



## REPORT

Report Date: September 24, 2020  
Contact: Kathryn Holm  
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RTS No.: 14065  
VanRIMS No.: 08-2000-20  
Meeting Date: October 6, 2020  
[Submit comments to Council](#)

TO: Vancouver City Council  
FROM: General Manager of Development Buildings and Licensing  
SUBJECT: Extending Temporary Expanded Service Areas (TESAs)

### **RECOMMENDATION**

- A. THAT Council instruct the Chief Licence Inspector to inform the General Manager of the Liquor and Cannabis Regulation Branch (LCRB) in writing that Council supports the extension to October 31, 2021, of Temporary Expanded Service Area (TESA) authorizations issued by the LCRB to businesses located in the city, and that Council pre-approves all liquor establishment and manufacturer establishments in the City of Vancouver who may apply for TESAs before October 31, 2021.
- B. THAT Council approve in principle an amendment to the Licence By-law No. 4450 in the form set out in the draft by-law attached as Appendix B to this report 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, 2021;

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

### **REPORT SUMMARY**

In May 2020, the Provincial Liquor and Cannabis Regulation Branch (LCRB) allowed liquor serving establishments to temporarily expand their service areas to assist the businesses in meeting Provincial Health Orders for social distancing. The City of Vancouver provided the LCRB with a pre-approval for all liquor establishment and liquor manufacturer businesses in the city that might apply for a temporary expanded service area authorization (TESA), and waived its fee for commenting on those applications. TESA's for liquor licensed restaurants (food

primary liquor licences) do not generally require City approval so pre-approval and fee waivers for food primary applications were not required. Since then, the LCRB has issued 278 TESAs to Vancouver liquor service businesses: 227 to food primary businesses, and 51 to liquor establishment and manufacturer businesses.<sup>1</sup> These authorizations expire on October 31, 2020.

The LCRB is seeking the City's support to extend TESA authorizations for one year to October 31, 2021, and to accept new TESA applications until October 31, 2021. Given that hospitality industry businesses continue to suffer hardship and uncertainty amid the on-going pandemic, staff recommend that Council support the LCRB extension to TESA authorizations and new applications, and further that Council waive the City fee for comment on applications.

### ***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.

On May 27, 2020 Council directed the Chief Licence Inspector to advise the Liquor and Cannabis Regulation Branch of Council's pre-approval of any applications for temporary expanded service areas from liquor primary and manufacturer establishments in the city. Council also approved a temporary waiver of the City's fee for comment on these applications until October 31, 2020.

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

The City Manager recommends approval of the foregoing.

### ***REPORT***

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

To support businesses in meeting Provincial Health Order distancing guidelines the BC Liquor and Cannabis Regulation Branch (LCRB) has, since May 2020, allowed liquor service businesses to temporarily expand their liquor service areas. The LCRB created an expedited process for considering temporary expanded service area (TESA) applications, and waived its application fee. To further expedite the process local governments were given the option of providing one pre-approval for all liquor primary and manufacturer establishments within their jurisdictions who might apply for a Provincial TESA. On May 27, 2020 Council approved the staff recommendation to provide this approval for Vancouver businesses, and a letter was sent to the LCRB on May 28, 2020 advising of the decision. In addition, Council approved waiving the City's fee for providing comment on TESA applications.

Since then, the LCRB has issued 278 TESAs to Vancouver liquor service businesses: 227 to food primary businesses, and 51 to liquor establishment and manufacturer businesses. These authorizations expire on October 31, 2020.

On September 18, 2020 the LCRB announced that in light of the on-going pandemic it will extend TESAs for an additional year to October 31, 2021 for business with TESA authorizations,

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<sup>1</sup> The City has approved temporary patio permits at 405 establishments; only establishments that are licensed to serve liquor require a TESA from the LCRB.

and will accept new TESA applications until October 31, 2021. It is seeking confirmation of support from local governments for extending the TESA authorizations in their jurisdictions. If support is confirmed by the City of Vancouver, liquor serving establishments with TESA authorizations in Vancouver will have their authorizations extended by the LCRB to expire on October 31, 2021. Businesses will not need to make an application or pay an application fee to the LCRB for this extension. New TESA applications will be accepted by the LCRB until October 31, 2021 through its online application process, and no provincial application fee is required.

The LCRB requires the City to advise the LCRB by October 16, 2020, of its position to support or oppose extending TESA authorizations in the City.

### ***Strategic Analysis***

Hospitality industry businesses in Vancouver are suffering on-going hardships resulting from the COVID 19 pandemic. Support for extension of TESAs is one measure the City can take to assist local businesses in keeping their doors open and their staffs employed while protecting the public through compliance with Public Health Orders for social distancing.

In its Policy Directive #20-26 (Appendix A) the LCRB commits to working with local governments in the event public safety concerns are raised in relation to a specific TESA authorization or operator to ensure the interests of the licensee, municipality and general public are balanced.

Staff recommend that Council support the LCRB extension of TESA authorizations issued to Vancouver businesses, provide a pre-approval for any new TESA applications, and waive the City's \$99 fee for providing comment to the LCRB on each liquor primary and liquor manufacturer TESA application. TESAs for licensed restaurants (food primary liquor licences) do not generally require input from local government and there is no comment fee to waive. The LCRB will continue to process food primary requests for expanded service areas without requiring local government approval. City staff will continue to receive notice when a food primary TESA is authorized by the LCRB.

