**How do these areas need to be demarcated or secured? Does this remain a largely local decision?**

Any areas that are approved by MLCC for Outdoor Service must be clearly marked and well-defined. Areas can be defined by fencing of various sorts, railings, curbing, rope and stanchions, decks, patios, or other methods that make the area clearly marked and well-defined. The Commission can deny an application if the area cannot meet that requirement.

**Does an outdoor service area license need to be renewed annually, and is the license renewal separate from a liquor license renewal?**

They are renewed annually; none of the outdoor service area ones have any fees involved. The limited ones do not renew (expire 10/31/2020). Any of the existing outdoor service area renew automatically unless a licensee asks us to cancel.

**I joined a couple of minutes late, apologies if I missed - what is expected turnaround time of applications?**

For a 2020 Limited Permanent Outdoor Service Permission application, turnaround time should be about 1 week. For a temporary approval for Outdoor Service, turnaround time is about 2 weeks. For a regular permanent Outdoor Service Permit, turnaround time is a few months.

**So, even a temporary expansion of a previously approved outdoor area (like a patio expanded into the parking lot) will need to apply for the traditional outdoor approvals?**

No. Licensees who wish to use an area for temporary Outdoor Service can apply for approval for up to 12 days per calendar year. The process is shorter than the regular permanent Outdoor Service Permit, as indicated in the previous answer above.

**Can you sell manufactured drinks for takeout--like the canned margarita from a distributor?**

On-Premise licensees (bars, restaurants) can only sell beer and wine in the original sealed containers to go IF they have a Specially Designated Merchant (SDM) license. Licensees cannot sell any spirit products to go (mixed spirit drinks in sealed containers, cocktails to go, or bottles of spirits) unless they have a Specially Designated Distributor (SDD) license. Currently, there is legislation that is making its way through the Legislature that would allow on-premises retailers and manufacturers with tasting rooms to sell alcohol to go. Under that proposed law, the alcohol would need to be placed into a separate container and could not be sold in its original container. If this legislation becomes law, please check the MLCC website for information on what is allowed under the legislation.

**Just a suggestion, the MLCC should consider offering the temporary license to business that will want to expand an existing outdoor area, knowing they might only provide the extra area just this year.**

That suggestion will be passed along to the Commission for consideration, thank you.

**My company is building its Independent Living building and we are trying to get a liquor license for the Pub, what type of license would you recommend?**

We need more information to answer that question. You will need an on-premise license to sell alcohol for consumption on the premises. There are many types available depending upon your needs and the availability of licenses in your local governmental unit. Please contact Barb Subastian to discuss this question in full detail.

**Is there a difference for local government if restaurant/bar expands over public, private or joint easement?**

The key is that the LCC knows who has the authority to operate. If there was private property that abutted an alleyway or sidewalk, we need the documentation that they have the authority to use that space. Whether it's private or public property. (permit, Resolution, etc.). For private property we need a lease or deed – something of that sort.

**Please share local regulations and/or resolution: send to kcekola@mml.org and we will post them to our resource page featuring best practices.**

**When you say "very quickly approved" what is the average wait time?**

Depends on how we receive them – email, mail, fax. Email is the quickest. The total time is about a week to 10 days. That is for complete applications.

**This is only for new outdoor? Can you give that expansion application number, and how long is expansion approval expected to take?**

The form needed for licensees to apply to enlarge their existing Outdoor Service area is LCC-204. Approval for this process can take a few weeks to a few months, depending upon whether a field investigation is required. A field investigation is required if the area is over 20,000 square feet in size, if the area is located on a rooftop or balcony, or if the area is unusual (located next to body of water, unusual barrier proposed, unusual use of the area, etc.).

**Can you explain what else is involved with the 204 process/regular outdoor service approvals?**

Get the application; if it's a simple app (directly adjacent, etc.) those are subject to final inspection. Once the licensee is approved, get a copy of order then licensee has to call local LLC office for final inspection (take priority). For expansions, need to pull other records – larger or further away from the premises. If an odd application (on rooftop) of huge building and pool involved, then instead of going to commission first, the inspection is done first. Most apps go directly to the Commission for approval then inspection. They are done fairly quickly.

At the point when the licensee is ready for final inspection, the investigator looks at outdoor area to verify size and shape and barrier is as described. Sometimes area much bigger than what was in application and need an amended order. Some licensees want to use the area as soon as inspector leaves, but there is a small lag time.

**If you currently have a sidewalk cafe in the front of the building, do we need an additional permit to use the area in the back of the building?**

If not already approved for outdoor service, then yes you would. If only doing until October, then you can apply for limited outdoor service license.

