



REPORT

Report Date: March 12, 2021
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Meeting Date: March 30, 2021
[Submit comments to Council](#)

TO: Vancouver City Council
FROM: Chief Licence Inspector
SUBJECT: One Time Exceptions to Liquor Primary Establishment Distancing and Moratoria

RECOMMENDATION

- A. THAT Council approve a change to the moratoria in the Granville Entertainment District and the Downtown Eastside to allow one-time exceptions for occupant increases at Liquor Establishments as described in this report.
- B. THAT Council approve a change to the City's Distancing requirements for Liquor Establishments to allow one-time exceptions for occupant load increases of up to 30% of current occupant load for establishments in conflict with Distancing, as described in this report.
- C. THAT Council approve, in principle, changes to the License By-law No. 4450 that enable the Chief Licence Inspector to permit an increase in the seating capacity above the licence class maximum for a liquor establishment without requiring that liquor establishment to change its class;

FURTHER THAT Council authorize the Director of Legal Services to bring forward for enactment amendments to the License By-law No. 4450 as generally outlined in Appendix A.

REPORT SUMMARY

In July 2020, Council approved alignment of the *Vancouver Fire By-law* occupant load calculation for liquor serving establishments with that of the *BC Fire Code*. The change can benefit businesses because it can yield higher occupant loads. Existing businesses can

recalculate their occupant load using the amended Fire By-law calculation and apply to Vancouver Fire and Rescue Services for any resulting increase.

Two City policies related to nightclubs and pubs (Liquor Establishment 1- 6 business licence holders) affect the ability of some of these businesses to take advantage of the amended Fire By-law. When Council approved the changes to the Fire By-law occupant load calculation, it directed staff to consider one-time exceptions to: 1) The moratoria on occupant increases at Liquor Establishments in the Granville Entertainment District (GED) and the Downtown Eastside (DTES) and; 2) Distancing requirements in cases where the requirements prohibit or limit the size of occupant increase a Liquor Establishment can obtain. In addition, Council directed staff to consider measures aimed at reducing the time it might take businesses to be approved for occupant load increases.

Staff consulted with stakeholders including industry, Business Improvement Associations, Vancouver Coastal Health, the Vancouver Police Department, and the BC Liquor and Cannabis Retail Branch (LCRB), and carried out analysis of potential impacts. The full list of stakeholders is in Appendix E.

After staff assessment and consultation, staff recommend the following one-time exceptions to City liquor policy:

1. Moratoria: Exceptions to the GED and DTES moratoria to allow one-time occupant increases at existing Liquor Establishments.
2. Distancing requirements: One-time exceptions for Liquor Establishments in conflict with Distancing to enable occupant increases of up to 30% of current occupant load. Liquor Establishments that obtain an exception retain their existing licence class instead of changing to a higher class.

Staff assessed opportunities to decrease the time it might take for a business to be approved for an occupant load increase at the City and Province. The assessment found that existing City processes can accommodate applications for occupant increases without new or increased fees. Staff highly recommend applicants engage a registered professional to assess their occupant increase opportunity prior to submitting an application as this step will decrease City processing time. The LCRB report that while blanket approvals cannot be accommodated at this time, the LCRB has completed an end-to-end review of the structural change application process overall and is working on streamlining the operational aspects of the application and review process to help improve application timelines in the future.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

GED Moratorium:

In July 1996, Council placed a limit on the number of liquor licensed seats in the 700, 800 and 900 blocks of Granville Street, an area formerly known as the Theatre Row Entertainment District.

On November 19, 2009, Council approved the Granville Entertainment District (GED) moratorium which renamed and reaffirmed the existing moratorium in the former Theatre Row Entertainment District, and directed staff to consult with stakeholders including the VPD and provide a Report Back on the impact of adding more Liquor Primary seats to the GED.

On June 14, 2017, Council reaffirmed the existing moratorium and clarified its boundary to be Granville St. (West Georgia to Drake Streets); limited exceptions to be considered for (1) live performance venues; (2) seat relocations; and (3) opportunities to find creative solutions for net seat reductions in the GED.

DTES Moratorium:

In 1990, Council approved a moratorium on liquor primary licences in the Downtown Eastside Oppenheimer District (DEOD).

On March 27, 2012, Council extended the moratorium to include the whole of the Downtown Eastside (DTES) local planning area, and to not support additional occupants (liquor seats) at existing Liquor Establishments, or movement of existing seats within the DTES.

The moratorium was reaffirmed by Council on March 15, 2014.

On June 14, 2017, Council reaffirmed the moratorium on new liquor primary licences and additional seats at existing liquor establishments, except that on a case-by-case basis, applications for live performance based venues will be supported.

Liquor Establishment Distancing:

On July 14, 2005, Council approved creation of licence classes 1 – 6 for Liquor Establishments based on number of occupants, and approved guidelines for liquor establishment location and distancing that vary by licence class.

Fire By-law Occupant Load Calculation:

In a Special Council meeting on June 11, 2020, Council directed staff to prepare necessary Fire By-law amendments to enable Liquor Primary establishments and other assembly uses to expand their occupant load capacity, to align with Provincial building and fire code requirements.

