



## REPORT

Report Date: May 25, 2020  
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Meeting Date: May 27, 2020  
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TO: Vancouver City Council

FROM: General Manager of Development, Buildings and Licensing

SUBJECT: Enabling Temporary Expansion of Liquor Primary and Manufacturer Liquor Service Areas

### **RECOMMENDATION**

- A. THAT Council instruct the Chief Licence Inspector to inform the General Manager of the Liquor and Cannabis Regulation Branch in writing that Council pre-approves all liquor primary and manufacturer establishments in the City of Vancouver who may apply for expanded liquor service area before October 31, 2020.
- B. THAT Council approve in principle an amendment to the Licence By-law No. 4450 to temporarily waive the “fee for assessing and providing comments on an application for a temporary amendment to a liquor licence requesting any other change to a liquor licence” when the application is for an expanded service area, until October 31, 2020;

FURTHER THAT the Director of Legal Services bring forward for enactment the necessary amendments to the Licence By-law No. 4450.

### **REPORT SUMMARY**

On May 22, 2020, the Provincial Liquor and Cannabis Regulation Branch (LCRB) announced Policy Directive 20-13 that permits the LCRB to issue a Temporary Expanded Service Area Authorization to food primary, liquor primary, and manufacturer licensees. LCRB will approve temporary extensions to the service areas for existing liquor licence holders, expiring on October 31, 2020. The increased service area will allow licensees to serve patrons while complying with the PHO’s guidelines regarding physical distancing.

As this is an unprecedented choice for local governments and is a decision outside of our existing scheme under the Liquor Control and Licensing Act, it is Council's decision to choose which option to proceed to with. Staff recommend that Council choose option one, newly enabled by the Province, issuing a pre-approval for all liquor primary and manufacturer temporary liquor service area expansions. This will enable the fastest processing of applications, thus benefiting businesses in their recovery from financial losses due to COVID.

### **COUNCIL AUTHORITY/PREVIOUS DECISIONS**

Section 38(3) of the *Liquor Control and Licensing Act* provides Council the authority to provide comments and recommendations with respect to an application for a Provincial Liquor Primary and Manufacturer licence, as well as amendments to existing licences.

### **CITY MANAGER'S/GENERAL MANAGER'S COMMENTS**

The City Manager recommends approval of the foregoing.

### **REPORT**

#### ***Background/Context***

To support businesses in meeting the PHO distancing guidelines, the BC Liquor and Cannabis Regulation Branch announced on May 22, 2020 that it will allow liquor service businesses to temporarily expand their liquor service areas until October 31, 2020.

#### **LCRB Options for Local Government Input**

To support this directive, LCRB have implemented an expedited process for the authorization of temporary expansions to service areas. To further expedite the application process, LCRB have provided Local Governments with two options for expansion requests from liquor primaries and manufacturers:

1. Local governments may provide one pre-approval to cover all liquor primary and manufacturer establishments within their jurisdiction who may apply for an expanded service area.

#### Considerations:

- This will enable the fastest processing of applications in your jurisdiction.
- LGs will not have an opportunity to see individual requests before they are approved by the LCRB.
- Applicants will be required to disclose that they have met all local government requirements when applying.
- LGs will receive notice when the expanded service area is authorized by the LCRB.
- If LGs wish to use this expedited process but have specific concerns, please contact the LCRB immediately.

2. Local governments may choose to review and approve all individual requests for liquor primary and manufacturer expansions prior to licensees submitting their applications to the LCRB.

Considerations:

- This will increase the time required for businesses to begin operating their expanded areas.
- LGs will have the ability to determine what information they require from applicants seeking approval, and to withhold approval if there are concerns.
- If LGs approve the application, they will be asked to provide written approval directly to the applicant (email is sufficient). The applicant will be required to include this information with their application to the LCRB.
- LGs will receive notice when an expanded service area is authorized by the LCRB.
- This is the default process, and LGs do not need to contact LCRB if they wish to follow this process.

Local governments who choose to review/approve all individual requests will be required to provide written approval to each applicant (via letter or email) prior to submission, with the Establishment name, Licence number, Establishment address, Local Government's confirmation of "no objection", Permission to use publicly owned spaces, if applicable, and Comments, if any.

These temporary authorizations:

- Will expand licensee service areas only and will not increase currently approved person/patron capacities or occupant loads;
- Apply to service area expansions indoors or outdoors, on private or public land;
- Do not require site inspections prior to approval, though are subject to compliance checks by provincial inspectors;
- Remain subject to all PHO orders regarding occupancy loads, physical distancing and the permissible number of people at a mass gathering; and
- Are accepted online, and processed without a fee.

Expansions of liquor service areas in licensed restaurants (Food Primary liquor licences) do not generally require input from local government. The LCRB will continue to process food primary requests for expanded service areas without requiring local government approval. Food primary licensees are responsible for following all local by-laws and for obtaining any permits as required by their local government. City staff will receive notice when an expanded food primary liquor service area is approved by the LCRB.