### ***Financial***

In 2020, 51 liquor primary and manufacturer businesses applied for and were authorized TESAs under the City's pre-approval to the LCRB. The waiving of the City's comment fee resulted in a net loss of approximately \$5,000.

With approximately 240 liquor primary establishments and 15 eligible manufacturer businesses in Vancouver, if all establishments applied for the 2021 TESAs, there would a further revenue loss of approximately \$25,000.

### ***CONCLUSION***

To support local businesses during the on-going COVID 19 pandemic, staff recommend that the City confirm its support in writing to the Liquor and Cannabis Regulation Branch for extension of temporary expanded service area authorizations at liquor serving businesses in the city, pre-approve all new applications, and waive the City's fee for comment on applications.

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[Policy Directive # 20-26](#)



Liquor and Cannabis Regulation Branch  
**POLICY DIRECTIVE**  
**No: 20 - 26**

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Date: September 18, 2020

To: All Licensees  
All LCRB Staff  
All Industry Associations  
All local government, First Nations and police agencies

**Re: Temporary Expanded Service Area, extension**

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**Current Policy**

Under the Liquor Control and Licensing Regulation (LCLR), s.109.1, the General Manager (GM) of the Liquor and Cannabis Regulation Branch (LCRB) may issue a Temporary Expanded Service Area (TESA) authorization to Food Primary, Liquor Primary, and Manufacturer licensees.

Under LCLR, s. 109.4 all TESA authorizations expire at the end of the day on October 31, 2020. Further, under LCLR s. 109.5, the TESA provisions in the LCLR will be repealed on October 31, 2020.

See Policy Directive 20-13 for further information.

**New Policy**

In light of the ongoing COVID-19 pandemic, the Province's March 2020 declaration of a state of emergency and the Provincial Health Officer's (PHO) March 2020 declaration of a public health emergency, this time-limited measure is being amended to support the PHO's direction and recommendations.

The TESA provisions in the LCLR will now expire on **October 31, 2021**. Licensees may apply for new TESA authorizations up to this date.

The GM's authority to extend existing approved TESA authorizations up to this date, without first requiring the licensee to make an application, has also been made explicit.

The LCRB is reaching out to local authorities with approved TESAs in their jurisdiction to confirm their support for extending the TESAs to October 31, 2021. To limit the risk of disruptions in service, local authorities must confirm their position with the LCRB by October 16, 2020.

If concerns related to public safety and public interest are raised regarding the TESA authorizations or the operation of particular TESAs, the LCRB will work with licensees and local authorities to ensure TESAs operate in a manner that balances the interests of licensees, municipalities and the general public.

If the local authority is supportive, the LCRB will reissue authorization letters to licensees with existing TESAs in that jurisdiction prior to October 31, 2020. The new authorization letter will provide an extended expiry date of the TESA. Unless a new authorization letter has been issued, the existing TESA will expire on October 31, 2020.

Licensees will not need to apply to the LCRB for an extension, and there will be no fee charged.

All other requirements relating to TESA authorizations remain the same. To meet the intent of this temporary authorization, licensees will not be permitted to increase or exceed their currently approved person/patron capacities or occupant loads. All means of access to the service area must also be supervised to the satisfaction of the GM. Finally, licensees must comply with all local bylaws and health and fire regulations.

Approved TESAs must be in compliance with local bylaws and requirements. If the local authority bylaws or requirements change and prevent the operation of TESAs in that jurisdiction, the local authority should advise the LCRB.

For licensees who are applying for new TESA authorizations, an expedited online application is available at no charge. Please check our website for a link to the application.

### **Explanation**

The new policy is provided in the context of the provincial state of emergency and public health emergency related to the COVID-19 pandemic. Extending TESA authorizations, which increase the size of existing service areas, is expected to support licensees in complying with requirements under the PHO and recommendations, in particular with respect to social/physical distancing.

### **Further Information**

Further information regarding liquor and cannabis regulation and licensing in British Columbia is available on the Liquor and Cannabis Regulation Branch website at <http://www.gov.bc.ca/liquorregulationandlicensing>

If you have any questions regarding these changes, please contact the Liquor and Cannabis Regulation Branch toll free in Canada at 1-866-209-2111 or 250 952-5787 if calling from the Victoria area. Page 3 of 3

**Disclaimer**

This communication is intended to be used only for general informational purposes and may not apply to all situations. This communication does not constitute legal advice nor is it a comprehensive statement of the legal obligations that arise under the Liquor Control and Licensing Act, regulations, or any other applicable laws. When interpreting and applying the information contained in this communication, you are encouraged to seek specific advice from your professional advisors as appropriate in the circumstances.

*Original signed by*

Mary Sue Maloughney,  
Assistant Deputy Minister and General Manager

**DRAFT By-law to amend License By-law No. 4450**  
**Regarding Extension of Waiver of Fees for Amendments for Expanded Service Area**

*Note: A By-law will be prepared generally in accordance with the provisions listed below, subject to change and refinement prior to posting.*

1. This By-law amends the indicated provisions of the License By-law.
  
2. In Part 2 of Schedule B, Miscellaneous Service Fees, Council strikes out “, excluding applications to temporarily expand an applicant’s service area until October 31, 2020” and substitutes “, excluding applications to temporarily expand an applicant’s service area until October 31, 2021” after “Fee for assessing and providing comments on an application for a temporary amendment to a liquor license requesting any other change to a liquor license”.

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