On July 7, 2020, Council approved amendments to the Fire By-law to align Vancouver's occupant load with the occupant load set out in the BC Fire Code. The amended occupant load calculation enables liquor-serving establishments an opportunity to expand their occupant load capacity. Council directed staff to consider:

- Policy or by-law amendments to enable existing Liquor Primary establishments and other assembly uses to enable one-time occupancy extensions to align with the occupant load set out in the BC Fire Code, notwithstanding moratoria;
- The use of a one-time blanket approval to the Province for the above be provided by the City in order to assist with the processing of applications;
- Increases in associated application and permit fee to support cost recovery; and
- The requirement for establishments to use a registered professional to establish what occupant load can be sustained by their current building configuration prior to submitting an occupancy application, in order to help expedite the work and time required by the City to process these applications; and
- Policy and guidelines on the distancing requirements between liquor primary establishments of the same classification, and explore in conjunction with the Liquor and Cannabis Regulation Branch on the possibility in the immediate future of a one-time increase in distancing requirements between establishments to prevent the costly potential reclassification of those that apply for an increase in occupancy load.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The Acting City Manager recommends approval of the foregoing.

REPORT

Background/Context

In July 2020, Council approved alignment of the Vancouver Fire By-law occupant load calculation for liquor serving establishments with that of the BC Fire Code. The change applies to all liquor serving businesses: nightclubs, pubs, restaurants, theatres, and manufacturer's lounges, and it can benefit businesses because it can yield higher occupant loads. Businesses with standing room only areas like dancefloors are likely to see the greatest benefit because a central change is that the calculation factor for standing space (space without furniture) is reduced from 1.2m² per person to 0.4 m² per person. Nightclubs and pubs often have standing room only spaces so they are the business type most likely to benefit.

As of July 7, 2020, occupant loads for new businesses are calculated under the amended Fire By-law. Existing businesses can apply to Vancouver Fire and Rescue Services (VFRS) for a recalculation of their occupant load and may qualify for an increase. Whether an existing business can obtain an increase and the size of increase it can obtain are determined by site-specific conditions such as presence of sufficient washrooms and exits to support an increase, as specified under the Vancouver Building By-law and Fire By-law. A business may need to undertake renovations to accommodate an occupant load increase.

All liquor-serving establishments require approval from the BC Liquor and Cannabis Regulation Branch (LCRB) for any occupant load increases. This provincial process requires public notification. The staff report to Council, [Alignment of Occupancy Limits between Building and Fire By-Laws](#), describes the process.

Two City policies related to nightclubs and pubs (Liquor Establishment Class 1 – 6 business licence holders) affect the ability of some of these businesses to take advantage of recalculation under the amended Fire By-law.

- **Moratoria:** The moratoria in the Granville Entertainment District (GED) and the Downtown Eastside (DTES) on new Liquor Establishments and on occupant load increases at existing Liquor Establishments prohibits businesses in these areas from taking advantage of potential occupant load increases.
- **Distancing Requirements:** The City's requirement for Distancing between Liquor Establishments can prohibit or limit occupant increases for some establishments.

In July 2020 when Council approved the changes to occupant load calculation in the Fire By-law, it also directed staff to review the moratoria and Distancing requirements to consider one-time exceptions for businesses impacted by these policies.

In addition, Council directed staff to consider three measures aimed at reducing the time it might take businesses to be approved for occupant load increases:

- Establishing increased or additional fees to fund expedited staff review of applications and issuance of permits;

- A requirement for businesses to engage a registered professional to assess the viability of their application for an occupant load increase prior to submitting an application to the City; and
- Use of a one-time blanket approval from the City to the Province for businesses applying for occupant increases under the amended Fire By-law.

The Council motions as adopted are in Appendix B.

In December 2020 staff submitted a Progress Update Memo to Council. It provided detailed background on Distancing requirements and the moratoria, and included an initial assessment that the policy on Distancing requirements does not significantly affect opportunities for most businesses seeking occupant load increases. It also outlined next steps for staff including review of the moratoria, and consultation with stakeholders about a possible approach to one-time exceptions to the two moratoria areas and to Distancing. The Memo is attached in Appendix C of this report.

Moratoria

Moratoria on new Liquor Establishments and on occupant increases at existing Liquor Establishments are in place for both the Downtown Eastside (DTES) and the Granville Entertainment District (GED). They were instituted in the 1990s and have been maintained as a means to limit social and public health harms associated with the high concentration of Liquor Establishments in each area. Both have been reconsidered regularly and thoroughly, most recently as part of the 2017 [Liquor Policy Review](#), when they were reaffirmed. The Progress Update Memo (Appendix C) provides additional detail on the history and goals of the moratorium for each area.

Distancing

In 2005 Council approved six business licence classes for pubs and nightclubs: Liquor Establishment Class 1 – 6 to distinguish among small, medium and large establishments based on the number of occupants. Each licence class has a maximum occupant limit. Requirements for distance between establishments of the same licence class were implemented at the same time. These measures manage the density and distribution of pubs and nightclubs throughout the city. The purpose of the Distancing requirements is to maintain a number and size of establishments that is suitable for a neighbourhood or area.

The location and distance requirements consider the relative impact that smaller compared to larger establishments can have on neighbours, for example noise, traffic and parking. Small establishments generally have a lower impact. They can be located relatively close to one another while larger venues may draw patrons from around the region, and can have a high impact on neighbourhoods. The requirements also distinguish between Downtown and Non-Downtown locations; Downtown supports a higher density of liquor establishments of all classes than Non-Downtown locations. Table 1 shows the Liquor Establishment licence classes and their occupant limits, and the distancing requirements for each licence class in Downtown and non-Downtown locations.