### ***Strategic Analysis***

#### **Options Assessment: Benefits and Risks**

##### **Option 1: Pre-approval for all LP and Manufacturer temp expansions**

Under this option, the City provides one pre-approval for all liquor primary and manufacturer establishments within its jurisdiction who may apply for an expanded service area. Applicants will self-declare to the Province that they meet all local by-laws and regulations. City staff will receive notice when the expanded service area is authorized by the LCRB.

This option differs from current City practice which is based on a review process leading to a recommendation to the Province. In this option, the City foregoes its process to review and provide input on applications.

#### Benefits

- Enables the fastest processing of applications
- Encourages a positive applicant experience
- Supports businesses in expanding their footprint to enable post-COVID recovery

#### Risks

- The applicant may not know if they are compliant with all local by-laws and regulations, or may choose not to be, resulting in expanded service areas that do not comply with fire or building code requirements, or safe access/egress
- City loses ability to comment on operators with a history of non-compliance with City's by-laws (i.e. Noise)
- Uncertainty by applicants in making the self-declaration of compliance may actually increase ad-hoc enquiries to the City, slowing down the application process.

#### Licence Fees to Amend Temporary Service Areas

The City currently charges a \$99.00 fee (Licence By-law 4450, Schedule B) for the assessment of temporary amendments to liquor service areas. With this option, as staff are no longer undertaking application reviews, staff recommend a temporary waiver of the fee.

#### **Option 2: Default Process (status quo)**

Under this option, the City follows its standard process of reviewing and approving all individual requests for liquor primary and manufacturer expansions prior to licensees submitting their applications to the LCRB. City staff will receive notice when an expanded service area is authorized by the LCRB.

#### Benefits

- Staff and applicants follow existing process, minimizing confusion and adhoc inquires.
- Staff retain authority to withhold approval for known problem operators, and where there are community impact concerns

#### Risks

- Reviewing individual applications and issuing approvals will be time consuming and delay the time for businesses to operate in expanded areas

#### **Recommendation**

Staff recommend issuing one pre-approval to cover all liquor primary and manufacturer establishments who may apply for an expanded service area. Applicants will self-declare compliance with all local by-laws and regulations. This recommendation has been reviewed and supported by VPD, VFRS, Engineering, Buildings and Development Services.

This option will expedite the application process for businesses and align with the City's goal to support local businesses in their COVID-19 recovery efforts. Staff will develop tools to assist businesses in completing their self-declaration requirement for the LCRB that they have met City bylaws and regulations.

## **Implementation**

The City will continue to play an important role in implementation with respect to responding to inquiries from licence holders and enforcement. Staff are anticipating a high number of inquiries from licence holders to confirm if they are compliant with all local by-laws and regulations. The precise complement of local by-laws and regulations that apply will depend on scenarios, including whether:

- The expansion of seating is on public land (e.g. sidewalks or streets) and can be processed as a simple patio permit by repurposing road and parking spaces, or
- The expansion is on private land (indoor or outdoor) such as unused interior space, existing business frontage and temporary conversion of parking spaces, requiring further Zoning and/or Building review.

Staff are developing a streamlined application process for operators seeking to expand patio space, on public and private land. The liquor service area expansion process will be embedded knowing that many establishments seeking patios will also be seeking expanded liquor service areas. Staff will develop supporting tools and checklists to guide applicants in making their self-declaration of compliance. This will include guidance on whether the operator may need to meet requirements related to building code, fire and life safety, and zoning, among others.

Enforcement responsibilities will be shared between the Province and the City, depending on the issue. The LCRB inspectors will continue to hold responsibility for enforcement to their liquor licence, including the revised new service areas and occupancy/capacity. The City will continue to enforce business licence related matters, including noise and hours of operation requirements. The City would retain the ability to use the Business licence as a mechanism to address non-compliance with local by-laws and regulations. In addition, the City can revoke patio permits for non-compliance with permit conditions.

## ***Implications/Related Issues/Risk***

### ***Financial***

There is limited information regarding how many licence holders will pursue the option to expand liquor service areas. As a result, it is difficult to estimate the lost revenue to the City. The 2020 fee to evaluate temporary amendments to liquor service areas is \$99. With approximately 240 liquor primary establishments and 15 eligible manufacturers in Vancouver, if all establishments applied there would be an approximate revenue loss of \$25,000.

## **CONCLUSION**

The Provincial Liquor and Cannabis Regulation Branch (LCRB) has enabled an expedited approach to issue Temporary Expanded Service Area Authorizations to food primary, liquor primary, and manufacturer licensees, expiring on October 31, 2020. Staff recommend that Council approve a resolution to enable a one-time approval of all liquor primary and manufacturer applications for temporary expansions to liquor service areas.

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