**So, if we have a license to serve on our sidewalk, but now want to expand that sidewalk patio into the closed road (allowed by our city) we have to apply for the traditional expansion, yes?**

If you already have something existing for outdoor service, then yes, you have to use LCC 204. The MLCC has to know what is being expanded. The orders have specific dimensions – and the measurements have to be correct.

If people planning to use on short-term basis or for an event (beer tent), then apply for temporary approval of outdoor service. Each licensee can get 12 days per calendar year. If a road is permanently closed by the local unit, and the road can be used, then the licensee can add that as a permanent outdoor area (matters if temporary or permanent use).

**Will local municipalities be notified when a business applies for this license as we have been for other permits (i.e. new SDM, ownership transfer, etc.)?**

We do not notify local units for most permits – statute requires we notify municipalities for transfers or new licenses. Outdoor, no. If a new or expanded as part of transfer, then yes. If going to be on a local unit's property, then we assume licensee has reached out to LUG and received permission and will provide documentation. Licensee responsible for finding out what ordinances are and be in compliance with them

**Where is best place to find guidance on expansion of existing outdoor, as opposed to the new Limited Permanent Service?**

We don't get a lot of questions on this, so we don't have a lot of information. On our website, there are questions on expanding outdoor service areas. We have FAQs. We will add information to our website. If the MML gets questions, it can forward those to us so we can include them on our FAQ page. You can send an email to us as well.

**You mentioned the application does not have a fee per se. However, there is still the \$70 inspection fee, or has that been waived?**

There is no \$70 inspection fee for outdoor service areas. If you add a bar, then the inspection fee applies.

**Can the city approve an outdoor patio expansion to allow a restaurant to apply for an amended LCC-204 but only for a limited time, such as until 10/31/20?**

City approval is not required by MLCC for an Outdoor Service Permit unless the area is located on municipal property. If the area is on city property, and the approval is for a specific time period, the document must reflect that. Any local requirements or approvals needed in addition to MLCC requirements will have to be handled by the applicant/licensee at the local level.

**Is a request for ODS considered an expansion although there are not directly connected with the previously approved?**

No. MLCC allows expansion of existing Outdoor Service areas to adjacent areas. If a requested area is not connected in any way (such as a stairwell) to an existing Outdoor Service area, MLCC can approve a second (or third, and so on) Outdoor Service area and we note in our files how many approved areas each licensee has.

**So, if the new outdoor area is not connected to the old outdoor area, they can qualify under the temporary approval?**

It depends. If the licensee wants to use a second, unconnected Outdoor Service area, the licensee can apply for up to 12 days of temporary Outdoor Service for the area by using form LCC-206, or licensee can apply for the Limited

Permanent Outdoor Service Permission to use a second, unconnected Outdoor Service area in 2020 only by using form LCC-204a.

**So, if a business currently has an outdoor service area and city is offering additional public space for a yet to be determined period, what is recommended path?**

If we don't know or they can't demonstrate that they have approval, then we wouldn't be able to approve them. Can't make it "subject to receipt" of certain items. This process is already expedited. As soon as they get the go ahead from the local unit, then start the process. If they apply without local approval, they would get a deficiency notice. We need size and location of area.

**Can a restaurant set up their expanded outdoor area and use it without alcohol sales until the license is approved?**

Yes. No alcohol can be sold and consumed in the area until the expanded area is approved by the MLCC.

**For a downtown that is permitted extension into parking spaces for the summer, they would use 204a, correct?**

Yes, especially if the licensee will only use the area between 6/1/20 and 10/31/20. That permit is not renewable. If a licensee wants to use the same area each year, they should apply for the regular permanent Outdoor Service Permit for that area, now or after the 2020 Limited Permanent Outdoor Service Permit expires.

**In addition to the well-defined area and barrier, is a review and inspection by MLCC for ADA requirements and the actual placement of tables?**

No. The MLCC will verify during any required final inspection whether the area is clearly marked and well-defined, whether the area was constructed as proposed and approved by MLCC, and whether the Outdoor Service area meets all MLCC requirements. Local inspectors may need to verify that the area meets ADA requirements and other local ordinances and laws.

**Do we have a local MLCC contact for government officials? I'm in Oakland County.**

All staff are contacts for local officials. We don't have a local government liaison. They contact the specific area they have questions about, then we route to the appropriate person. You can reach out to your district office, too.

**Is it correct that current license holders cannot apply for (or obtain) a limited permanent outdoor service area permit?**

No, that is not correct. We are issuing those permits to approved applicants and existing licensees.