Table 1 City Requirements for Distancing between Liquor Establishments of the same size

Liquor Establishment	Downtown	Non-Downtown
Class 1 – up to 65 occupants	Not within 50m of another Class 1	Not within 500m of another Establishment of the same Class
Class 2 – 66 to 150 occupants	Not within 100m of another Establishment of the same Class	
Class 3 – 151 to 300 occupants		
Class 4 – 301 to 500 occupants		
Class 5 – 500 to 950 occupants	Not within 500m of another Class 5	Not within 750m of another Class 5
Class 6 – over 950 occupants	Not within 750m of another Class 6	Not within 1km of another Class 6

Additional location requirements: Class 2 Establishments: In Non-Downtown residential areas, can only be located in designated local shopping areas as identified in Appendix B of 2005 Report: [Liquor License Policy: Liquor Primary Size, Capacity, and Location](#).

A new business must find a location that is appropriately distanced from other establishments of its proposed size. Existing businesses that want to increase their occupant load beyond their business licence maximum must apply to amend their business licence to a different class and can do so as long as it does not put them in conflict with distancing requirements. The distancing requirements are found in the July 14, 2005, report to Council, [Liquor License Policy: Liquor Primary Size, Capacity, and Location](#).

Strategic Analysis

1. Moratoria Exceptions: GED & DTES

Staff assessed opportunities and risks of supporting one-time occupant load increases at existing Liquor Establishments in the GED and DTES. This work included consultation with Industry, Business Improvement Associations, Vancouver Coastal Health and Vancouver Police Department (see full list in Appendix E). Staff also assessed the status of conditions that were central to reaffirmation of the moratoria in 2017 like public safety and public health impacts associated with liquor consumption.

The GED has twenty Liquor Establishments. The Downtown Eastside has thirty. Under a one-time exception policy, each of these fifty establishments could assess whether it qualifies for an increased occupant load under the amended Fire By-law (i.e. meet any associated requirements for exits, washrooms etc.), and apply to the City and the Province for an increase. Because eligibility for occupant increases is site and building specific, the overall increase in occupant loads that could be obtained by establishments in the GED and in the DTES is unknown. Staff considered benefits and risks to each of the moratorium areas separately.

GED

The GED's 20 Liquor Establishments have a combined occupant load of 4,309 occupants. The potential for overall occupant increases under the new Fire By-law calculations cannot be estimated because the increase opportunity for each establishment must be determined at the

site and building level. However, the capacity each business has to increase occupancy under its existing business licence is known and a total licence capacity can be calculated. ¹

Among the 20 Liquor Establishment in the GED, there is a combined business licence capacity for an additional 1,536 occupants (Table 2). This would be the total increase in occupants if each of the 20 establishments could achieve an increase equal to the maximum allowed under its current business licence.

Owners of GED Liquor Establishments report that for many establishments, licence class capacity is significantly higher than the increase their sites will qualify for under recalculation given building specific constraints.

Table 2 Occupant increase capacity: GED Liquor Establishment business licences (2021)

Liquor Establishments Class 1 – 5	Number of Establishments	% of All GED Establishments Class 1 - 5	Increase capacity within business licence class (# of occupants)
GED Total	20	100%	1536
Establishment at licence class maximum, cannot increase	0	0%	n/a
Establishments with capacity to increase occupant load within current licence class	20	100%	1536
Can increase by more than 50%	8	40%	938
Can increase by 30% to 50%	5	25%	254
Can increase by 20% to 29%	3	15%	241
Can increase by up to 20%	4	20%	103

Conditions that were central to reaffirmation of the GED moratorium in 2017 included²:

- Public safety and alcohol related violence on weekend late nights, exacerbated by
 - Limited options for late night transportation out of the downtown core to assist with crowd dispersal
 - Limited options for late night entertainment other than liquor-focused establishments resulting in homogenous patron demographic
- Public health impacts associated with liquor consumption

Since 2017, a number of changes have taken place to support increased public safety:

- **Fines associated with tickets issued for fighting in public** were increased from \$250 to \$500 (June 2019)
- **Late night transportation options:** Ride-hailing services are available in Vancouver. In January 2020, Vancouver and 24 partner municipalities adopted an inter-municipal business licence for ride-hailing. Four companies are licensed and operating in Vancouver and the Lower Mainland. Unlike taxi companies that are limited to operating within municipal boundaries, ride-hailing vehicles can pick up and drop off passengers throughout the region. Although ride-hailing companies have been significantly impacted

¹ Many Liquor Establishments have existing occupant loads that are lower than maximum number of occupants allowed under their business licence class (Liquor Establishment Class 1 – 6 each have a maximum occupant limit). Reasons include site and building constraints; being located in a moratorium area.

² Staff report to Council, June 14, 2017 [Liquor Policy Review - Recommended Actions](#)

by the pandemic it is anticipated that post - COVID their services will assist in late night crowd dispersal from Downtown.

- **Late night entertainment options:** A number of businesses have closed due to the pandemic or because of site redevelopment; a number of other businesses have recently changed or consolidated their operations. For example, The Rec Room is expected to open in 2022 operating under a provincial Food Primary (restaurant) licence.
- **Granville Street Planning Process.** City staff have been directed by Council to undertake a comprehensive planning process for Granville Street in the downtown, reporting back to Council at the end of 2021 with a proposed work program, planned to begin in 2022. This work would develop a new vision for the area that builds on its cultural role, heritage character, vibrant public realm and its function as a pedestrian priority commercial high street and transit hub.

Stakeholder Feedback

Staff consulted with GED and downtown Liquor Establishment owners, with Hospitality Vancouver Association, and the Downtown, Yaletown and West End Business Improvement Associations to hear their thoughts on one-time exceptions for occupant increases at existing Liquor Establishments. Staff also asked for feedback on allowing an open-ended timeline for applications.

