

Category: Planning/Licensing

Subject: Liquor Licensing Policy

Purpose

The Liquor and Cannabis Regulation Branch (LCRB) regulates the licensing of all liquor establishments and the retail sale of alcohol in British Columbia. Local Government comment is a key component of the LCRB's licensing decision. This policy is intended to guide all future liquor license applications and is replacing the City's 2005 Liquor Policy.

Scope

This policy establishes a framework and process for consideration of liquor applications regarding the sale, service and consumption of liquor in the City of Penticton through various liquor licensed venues. It also sets out the procedure that will be followed by the City in the processing of the various types of liquor licensing applications whether it is a new licence application or proposed changes to an existing licensed establishment. The policy provides vital information to applicants for new liquor licences or changes to existing liquor licensed establishments.

Administration

The Director of Development Services (the Director) or, in his/her absence, the Planning Manager (the Manager), shall be responsible for the administration of the policy and will have authority to oversee the processing of all Liquor License applications. This responsibility includes:

- Receiving all applications submitted to the City for both new applications as well as license change applications (including temporary changes) to an existing liquor licensed establishment.
- Deciding the level and required City review of a liquor application based on the merit and potential implications and potential impacts on the community and whether the application conforms to the City policy guidelines.
- Deciding which City departments and other agencies, such as RCMP, ALC, should be consulted and provide an opportunity for comment or "No objection".
- In order to expedite applications requiring public input, staff will coordinate the public notification and input to occur at the same time that the various City departments and outside agencies (RCMP, ALC) are assessing the application.

- The Director or the Manager may convene a meeting (in-person or virtual) with an applicant of a particular application.
- Deciding on the details of the public notification process, if required.
- Deciding if the City should “opt-out” of an application, which means the City would not be involved in the application and the application would proceed through to the LCRB process with the LCRB conducting the required public notification. The City policy will be to “opt-out” on applications for establishments located on City owned property to avoid the appearance of a conflict of interest.
- Deciding if the City of Penticton will support or not support a specific application and communicate that decision to the LCRB.
- Liquor licence applications that are deemed to be significant to the City, will go through a comprehensive review when it is an application for a new liquor licence or change to an existing liquor licence. This may require public input.
- An applicant that has been refused by staff at the City has the right to submit for an Appeal before City Council to hear the appeal.
- The results of the public consultation process conducted by the Director or Manager will be included in any Staff report on the application and forwarded to Council for their consideration for significant or controversial applications.
- The Director or Manager, in addition to receiving all applications, will sign for the receipt of the application referred by the LCRB or the applicant.
- The Director or the Manager may assign a specific staff member to be the designated “point of contact” on incoming applications.
- The Director or the Manager will be the primary contact for all applications and will communicate with officials of the LCRB, RCMP, other government agencies, and the public when it relates to community input.

1. Types of Liquor License Applications

The City receives a variety of applications for both new licenses and changes to existing licenses and has a duty to consider these applications in a fair, efficient, and prompt manner. The LCRB sets a 90 day timeframe for completion of local government involvement. The City strives to stay within this time frame for the completion of the local government consideration of an application. The following is a summary of the various types of applications received by the City and what the general City review process will essentially consist of while the application is before the City for the input that is required by the LCRB.

1.1 New Liquor Primary and Liquor Primary Private Club Licenses

A liquor primary licence is issued to a business which is primarily engaged in the selling of liquor rather than food. The establishments commonly licensed with a Liquor Primary Licence are pubs, lounges,

night clubs, private clubs, hotels, casinos, recreation centres (including golf courses, tennis clubs, and bowling alleys), stadiums, conference and convention centres, theatres, as well as spas, salons, and galleries. A Liquor Primary Licensed establishment, such as a pub or lounge can apply to have a LCRB approved Family Food Service endorsement. This endorsement allows minors to be in a liquor primary licensed establishment accompanied by a parent or guardian up to 10:00 pm when food service is available. This primarily applies to pubs and lounges with operating kitchens and there must not be any entertainment which may be considered as offensive to minors.

The following review process will apply:

- Intake by the Director or the Manager.
- Staff technical review by appropriate City Department and the RCMP.
- Required public notification of the application to the surrounding area
- Review of the results will include consideration of:
 - Impact of potential noise in the community from the proposed establishment.
 - Impact on traffic and parking.
 - Other community and residential impacts.
- Referral to Council for a resolution if the application is of significant size and/or the public notification generates considerable concerns from neighbourhood residents and businesses.
- The Director will notify the LCRB of the City's decision.