**The city is planning to close a street that is across an active street from the MLCC licensed business. They want us to be able to serve alcohol in that area. They are thinking this is like a food court. Is that permitted? What permits are required?**

Any licensee who wish to sell alcohol and allow consumption outside of their licensed building must apply with MLCC for a temporary or permanent Outdoor Service Permit. Each licensee is approved for its own specific, separate area which is not connected to any other licensee's area. If the proposed area is not adjacent to the licensee's licensed building, the Commission can approve it if the licensee controls all the intervening property. Outdoor Service areas that are separated by a road are typically not approved by the Commission. The bigger the distance between the proposed Outdoor Service area and the licensed building, the less likely the Commission will approve the application. There is currently legislation being considered by the Legislature that would allow local governmental units to designate social districts within their jurisdictions where alcohol sold by adjacent licensees for on-premises consumption could be consumed in a common area. This bill has not been enacted yet, but if it is passed in the near future, please check the MLCC website for more information.

**Most businesses will be expanding as opposed to opening a totally new space, meaning that the space could be available next year. Space would be approved. Don't know if it would happen again next season.**

If a licensee is approved to expand a permanent Outdoor Service area, that area remains licensed year after year unless the licensee cancels the permit. There is no need to re-apply for approval of the area by MLCC.

**What if I just want my sidewalk patio to touch the in-street patio, but not CONNECT. Do I still need to use the traditional expansion request?**

One of the requirements for applying for a 2020 Limited Permanent Outdoor Service Permit is that the proposed Outdoor Service area cannot be more than 25 feet from the existing licensed building. If the distance is over 25 feet, and/or the licensee wishes to use the second area year after year, the licensee must apply for a second area under their regular permanent Outdoor Service Permit.

**So, if we have 20 businesses that are allowed to expand current licenses, they will also have to apply to shrink the area in the fall? They can't just stop using it?**

It depends upon what was requested and approved. If the licensee was approved to expand a regular permanent Outdoor Service area, that area remains licensed each year and licensee can use it or not. If the licensee was approved for the 2020 Limited Permanent Outdoor Service Permit, they must stop using the area after 10/31/20 for the sale and consumption of alcohol unless they request and get approved by MLCC to permanently or temporarily add that area in the future. When the Commission approves permanent outdoor service areas, it approves the areas for dimension that are listed as "up to X feet by Y feet". As long as the outdoor service area does not exceed those dimensions in its original footprint, then a reduction of size without Commission approval would be allowed as long as the outdoor service area was still well-defined and clearly marked.

**MLCC, please consider offering the temporary licenses for these temporary expansions of use...**

That suggestion will be passed along to the Commission for consideration, thank you.

**Can a restaurant with an existing outdoor service area be approved for the new temporary approval as long as the new area isn't connected to the previously approved area?**

Yes. They will be considered two Outdoor Service areas, one for 2020 only and one that is permanent.

**Who does a city contact if a potential applicant has outstanding personal property taxes due?**

A city or village can contact MLCC with this information and it will become part of the file. It is unlikely that the information will cause a denial by MLCC for the permit but the information is considered at the time of approval or denial.

**I have a temp outdoor permit- sound like I renew it to expand the area on to public park attached to service area?**

That is not correct. Temporary approvals for Outdoor Service cannot be "renewed". Licensees can apply each calendar year for up to 12 days of temporary approvals for Outdoor Service. If the area is not controlled by the licensee, and/or if it is a long distance away from the existing licensed building, the applicant will not likely be approved by MLCC.

**Someone needs to create a single page explanation on the difference between the LCC 204 and the 204(a). This is clearly still confusing to some folks.**

We will consider your suggestion; thank you. There is information about the 2020 Limited Permanent Outdoor Service Permit on our webpage and in the application form LCC-204a, including the specific requirements to apply.

**We have a public park that is across the street from licensed businesses. How do we accomplish allowing alcoholic beverages there? Who applies for the license?**

You can apply for a Temporary Outdoor Service Permit for this purpose, but you may not get approved by MLCC if you cannot provide proof that you exclusively control the premises and/or if the area is separated by a road from your licensed building and/or the distance is long between your licensed building and the area. \*Note: A qualified nonprofit organization can apply for a Special License for a variety of locations including parks. If a Special License is issued, the Special Licensee must control the area, run the event, and claim all the profits from the sale of alcohol during the event.

**For the prohibition on a road being between the establishment and the outdoor service area, does that include an infrequently used alley?**

Yes. Any intervening property that is not controlled by the licensee is considered by the Commission and could be a reason for denial of the application.