From Hospitality Vancouver Association (HVA) and Liquor Establishment Owners staff heard:

- Strong support for exceptions to the moratoria; that exceptions can be a life-line for some businesses that are struggling to survive; that it may save businesses and jobs.
- That the city's nighttime entertainment relies on the GED and this exception will help good operators survive.
- Support for case by case consideration of applications because it supports good operators and provides an opportunity for more careful consideration of applications from “problem” operators.
- That Ride-hailing is available now to assist with late night crowd dispersal
- Appreciation for the proposal to have an open-ended timeline for proposals because some businesses are not in a position to apply at this time given financial and operational challenges resulting from the pandemic; others may wish to wait until they can invest in renovations to enable an increased occupant load.
- That some business owners have already engaged code consultants to determine their ability to accommodate more occupants should Council approve the recommendation to allow exceptions to the moratoria.
- A Letter submitted by Hospitality Vancouver Association is in Appendix D.

Business Improvement Associations

- Support the one-time exception to the moratorium. Support the open-ended timeline.
- Inquired about mechanisms for non-support at problem establishments.

Vancouver Coastal Health

- Vancouver Coastal Health staff reported that allowing the Liquor Establishments located in moratorium areas (20 establishments in the GED and 30 in the DTES) the same opportunity to increase occupant loads as the 125 Liquor Establishments in the rest of the city is not likely have a significant impact on public health.

Vancouver Police Department

- The Vancouver Police Department does not oppose exceptions to the GED moratoria for occupant increases at existing Liquor Establishments. If there is a material increase in the number of occupants at GED and DTES Liquor Establishments, VPD will request proportionate increases to policing resources ('Lima' officers). A statement from VPD is included in the Public/Civic Agency Input section of this Report.

DTES

The Downtown Eastside has 30 Liquor Establishments. They have a combined occupant load of 6033 occupants. The actual potential for overall occupant increases under the amended Fire By-law occupant load calculation cannot be estimated because the increase opportunity for each establishment must be determined at the site and building level. However, the capacity each business has to increase occupancy under its existing business licence is known and a total can be calculated.

Among the 30 Liquor Establishment in the GED, there is a combined business licence capacity for an additional 1,782 occupants (Table 3). This would be the total increase in occupants if each of the 30 establishments could achieve an increase equal to the maximum allowed under its business licence class. As noted, these figures represent capacity for increases not actual occupant increases that will be determined on a case-by-case basis under the new Fire By-law calculation.

Table 3 Occupant increase capacity: DTES Liquor Establishment business licences (2021)

Liquor Establishments Class 1 - 5	Number of Establishments	% of All Establishments	Increase capacity within business licence class (# of occupants)
DTES Total	30	100%	1782
Establishment at licence class maximum, cannot increase	3	10%	0
Establishments with capacity to increase occupant load within current licence class	27	90%	1782
Can increase by more than 50%	8	27%	1009
Can increase by 30% to 50%	4	13%	299
Can increase by 20% to 29%	5	17%	226
Can increase by up to 20%	10	33%	248

Central to reaffirmation of the DTES moratorium in 2017 was a concern that livability challenges associated with the existing high concentration of Liquor Establishments in the area would be exacerbated by the addition of new Liquor Establishments, and occupant load increases at existing Liquor Establishments. The moratorium was reaffirmed in alignment with the goals and principles of the DTES Plan (2014) to make the DTES a more livable, safe and supportive place for all its diverse residents, and to protect its character and history.

The proposal under consideration in this report does not contemplate lifting the moratorium on new Liquor Establishments in the DTES. It does contemplate one-time occupant increases for existing Liquor Establishments located in the DTES that wish to take advantage of the new Fire By-law occupant load calculation.

Stakeholder Feedback

Staff consulted with the Hospitality Vancouver Association, and the Gastown, Chinatown, Hastings Crossing and Strathcona Business Improvement Associations to hear their thoughts on one-time exceptions for occupant increases at existing Liquor Establishments in the DTES. Vancouver Coastal Health and the Vancouver Police Department were also consulted.

Business Improvement Associations (BIAs)

The BIAs support one-time exceptions to the moratoria; they report that a number of establishments that have closed may not re-open so the landscape of the DTES could look quite different post pandemic. They support a case-by-case consideration of applications.

Hospitality Vancouver Association (HVA)

Hospitality Vancouver Association strongly supports one-time exceptions to the moratoria; they reported that this could be a lifeline for businesses that might otherwise decide to close their doors and if they survive, many jobs will be saved.

Vancouver Coastal Health

Vancouver Coastal Health staff reported that allowing the Liquor Establishments located in moratorium areas (20 establishments in the GED and 30 in the DTES) the same opportunity to increase occupant loads as the 125 Liquor Establishments in the rest of the city is not likely have a significant impact on public health.

Vancouver Police Department

The Vancouver Police Department does not oppose exceptions to the GED moratoria for occupant increases at existing Liquor Establishment. If there is a material increase in the number of occupants at GED and DTES Liquor Establishments, VPD will request proportionate increases to policing resources ('Lima' officers). A statement from VPD is included in the Public/Civic Agency Input section of this Report.

Recommendation

Staff recommend that one-time exceptions to the GED and the DTES moratoria be supported for existing Liquor Establishments seeking occupant load increases under the amended Fire By-law occupant load calculation. If Council endorses this policy owners of Liquor Establishments located in the moratorium areas will have the same opportunity as all other liquor serving businesses in the city to take advantage of the new Fire By-law calculation.

Staff recommend no time limit for submission of applications for increased occupancy at existing Liquor Establishments. Business owners can apply for a one-time exemption to support an occupant increase immediately, or at a future date.

