

LIQUOR AND CANNABIS LICENSING POLICY

POLICY TYPE: Council

EFFECTIVE DATE: July 23, 2024

POLICY #: COUNCIL-PD-002

POLICY SUBJECT: Planning and
Development Services

1. PURPOSE

This policy outlines a framework for the assessment and approval process for various types of liquor and cannabis licence applications. This policy provides information to assist applicants, staff members, and Council when processing liquor and cannabis licence applications.

2. SCOPE

The Liquor and Cannabis Regulation Branch (LCRB) oversees liquor and non-medical cannabis regulations, which govern British Columbia's sale of liquor and cannabis and the BC Liquor Distribution Branch (BCLDB) is the provincial body responsible for the distribution of alcohol and non-medical cannabis products as well as the operation of "BC Liquor Stores" and "BC Cannabis Stores". For certain licence types, the Province requires local government to provide comments and lead community consultation processes. This policy establishes a framework for how the City reviews and responds to liquor and cannabis related licence applications.

3. PROCEDURES

3.1 Liquor Primary Licences

Liquor primary establishments are associated mostly with hospitality, entertainment, or beverage service businesses. Examples of liquor primary establishments include nightclubs, pubs, lounges, casinos, theatres, and could also include places such as barber shops or spas. The proposed processing procedure for liquor primary amendments and new liquor primary licences is as follows:

Step 1: Liquor Licence Application (LLA)

- Following a request for comment from the LCRB to the City of Burnaby, the applicant must submit a LLA to City of Burnaby Planning and Development staff.

Step 2: LLA Circulation

- Planning and Development staff circulate the application to relevant City departments and the Burnaby RCMP.

Step 3: Staff Assessment of Application

- City staff undergo a technical review and evaluation based on the following criteria:
 - Nature and size of proposed establishment
 - The greater potential an establishment has for intoxication and noise behaviour may require additional attention and consideration from staff. For example, a nightclub may require closer scrutiny than a neighbourhood pub would.
 - Larger establishments (over 100 patrons) may require additional consideration when determining if the City is supportive of the application.
 - Location of the proposed establishment
 - The establishment should be compatible in scale and land use with the surrounding neighbourhood. For example, larger liquor establishments should be located within town centres and Urban Villages where entertainment zones are planned and encouraged.
 - Impact of potential noise
 - The LCRB requires local governments to comment on the impact of potential noise.
 - Other community and residential impacts
 - In addition to noise, will the community be impacted by the approval of the liquor licence? The LCRB requires local governments to comment on any potential community and residential impacts.
 - Proximity to transit
 - Liquor establishments should be located close to public transportation options (bus, SkyTrain, etc.), particularly larger and liquor primary establishments.

Step 4: Public Notification

- The public notification would align to the current rezoning process without a public hearing, consisting of:
 - sign(s) to be placed on the site (one per bounding street);
 - a mailout notification to properties within 30 metres; and
 - notice published on the City's website and distributed as part of the City's online newsletter.

Step 5: Recommendation to LCRB

- Based on the assessment, public input, RCMP and staff circulation comments, the General Manager of Planning and Development can either:
 - Write positive recommendation to LCRB, or
 - Send the application to Council. The application may be sent to Council for a resolution if:
 - public input process generates significant concerns from nearby residents or businesses. Specifically, staff will consider the following as a "significant" response:

- Outside of a town centre – staff receive concerns from the public at a rate of 10% of the number of notifications sent out.
- Within a town centre – staff receive concerns from the public at a rate of 5% of the number of notifications sent out.
- Depending on the nature of the application and responses received from the public, staff may refer the application to Council even if the minimum threshold of responses with concerns is not met.
- RCMP identify public safety concerns or a recent (past year) history of police incidents; or
- The General Manager of Planning and Development is considering sending a recommendation to not approve licence/licence amendment to the LCRB.
- Following a Council resolution, the LCRB would be notified of the City's decision.

3.2 Food Primary Licences

Food primary licenced establishments focus primarily on the sale and service of food as opposed to liquor. These applications are the most common type of liquor licences processed by the City of Burnaby. Food primary licence applications are processed solely by the LCRB without a referral to local government, unless the applicant requests a patron participation endorsement (e.g. karaoke or dine and dance), or a permanent extension of liquor service hours before 9:00 a.m. or after midnight.

The review process for food primary establishments is the same as the process for liquor primary establishments as outlined above. Based on the assessment, public input, RCMP and staff circulation comments, the General Manager of Planning and Development would either write a positive recommendation to the LCRB or send the application to Council for a resolution.