1.2 New Food Primary Licence applications

New food primary licence applications do not require formal review by the City since the primary focus of the business is on the sale and service of food. These applications are sent directly to the LCRB by the applicant unless the applicant is requesting extended hours or patron participation entertainment endorsement.

If an applicant for a new food primary licence is seeking hours of licensing beyond midnight and/or a Patron Participation Entertainment Endorsement (PPE), the application will be reviewed by the Director or the Manager who will decide upon the application and the level of City input required, depending on the location of the proposed establishment and the application details.

Review of the application is also required from a technical perspective to review compliance with zoning and Fire & Building regulations including confirmation by the City of occupant loads and building permits.

A Council resolution is not required for basic food primary applications provided zoning and building requirements are satisfied.

1.3 Applications for Changes to an Existing Food Primary Licence

An existing food primary licensed establishment can apply, at any time, for changes to their existing licence. These include:

- a) A structural change application to expand or decrease the licensed area and/or capacity which would also include the addition or expansion of a patio.
- b) An extension of hours of liquor service beyond the LCRB standard hours of 9 am to 12 midnight, seven days a week.
- c) A patron participation entertainment endorsement to permit dancing, karaoke or other types of entertainment that involve patron participation in the service area.

The following review process will apply:

- Confirmation that the proposed hours are consistent with the City policy on hours of operation for food licensed establishments.
- Checking for compliance or enforcement issues that have arisen in the previous six months with the City, the LCRB and the RCMP.
- Public notification may be required for outdoor patios, patron participation entertainment (i.e. dancing) and extension of hours for liquor sales past midnight if the proposed change may impact on nearby residents and businesses considering the following factors:
 - Impact of potential noise in the community in the immediate vicinity of the establishment.
 - General impact on traffic and parking.
 - Other community and residential impacts.

Following a review of the application by relevant City departments and completion of the results of any public input, the Director or the Manager will determine if the City supports, denies, or requires further consideration of the application and will advise the LCRB of the final decision.

1.4 Applications for Changes to an Existing Liquor Primary Licence

An existing liquor primary or liquor primary club licensed establishment can apply for changes to their licence. These include:

- a) A structural change to expand or decrease the size of the licensed area.
- b) A structural change for the addition of or an expansion of an existing outdoor patio.
- c) An extension of hours for liquor sales and service.

The following review process will apply:

- Intake of the application by the Director or the Manager.
- Technical review of the application by appropriate City departments and the RCMP.
- Required public notification of the application to the surrounding area if the application proposes to increase the person capacity of the establishment, extend the hours of liquor service past midnight and the addition or expansion of an outdoor patio.
- Following the Technical Review and the results of the public notification process, the Director or the Manager will notify the applicant and the LCRB of the City's decision. The review of the results will include consideration of:
 - Impact of potential noise in the community from the proposed establishment.
 - Impact on traffic and parking.
 - Other community and residential impacts.
- If the proposed change has significant implications for the City or generates strong community concerns as a result of public notification, the Director or the Manager may forward the application to Council for a resolution to either approve or deny the application.

1.5 New Manufacturing Licenses for Breweries, Wineries and Distilleries

New applications for liquor manufacturing establishments also provide the applicant with the option of applying for several license endorsements that may have an impact on the community or the area where the establishment is located. These endorsements include:

- a) A retail area to sell to the public the liquor products produced on site.
- b) A tasting area, which is usually in close proximity to the retail area, where the public can consume a small tasting sample of the product produced.
- c) An outdoor picnic area where the public can consume liquor products purchased in the retail area. The picnic area is an open air space.
- d) An interior lounge area (including a possible outdoor patio area) which operates similar to a liquor primary establishment for the sale and service of full size drinks as well as the option of serving other liquor products. Food service is also involved either in house or by association to other food retailers in the area.
- e) One or more special event areas which are usually outdoors and are associated with receptions, banquets, concerts, and other celebratory events.

The City review process for a liquor manufacturing application will vary depending on the licence endorsement or endorsements being requested by the applicant and the location of the establishment in relation to residential development and if it is located on ALR property.