For purposes of this policy, "one-time exception" means that only one application for occupant increase will be supported for any Liquor Establishment Class 1-6 located in the DTES or GED. For example, a Liquor Establishment owner may apply for and be granted an occupant increase based on the establishment's existing floor plan and configuration, or on a new configuration and floor plan associated with tenant improvements. A subsequent application to further increase occupant load will not be supported for that location. One-time exception also means that if a business owner has applied for and been granted an occupant increase for a Liquor Establishment under the one-time exception and then sells the business, the new owner inherits the existing occupant load and cannot apply for another one-time increase. Conversely, if the existing business owner has not applied for and has not received an occupant increase under the one-time exception, and sells the business, the new owner may apply.

2. Distancing Exceptions

Staff assessed the impact Distancing requirements will have on Liquor Establishments seeking occupant load increases under the new Fire By-law occupant load calculation. The assessment shows that the vast majority of Liquor Establishments have capacity to accommodate occupant load increases now, without having to change their business licence class. Seventy-one establishments have capacity for as much as 50% or more of current occupancy within their existing licence classes, and only 12 have no capacity, meaning they would require a change in licence class to accommodate any increase (Table 4).³

Table 4 Occupant increase capacity: Citywide Liquor Establishment business licences (2021)

Liquor Establishments with distancing requirements (Class 1 - 5)*		# of Establishments	% of Establishments
Citywide Total (includes DTES & GED)		175	100%
Establishments at class maximum, cannot increase within current licence class	Can increase by 0%	12	6.9%
Establishments with capacity to increase occupant load within current licence class (by % capacity increase)	Total with Capacity to Increase	163	93.1%
	Can increase by more than 50%	71	40.6%
	Can increase by 30% to 50%	36	20.6%
	Can increase by 20% to 29%	29	16.6%
	Can increase by up to 20%	27	15.4%

*Liquor Establishment Class 6 licences have distancing requirements, but no maximum occupant limit and therefore are not included in the analysis.

Consultation with business owners suggests that the existing licence capacity as shown in Table 4 is likely to be more than sufficient to accommodate the size of occupant increase for which Liquor Establishments will qualify under the new occupant load calculations. A number of business owners report having assessed their establishments' potential for occupant increases under the new Fire By-law calculation and found that because of site specific constraints like washrooms and exits, they can achieve relatively small increases (less than 30%), and in some cases no increase. Other businesses require renovations in order to achieve increases or the size of increase they would like.

Conflict Analysis

For those businesses that require a change in business licence class to accommodate an occupant load increase, some will encounter a Distancing conflict and experience one of the following two results:

- Occupant Increase is Prohibited: A Liquor Establishment is at its licence class maximum occupancy and cannot move to the next licence class because it would be too close to another, existing establishment of that class.

³ Most Liquor establishments have occupant loads (maximum occupants allowed under Fire By-law and Vancouver Building By-law) that are lower than the maximum allowed under their City business licence. Reasons include conditions of the site and building, and being in a moratorium area.

- **Occupant Increase is Limited:** A Liquor Establishment is almost at its licence class maximum occupancy and cannot move to the next licence class because it would be too close to another existing establishment of that class.

To understand the magnitude of potential conflicts, staff completed detailed conflict analysis of all Liquor Establishments that have capacity within their existing licence class for an increase of less than 30% of their current occupant load (Figure 1).

The analysis shows that of 12 establishments that have no capacity to increase occupant load within licence class, 8 would be prohibited from an occupant increase due to a conflict with Distancing; the other 4 could move to the next licence class without conflict. Of 56 establishments that have capacity to increase between 1% and 29% of current occupancy, 25 would be limited to that an occupant increase of that capacity (i.e. 1% to 29% depending on the establishment) because a conflict with Distancing means they cannot move to the next licence class.⁴

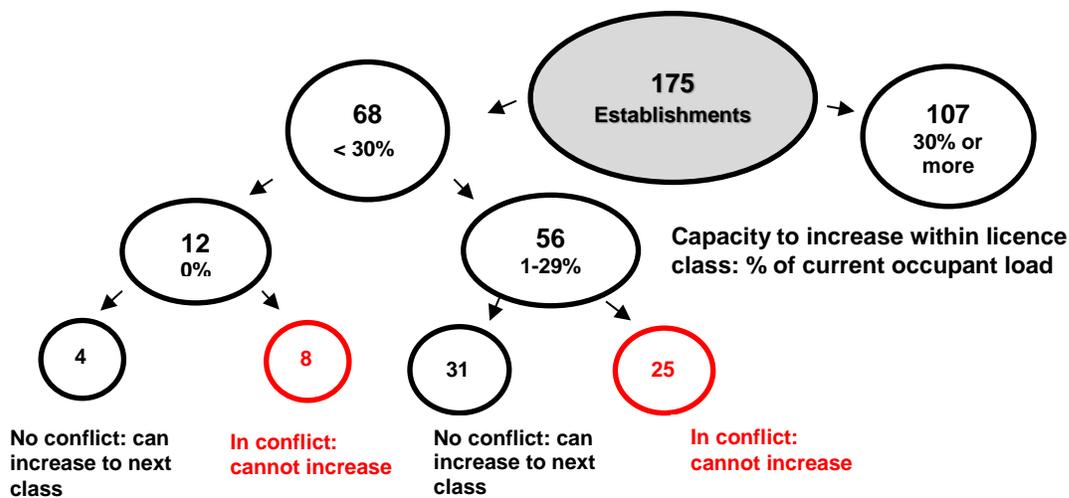


Figure 1 Distancing Conflict Analysis

Approach to Distancing Exceptions

The assessment of existing capacity within licence class shows that most Liquor Establishments have capacity to increase occupant load by 30% or more without risk of a Distancing conflict. It also shows that Distancing requirements will prohibit a small number of business from increases and limit some to increases of less than 30% of current occupant capacity (Figure 1).