3.3 Manufacturer Licence

Manufacturer licences are issued to establishments that produce their own alcohol on site. Examples include breweries, distilleries, and wineries. In addition to producing liquor, manufacturer licensees can apply for endorsements to operate a lounge, store, special event area, and picnic area.

When the LCRB refers a manufacturer licence application to the City for comment, the processing procedure is the same as for liquor primary and food primary licences. Staff will also utilize the following criteria to assess applications which contain a lounge endorsement and/or a patio:

- the combined interior floor area assigned to accessory brewery lounge and patio shall not exceed 50% of the business's total floor area;

- The outdoor patio must occur on the private property unless permitted under the City's Active Patio Permit program, and be located on or adjacent to the same lot as the primary use; and
- Manufacturer licensees, which are part of a Comprehensive Development in a neighbourhood plan area, or a master plan, may be exempted from the lounge endorsement and patio criteria described above. The criteria above should be used to assess manufacturer licence applications in straight zoned industrial properties.

Based on the assessment, public input, RCMP and staff circulation comments, the General Manager of Planning and Development would either write a positive recommendation to the LCRB or send the application to Council for a resolution.

3.4 Temporary Change to a Liquor Licence and Special Events

The LCRB typically does not require a public input process and local government commentary for temporary changes to liquor licences, only an "objection" or "no objection" response from local government. Special Event Permits are not referred to local government, unless the event is proposed to be held on public property. In the case where a licence application is referred to the City, the following process would apply:

- Applications for temporary changes and special events are reviewed by staff and circulated to Burnaby RCMP
- If no concerns are raised, staff would respond directly to the LCRB
- If the application is considered particularly sensitive based on staff review or feedback from the RCMP, staff then forward the application to Council for consideration before a response is sent to the LCRB
- The maximum number of temporary changes to a liquor licence permitted per year is six

3.5 Liquor Service in Non-Traditional Business

Provincial liquor policy permits essentially any business to apply for a liquor licence, except for businesses catering to minors or those that operate out of a motor vehicle. Common examples of non-traditional licence holders include spas, barber shops, hair salons, and retail stores.

The processing procedure for non-traditional businesses applying for a liquor licence follows the same process as liquor primary licenses described above. In addition to the standard review criteria, the following considerations and conditions would also apply:

- The service of liquor and service areas must be complementary and subordinate to the primary business;
- Liquor service may not extend beyond the hours of the primary business;
- Liquor service should enhance and not detract from the customer experience;

- The history of the business and compliance with City bylaws and regulations;
- The level of community support, following the public input process;
- The nature and size of the business; and
- If the business employs minors and if they are a significant customer base.

The intent of the assessment criteria above is to ensure that the alcohol service will only take place in businesses which are complementary to that service and will not create a considerable disturbance for nearby businesses and residents, nor burden law enforcement.

3.6 Retail Liquor Stores

Retail Liquor Stores sell packaged liquor for off-site consumption. There are both public and private retail liquor stores in Burnaby.

Both public and private retail liquor stores are permitted in the C1, C2, and C3 zoning districts in Burnaby, provided they are located at least 1 kilometre from an existing liquor store. The City may consider a relaxation to the 1 kilometre distance criteria if the reason aligns with LCRB policy for exemptions, specifically:

- If the relocation of the store is necessary because it is substantially damaged by a fire, flood or other event beyond the licensee's control;
- If the shortest travelling distance by road is more than one kilometre due to watercourse or body of water;
- If the store is already within 1 kilometre of another liquor store and the new location is not closer than the current one; or
- If the new location has the same parcel identifier as the current location.
- If the store is relocating temporarily

If the LCRB amends its policy to change or remove distancing requirements between liquor stores, the City of Burnaby would then review these locational guidelines. The operating hours of both private and government owned stores shall begin no earlier than 9:00 a.m. and end no later than 11:00 p.m.

3.7 Cannabis Retail Stores

Like retail liquor stores, retail cannabis stores are permitted in the C1, C2, and C3 zoning districts in Burnaby, provided they are located at least 1 kilometre from an existing retail cannabis store. The LCRB cannot issue a licence for a private retail cannabis store without a positive recommendation from the local government. Government operated BCLDB stores are not bound by the same rules, however, would still comply with local zoning and policy regulations. The following provides a framework for how private retail cannabis stores are introduced in Burnaby and direction on how retail cannabis store applications will be assessed following a monitoring period:

Step 1: Retail Cannabis Store Application to the City

- Only applications referred from the LCRB to the City or applications from the BCLDB will be accepted. Following a request for comment from the Province to the City, the applicant must submit a retail cannabis store application to Planning and Development staff.
- Initially, Cannabis Retail Store Licence applications which are referred to the City from the LCRB will be grouped and held for 60 days following the receipt of the first complete application in each respective quadrant.