The following review process will apply:

- Intake by the Director or the Manager.
- Staff technical review of the application by the appropriate City department and the RCMP as well as the ALC if the establishment is on ALR land.
- Approval from the ALC is only required if the proposed Lounge endorsement applications exceeds 125m² total for interior areas and 125m² total for exterior areas (patios). Lounges (that hold a Manufacturer licence) are a permitted use on ALR land if the square footage is less than or equal to 125m² for either interior or patio applications.
- If the application is for a manufacturing establishment without any endorsements, (ie: Tasting room, Lounge, Retail area, Special Event Area or Picnic area) the City does not have a role in approving or denying the application from a liquor licensing perspective. However, rezoning, building permits and a business licence will be required.
- Tasting rooms are a permitted use in a manufacturing licensed establishments, as long as they meet the local government zoning requirements. The LCRB is the approving body to permit tasting rooms in a manufacturing establishment. Tasting rooms are not specifically given an occupancy by the LCRB and only the City will have occupant loads for these areas which is usually part of the building permit process.
- Per the LCRB, a picnic endorsement does not require Council approval, but only a comment from local government advising of "Objection" or "No Objection", if the capacity is less than or equal to 30 persons and the application would only require the approval of the Director or the Manager. However, a picnic endorsement application which is requesting a capacity of greater than 30 persons or an overall increase in capacity will be required to go through the Council review process before proceeding to the LCRB for final approval.
- If the application proposed is to have one or more of the above noted licence endorsements including an interior lounge area or special events, the applicant will be required to undergo a public notification process. The review of the results will include consideration of:
 - Impact of potential noise in the community from the proposed endorsement area.
 - Impact on traffic and parking.
 - Other community and residential impacts.
- Following the Technical Review and the results of the public notification process, the Director or the Manager will notify the Applicant and the LCRB of the City's decision.

- If the proposed change has significant implications for the City or generates strong community concerns as a result of public notification, the Director or the Manager may forward the application to Council for a resolution to either approve or deny the application.

1.6 Applications for Changes to an Existing Liquor Manufacturing Licensed Establishment

An existing licensed liquor manufacturer may apply (after they have been licensed) for a change to their licence with an endorsement application to permit one or all of the following added amenities:

- a) Retail sales area.
- b) Tasting room for sampling product produced.
- c) Lounge area, which can also include a patio.
- d) Picnic area.
- e) Special event area or areas.
- f) Structural changes to the layout of the licensed area and/or an increase in the capacity.

The following review process will apply:

- The Director or the Manager will receive and review all applications for changes to a manufacturer licence and refer them to the appropriate City departments and the RCMP for their review and comments.
- For a Retail Sales area associated with a manufacturing establishment, the City will review Zoning and Building Requirements to ensure compliance.
- The Director or the Manager may involve consideration by the ALC if the licensed establishment is located on ALR property.
- The Director will coordinate a public notification approach for applications involving a Lounge and/or Special Event Area(s). The Special Event Area(s) at a manufacturing establishment are usually (but not always) outdoors and often involve musical entertainment and/or a significant number of attendees. Generally, the Director or the Manager will decide on an application after public input and comments are received from the various City departments.
- If an application generates concerns or significant public opposition comments, the Director or the Manager may choose to refer it to Council for further consideration.

1.7 Applications for Relocation or Structural Change of a Retail Liquor Store, Wine Store

The Province of British Columbia currently has a moratorium in place on the issuance of any Retail Liquor Store Licenses including Wine Stores. This moratorium is due to expire in July 2022 however, the government has announced an intent to extend this moratorium after July 2022 for a further five years

(until July 2027). Therefore, the City will not be receiving any applications for new Retail Liquor Stores or Wine Stores. In addition, the LCRB has a regulation that prohibits the relocation of a Government or Privately run Liquor Store to within 1km of an existing Liquor Store.

The Policy for Relocation of an existing Liquor or Wine Store is to ensure zoning and building permits are reviewed and compliant with City requirements.

For a VQA Wine Store, Independent Wine store (including those in grocery stores) the City will review the site to ensure zoning and building requirements are compliant.