Staff considered a range of approaches to respond to the findings, from a status quo approach that maintains Distancing requirements fully and makes no exceptions for establishments with conflicts, to an approach that disregards Distancing requirements and allows occupant increases regardless of conflicts (Figure 2). To make no exceptions would mean that a small number of businesses would not be able to benefit from recalculation under the Fire By-law, and others could be limited in the size of increase they could obtain. This approach would maintain the density and distribution of Liquor Establishments throughout the city. At the other end of the

⁴ It should be noted that the conflict analysis reflects current state. When businesses change licence classes, existing conflicts for nearby businesses can be resolved while new conflicts can arise.

spectrum, supporting occupant increases despite conflicts with Distancing would disrupt the current density and distribution of establishments throughout the city. Although staff anticipate a relatively small number of conflict cases, the actual number of conflict cases and the associated number of occupants that could be added throughout the city and to individual neighbourhoods cannot be predicted. Therefore, the approach carries the risk of unwanted consequences including impacts on public safety and neighbourhood nuisance.

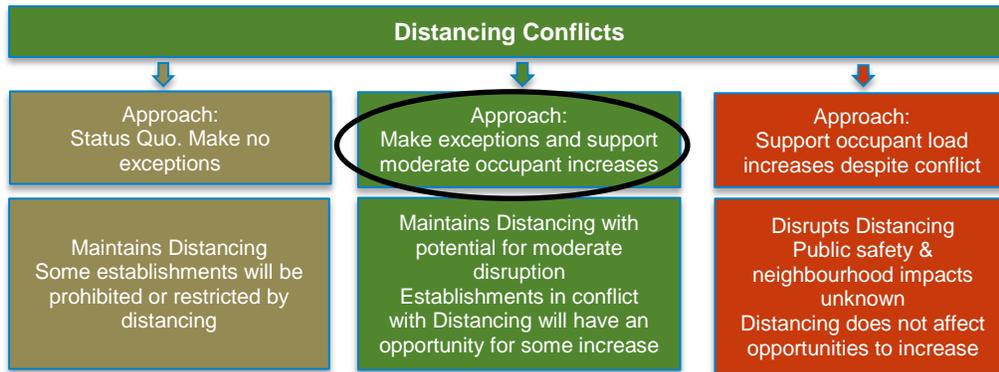


Figure 2 Approaches to Distancing requirements and exceptions for conflicts

Staff propose an approach that maintains current Distancing requirements for Liquor Establishments and makes exceptions for establishments in conflict with Distancing by supporting modest occupant increases. In supporting modest occupant increases, this approach provides opportunity for businesses while limiting the potential for unwanted consequences like public safety impacts and neighbourhood nuisance.

To define the parameters of the proposed approach, staff developed a set of principles to guide the policy on exceptions to Distancing requirements.

Table 5 Principles to guide policy on Distancing Exceptions

Principles	Policy
<p>Maximize the number of existing liquor establishments that can take advantage of potential occupant load increases under the amended Fire By-law occupant load calculation</p> <p>Rationale: Implement intent of Council motion to support local business in COVID recovery</p>	<p>Allow all establishments that are prohibited or limited to growth within class, the opportunity to grow. If they are in conflict with next class, they will be eligible to obtain an exception.</p>
<p>Maintain in general the existing density and distribution of liquor seats in the city as achieved by the Distancing Requirements</p> <p>Rationale: The Distancing Requirements distribute the density and size of establishments throughout the city in ways that are appropriate at the neighbourhood</p>	<p>Set a maximum occupant increase value for establishments that are in conflict with Distancing to limit:</p> <ul style="list-style-type: none"> - Total liquor seat increases citywide - Increased density of liquor seats at the neighbourhood level.

level. Disruption of Distancing carries risk of neighbourhood nuisance and public safety; for business owners it adds unpredictability in a time that is fraught with uncertainties resulting from the pandemic.	
<p>Ensure access for all establishments encountering Distancing conflicts</p> <p>Rationale: The City’s practice and standard in licensing is to apply policy consistently among businesses of the same type or condition.</p>	Apply the same maximum occupant increase value to all establishments seeking an exception.

To identify an appropriate size for the maximum occupant increase to be supported for establishments in conflict, staff tested a range of increase values to see how much additional capacity each would create over and above the existing citywide capacity for occupant increases. Table 6 shows that 175 Liquor Establishments in the city have a total current occupant load of 33,782. The occupant increase capacity (i.e. unused, available capacity) under the existing business licences of those 175 Liquor Establishments totals roughly 11,500.⁵ Without making any exceptions for businesses in conflict with Distancing, this is the available capacity for occupant increases throughout the City. If an exception increase of up to 20% of current occupant load was applied, 39 establishments that currently have capacity of less than 20% within their licence class would gain a total capacity to increase by 818 occupants, resulting in a total citywide capacity of 12,371 occupants. At the high end of the scale, providing exceptions of up to 50% of existing occupant load would increase capacity at 99 establishments by over 5,000 additional occupants for a total citywide increase capacity of over 16,000 occupants.