Step 2: Circulation:

- Planning and Development staff circulate the application to relevant City departments and the Burnaby RCMP.

Step 3: Staff Assessment of Application:

- Required locational criteria
 - Must be located on a C1, C2, or C3 commercial zoned lot, or comprehensive development based on one.
 - Must be at least 1 kilometre from another retail cannabis store location.
- In addition to the required criteria, the following will be considered when determining support, non-support or support with conditions for a retail cannabis store licence:
 - Location of proposed establishment
 - Preference will be given to locations within a town centre, followed by urban villages, followed by other commercial centres outside of such plan areas
 - Nature of commercial centre
 - Preference will be given to established commercial locations
 - Previous experience of store operator

Step 4: Public notification

- The public notification would be identical to the current rezoning process without a public hearing, consisting of:
 - Sign(s) placed on the site (one per bounding street)
 - a mailout notification to properties within 30 metres; and
 - a notice published on the City's website and distributed as part of the City's online newsletter

Step 5: Report to Council (initial period)

- Following the assessment and public input period, staff will present all applications from the initial batch to Council with recommendations on which applications should be given a supportive recommendation to the Province.
- If after the above assessment there is more than one application with similar merits, staff will recommend that Council provide a positive

endorsement to the first application, which was referred to the City from the LCRB

- Council will review the applications presented, consider staff's assessment, and ultimately decide which applications should be given a positive endorsement to the Province.

Step 6: Recommendation

- Based on the assessment, public input, RCMP and staff circulation comments, Council will provide a resolution to the LCRB, recommending either:
 - A licence be issued to the applicant;
 - A licence not be issued to the applicant;
- Following the Council resolution, the LCRB would be notified of the City's decision.

Following a monitoring period of two years after recommendation on the first batch of applications, provided no material issues arise, additional cannabis retail stores applications may be considered. Applications would be processed one by one, in the order which they are referred to the City. Following the two year monitoring period, the General Manager Planning and Development would provide comments and recommendations to the Province directly.

If there are identified issues during the monitoring period, staff would go back to Council for further direction regarding the processing of additional applications.

3.8 Cannabis Production Facilities

The *Cannabis Act* creates a framework for controlling the production, distribution, sale, and possession of cannabis in Canada. Under this framework, cannabis production and processing facilities are required to obtain a licence issued by Health Canada and meet the requirements of the *Cannabis Act* and its Regulations, as well as other applicable federal, provincial, and municipal bylaws.

Cannabis production, which includes the cultivation, propagation and harvesting of cannabis, is permitted use in the M1, M2, and M3 Districts (or CD based on those Districts) and on a lot designated for industrial use in the OCP. Cannabis processing facilities, which includes the processing and testing of cannabis, is permitted in the M1, M2, M3, M4 and M5 Districts (or CD based on those Districts) and on a lot designated for industrial use in the OCP. Both cannabis production and cannabis processing facilities would be subject to the following:

- All cannabis production, processing, and storage must take place inside a wholly enclosed building or structure.
- Any building used for cannabis production or processing must be equipped with an air filtration system that prevents the escape of cannabis odours to the outdoors, and the system must be maintained to function

properly over time. The City may request an Air Quality Management Plan prepared by a registered professional and a third-party review of this plan at any time. The City may also require compliance with a valid air quality permit issued by Metro Vancouver, through its delegated authority under the BC *Environmental Management Act* (EMA).

It is also noted that cannabis production cannot be prohibited in the Agricultural Land Reserve (ALR) if grown lawfully under certain conditions:

- in an open field;
- in a structure that has a soil base;
- in a structure that was either fully constructed or under construction, with required permits in place, prior to July 13, 2018; or
- in an existing licensed operation.

The federal government requires filtration and ventilation in facilities where cultivation, propagation, or harvesting are taking place. Also, cannabis operations must responsibly manage their waste and not cause pollution, as required by the EMA. An Air Quality Management Plan be available upon request, prepared by a registered professional and a third-party review.

4. POLICY ADMINISTRATION AND REVIEW

Unless otherwise stated above, this policy should be reviewed after three years to ensure the needs of the community are being appropriately served.

APPROVED BY: Council

AMENDMENT DATE(S):

APPROVAL DATE: July 23, 2024

REVIEW DATE: February 23, 2027