1.8 Special Event Permits and Temporary Changes to an Existing Licence

The City administers the review of Special Event Permit applications as well as the Temporary Change applications from existing Licensees. The Temporary Change application usually involves a Food Primary, Liquor Primary or Manufacturer Licensed establishment and involves changes to the following:

- Extend the hours of licensing.
- Increase occupant load by increasing the size of a service area either inside or outside.
- These applications will be reviewed by the Director or the Manager and other appropriate city departments who will determine if the application will be supported by local government.
- For major concerts and festivals, the Director or the Manager will conduct a comprehensive review involving various City departments and the RCMP.

2. General Policy Guidelines on Public Notification

For applications requiring notification to the public, as required by the Liquor and Cannabis Regulation Branch and the City of Penticton, the general policy will be as follows:

- One or two site notification signs per business frontage depending on the location and size of the proposed or existing establishment.
- Two consecutive newspaper insertions.
- A mailout would be circulated as follows:
 - 50 meters in an urban area
 - 150 meters for a rural area
- If in the opinion of the Director or Manager, a small or larger notification area is warranted, the Development Officer may establish a larger or smaller notification area.
- The Director or the Manager will determine the wording of the signage, advertisement, mailout and social media. The City will design a sign template in accordance with City requirements.

- The notification will give the public two weeks to respond to the notification.
- The Director or the Manager will determine results of the notification and decide to either approve or refuse the application.
- The Director or the Manager may refer an application to Council if it results in significant negative public response or for any other reasons.

3. Hours of Liquor Sales and Service

The City has determined it will support the following general policy for hours of liquor service and sales at a liquor licensed establishment:

The City has determined that these hours will ensure that there are no late night or early morning challenges in the community:

Establishment Type	Hours of Liquor Service
Nightclubs and Casinos	9 am to 2 am, Monday – Sunday
Lounges or Pubs Brewery Lounge or Special Event Area Distillery Lounge or Special Event Area Winery Lounge or Special Event Area	9 am to 1 am, Monday – Sunday (liquor service between 9 am and 1 am is subject to maintaining a fully operational kitchen and breakfast food service)
Restaurants, cafes	9 am to 1 am, Monday – Sunday
Event Driven Licensed Establishments Includes conference centres, cultural centres, live event, and movie theatres	9 am to 1 am, Monday – Sunday (liquor service is event driven only with service hours up to one hour prior to, during and one hour after an event)
Dual Licensed Establishment: Food Primary Liquor Primary	9 am to 10 pm, Monday – Sunday 10 pm to 1 am, Monday – Sunday
Non-traditional businesses holding a food primary or liquor primary licence but not primarily engaged in food, hospitality, entertainment, or beverage service	9 am to 10 pm, Monday – Sunday (hours of liquor service not to extend beyond the operating hours of the primary business)

- Establishments that have existing hours of service that are beyond the general range for their establishment type are grandfathered.
- Establishments that have existing hours of service that are less than the general range for their establishment type are eligible to apply for an extension of hours to the limits of the range.
- Establishments shall be permitted the benefit of 3 am closures on New Year's Eve without an application to the City. This does not apply to non-traditional businesses holding a food primary or liquor primary licence but not primarily engaged in food, hospitality, entertainment, or beverage service.
- The City supports permitting minors in appropriate liquor primary licensed establishments and brewery, distillery and winery lounges and special event areas until 10:00 pm when accompanied by a parent or guardian, provided that applicable provincial licensing requirements are met.
- In some cases, it may be to the benefit of the City to support temporary extension of hours beyond those specified by the guidelines above for each establishment type. Proposed extensions are subject to application to the City.

4. Liquor Licensing of Non-Traditional Businesses

The BC Liquor Policy now permits businesses other than those primarily engaged in the service of food to apply for a food primary licence, and businesses other than those primarily engaged in beverage service, entertainment, or hospitality to apply for a liquor primary licence. These businesses include spas, barber shops, hair salons and retail stores. The following guidelines will be considered in the review of applications from non-traditional businesses for a food primary or liquor primary licence:

- The service of liquor and service areas must be complementary and subordinate to the primary business.
- Liquor service may be provided only when the primary business is operating, and the hours of liquor service may not extend beyond the hours of the primary business. Hours of liquor service hours between 9:00 am to 10:00 pm will be considered.
- Food primary licence applications will be evaluated in accordance with normal City processes.
- Licence holders, managers and those who serve liquor must have LCLB required "Serving It Right" ("SIR") certification.
- In reviewing an application for a liquor primary licence, the following must be considered:
 - The type and location of the business applying for a liquor licence.
 - How the service of liquor will enhance or detract from the customer experience.
 - The impacts on public health and safety.
 - The location of the business relative to other businesses with a liquor licence.