Table 6 Occupant increase capacity under range of Distancing exception options

Citywide			Exception Increase up to % of current occupant load			
			20%	30%	40%	50%
			# Establishments with less licence capacity than proposed increase			
			39	68	87	99
# of Liquor Ests.	# of current occupants	Capacity in licence class to increase (# of occupants)	Additional capacity (# of occupants)	Additional capacity (# of occupants)	Additional capacity (# of occupants)	Additional capacity (# of occupants)
175	33,782	11,553	+ 818	+1,902	+3,357	+5,080
City Total			12,371	13,455	14910	16,633

As noted, licence class capacity reflects the capacity establishments have to increase occupant load without having to change their business licence class. The analysis provides insight into

⁵ Reasons that businesses might not be using their full licence class occupant load include site and building specific conditions that limit occupancy; being located in a moratoria area

the magnitude of additional capacity that would be created under smaller and larger Distancing exception increase values, but it does not represent the actual occupant increases businesses can achieve under the amended Fire By-law. Actual occupant increases are site and building specific, based on ability to meet Fire By-law and Building By-law requirements to accommodate an increased occupant load. Industry representatives and business owners report that for many businesses, actual capacity to increase is far lower than their licence class capacity.

Proposed Increase Allowance for One-time Exception: Staff propose a one-time exception increase of up to 30% of current occupant load for establishments that are prohibited from occupant increases or are limited to an increase of less than 30% of their current occupant load due to Distancing requirements.

Under this proposal:

- All liquor establishment that have less than 30% capacity to increase within their licence class (68/175) can achieve an increase of up to 30% of their existing occupant load (notwithstanding building or site constraints)
- Among all liquor establishments, the minimum increase capacity under Distancing will be 30% of existing occupant load (notwithstanding building & site constraints)
- A meaningful opportunity for businesses is created while the general distribution and density of liquor establishments and occupant loads established through Distancing requirements is maintained.

See Appendix F for scenarios that show how the Distancing exception would work.

Staff propose that no time limit be set on applications for the one-time Distancing exception, similar to the one-time moratoria exemptions. An open-ended timeline will ensure that business owners can take advantage of the increase opportunity at a time that is appropriate for them, whether that is during pandemic recovery or at a future date.

For the purpose of Distancing exceptions, “one-time” means that only one exception to Distancing will be made for any Liquor Establishment. For example, a Liquor Establishment owner may apply for and be granted an increased occupant load under an exception to Distancing; if that owner sells the establishment, the new owner inherits the existing occupant load and cannot apply for a further exception. Conversely, if the existing business owner has not applied for and has not received an occupant increase under the one-time Distancing exception and sells the business, the new owner may apply for the exception.

Stakeholder Feedback

In response to the proposal to maintain Distancing requirements staff heard the following:

- HVA and individual business owners support the 30%. They identified it as reasonable and fair. Thirty percent 30% is likely to be as much as many establishments can qualify for based on site-specific constraints. They note that a “cautious” approach is prudent at this time as it protects existing businesses from additional uncertainties and risks that could come from allowing all increases regardless of Distancing.

- BIAs support the approach, and are pleased to see that it is “measured” and “reasonable.”
- One business owner in Yaletown expressed the opinion that people on the street create problems in Yaletown. If businesses can get exceptions to Distancing for an occupant increase and put the additional people inside instead of having them outside that will assist the neighbourhood.

3. Implementation of One-time Exceptions

Exceptions to Distancing

Licensing

Staff propose that applications for occupant increases be implemented using the City’s existing licence application review process. As each complete application is received, staff will determine whether a Distancing exception is required to support an increase (i.e. whether there is a conflict with Distancing). Applications will be assessed in the order they are received.⁶

Staff also propose that a business granted an exception to Distancing requirements will retain its existing business licence class, Liquor Establishment Class 1,2,3,4, or 5 (Class 6 has no maximum occupant limit so will not require exceptions), rather than moving to the next licence class. The exception increase would be noted on the face of the licence. Staff propose not to change the licence class because doing so would create an opportunity for a new, additional liquor establishment of the smaller licence class. Creation of opportunities for new Liquor Establishments could disrupt the existing density and distribution of Liquor Establishments throughout the city in unpredictable ways, and risk unintended consequences like neighbourhood nuisance, public health and public safety risks.

The intent of the current proposal is to support existing businesses with opportunities to take advantage of the amended Fire By-law occupant load calculation. As such, staff recommend that exceptions to Distancing be structured and applied toward that goal by having establishments retain their existing licence class when approved for a one-time exception.

Implementation of this approach can be enabled through a minor amendment to the Licence By-law (Appendix A).

Other Council Motions

Council Motion to Consider Additional Fees

One of Council’s directions to staff in July 2020 was to consider establishing increased or additional fees to fund expedited staff review of applications and issuance of permits.

⁶ As businesses apply and are approved for occupant increases, some that are not in conflict with Distancing will move to a higher business licence class to accommodate their increases. Consequently, existing conflicts for nearby establishments may resolve and new conflicts arise. Because of the City’s Distancing requirements, this ebb and flow of conflicts is a constant feature of licensing for Liquor Establishments that can occur any time a Liquor Establishment changes size or closes, or a new establishment opens.

Staff consulted with industry to understand the potential volume of applications that will be submitted, and then assessed City capacity to process these applications in a timely manner.

Industry feedback suggests there will not be a flood of applications, rather applications will be submitted over the next year or two and even longer. Given the financial hardships and uncertainty associated with the pandemic, some businesses are taking a cautious approach. Business owners will assess whether there is value for them in under-taking the process (ie determining what size of occupant increase will they qualify for) and if associated renovations will be required, whether they want to commit the resources to do that work.

Staff assessed existing City capacity to accommodate applications for occupant load increases.