- The history of the business including compliance with municipal bylaws.
- If the business employs minors.
- If minors are a significant part of the customer base.
- The availability of food when liquor is being served.
- The location, size, and capacity of the service area to be licensed.
- The washroom facilities available to customers.
- The level of community support.

These establishments are licensed under a liquor primary licence as they do not offer a substantial food service component or have significant kitchen facilities.

5. Sale of Packaged Liquor from a Government or Private Retail Liquor Store or Wine Store

Retail package liquor sales are recognized as a significant part of the overall distribution of liquor within the community and have the potential to significantly impact community character and liquor related issues that are of concern to the community.

Applications for the Retail Packaged Liquor Sales shall be considered relative to the guiding principles and review criteria contained herein. All such applications, whether for a relocation, or temporary sales location, have been determined to be of high impact and the Director or the Manager may require public input. A relocation of a liquor retail store, government liquor store or wine store may require a public input process.

Due to the current number of Liquor Retail Stores and Wine Stores in the City, the 1km distancing policy of the LCRB, and the fact that there is a moratorium on the issuance of new Liquor Retail Store licenses, there will not be many applications for new retail store licenses to be considered in the near future.

6. Occupant Load Determination for Licensed Establishments

The Building and Permitting Manager shall be responsible for the determination of the occupant load for a licensed establishment in recognition of the City bylaw requirements, as well as the provincial regulatory requirements. This determination applies to indoor establishments, patios and special event and outdoor areas.

Applicants seeking occupant load approval for an application for either a new licensed establishment or structural changes to an existing licensed establishment will need to provide the building and permitting manager with the following documents:

- a) Plans required: Three 11"x 17" scaled floor plan drawings.
- b) Content: The plan drawings must satisfy LCRB floor plan requirements and include:
 - All liquor service areas, interior and patio, showing the area of each in meters squared.
 - Kitchen, liquor service bars.

- Structural features such as full and partial height walls, stairs and planters.
- Furniture layout, tables, chairs.
- Dance floor, stage, DJ booth bracket (if applicable).
- All entrances and exits, with dimensions.
- Washrooms.
- Calculation of total exit width.
- Calculation of occupant load of service areas using municipal requirements.
- Calculation of the total occupant load of the establishment.
- Calculation of washroom requirements.
- The plan may need to be sealed and signed by an architect.

****NOTE:** Per the LCRB, the Occupant Load is the maximum number of people (patrons plus staff) permitted in a service area. The occupant load must be stamped or written, dated and signed on the floor plan by the appropriate local authority. (Appropriate authority is building department or Fire department)

7. Good Standing Requirement and Review Process

The City's review process takes into consideration the compliance and enforcement history of the licensee and operator of the establishment. For the municipality to consider an application requesting a temporary or a permanent change to a licence, the applicant must be in "Good Standing" with respect to the compliance and enforcement history of the establishment. This is determined as follows:

- The determination of good standing is based primarily on the compliance history and the number and severity of any contraventions and enforcement actions. Consideration will also be given to the applicant's previous history and any corrective measures that have been undertaken and or are proposed.
- The severity of any contraventions of the Liquor Control and Licensing Act and Regulations will be considered.
- The City policy will be to reward good business but be very cautious to grant additional licensing benefits to Licensees with a poor enforcement and compliance record with the LCRB and the city.

8. Policy Review

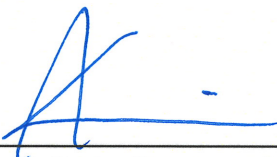
This policy should be reviewed within a 2 year period to determine if it is serving adequately the interest of the community.

Related Policies

Previous Policies	
New Liquor Primary Licences	Council Resolution 628/2003
Amended Licences	Council Resolution 628/2003, 574/2005
Winery Licence Endorsements	Council Resolution 628/2003

Approval			
Approved by Council on:	June 15, 2021	Resolution No.:	206/2021

Certified Correct:



Angie Collison, Corporate Officer