Building Review Branch:

- Occupant load increases are initiated through VFRS as an Occupant Load Certificate; a process has been established in POSSE and is now live.
- Not all applications will require Building review. VFRS will check City Building Permits to look for an occupant load based on Building Department review of the VBBL. If a VBBL based occupant load exists, the application does not need to be forwarded to the Building Review Branch. VFRS will compare the Fire By-law and VBBL loads and must select the most restrictive of the two to determine whether the requested occupant load increase can be approved or must be refused. If a VBBL based occupant load cannot be found in POSSE, the application will be referred to the Building Review Branch.
- Occupant load reviews are assigned to a staff group that has response times well below regular project times within the Branch. Staff believe these applications can be processed expeditiously without additional fees such as overtime.
- For businesses seeking to undertake building renovations to accommodate occupant load increases, the standard Building Permit application process and processing times apply. The option to pay for staff overtime to expedite processing has been suspended during the pandemic but is anticipated to be reinstated.

Licensing: A dedicated Liquor Coordinator is responsible for processing applications for structural change which includes occupant increases. The standard turn around time is 1- 2 weeks.

Development Review Branch: Based on experience, staff expect a small number of establishments will require a minor DP amendment. These can be accommodated in the existing minor amendment process which can deal with applications expeditiously which are identified by Council to be a priority.

Vancouver Fire and Rescue Services: The turnaround time for application review is reported to be one to two weeks; an additional fee for expedited service is not required.

Stakeholder Feedback

Staff heard concerns from industry about application processing times at the City, particularly for businesses seeking to undertake renovations. Some reported willingness to pay for expedited services while at least one business owner inquired whether there would be some assistance in the form of application fee waivers.

Finding

Applications for occupant load increases can be accommodated under existing City processes. New or increased fees for these applications is not recommended.

Council Motion to Consider Requirement for Use of Registered Professional

Council directed staff to consider a requirement for businesses to engage a registered professional to assess the viability of their application for an occupant load increase prior to submitting an application to the City.

The benefit for an applicant in hiring a registered professional such as an architect or engineer is the professional's familiarity with the VBBL and how it is applied in calculating occupant load. The professional can confirm for the business that their occupant increase is viable before the business applies to the City. Submitting a professional's analysis to the City for validation is more efficient than relying on staff to perform the necessary calculations in detail.

Staff highly recommend that applicants retain a registered professional architect or engineer to review the building to determine if the requested occupant load can be met with the current building design including but not limited to code requirements for structural capacity of the floors, exiting capacity, ventilation system capacity and adequate washroom facilities for health requirements, and to determine any building upgrades required as a result of an increased occupant load.

Staff recommend that information be provided on the VFRS website advising applicants that use of a registered professional is highly recommended because it will expedite application processing.

Communication with BC Liquor and Cannabis Regulation Branch (LCRB)

The BC Liquor and Cannabis Regulation Branch is responsible for issuing liquor licences. Liquor Establishments hold provincial Liquor Primary licences; any licence changes such as occupant load increases must be approved by the LCRB. The LCRB approval process requires public notification.

Staff consulted with the LCRB on Council's direction to consider the use of a one-time blanket approval from the City to the Province that would support any liquor establishment seeking an occupant load increase under the amended Fire By-law. Staff also inquired whether there are other ways the LCRB can decrease application processing times.

LCRB Response

The Liquor and Cannabis Regulation Branch (LCRB) shares the City of Vancouver's interest in creating opportunities to expedite approvals for permanent increases to occupancy loads in liquor serving establishments. At this time, however, the request for the blanket approval of occupancy loads by the City cannot be granted due to regulations in the current regulatory framework, including those which prescribe the requirement for public input on such changes to liquor primary licences. These current regulatory requirements are a substantive factor in the structural change process that affect approval timelines. While the LCRB will evaluate potential options for regulatory change; it is important to note that this is a complex framework with explicit requirements and any such changes or improvements would not be realized over the short-term.

Outside of evaluating possible changes to the regulatory framework, the LCRB has completed an end-to-end review of the structural change application process overall and is currently working on streamlining the operational aspects of the application and review process to help improve application timelines in the future.

Public/Civic Agency Input

Vancouver Police Department

The Vancouver Police Department provided the following statement:

The VPD is not opposed to a one-time liquor seat increase in accordance with the new Fire Bylaw and associated increase in seating capacity. If there is a material increase in the number of occupants at GED and DTES Liquor Establishments, VPD will request:

- Police resources dedicated to liquor enforcement and public safety in the Granville and Gastown entertainment districts increases proportionally with seating increases.
- VPD is consulted and provided an opportunity to provide feedback as part of the application process.
- CoV increases by-law enforcement for issues such as parking and street vending.
- CoV increases funding for supportive programs that provide a safe and inclusive space for all visitors to the entertainment districts, such as Good Night Out.

Vancouver Coastal Health

Vancouver Coastal Health staff reported that allowing the Liquor Establishments located in moratorium areas (20 establishments in the GED and 30 in the DTES) the same opportunity to increase occupant loads as the 125 Liquor Establishments in the rest of the city is not likely have a significant impact on public health.

For a list of stakeholders consulted for this report, see Appendix E.

Implications/Related Issues/Risk

Financial

There are no financial implications for the City associated with these recommendations.

CONCLUSION

If approved by Council, the one-time exceptions to liquor policy on Distancing and the GED and DTES moratorium areas as described in this report will provide all Liquor Establishments in the city an opportunity to take advantage of the amended Fire By-law calculation for occupant load increases. Industry partners firmly believe these recommendations will save many businesses.

* * * * *

[Council Meeting Minutes, July 7, 2020](#)

5. Alignment of Occupancy Limits between Building and Fire By-Laws June 10, 2020

FINAL MOTION AS APPROVED

THAT Council approve, in principle, amendments to the Fire By-law No. 12472 to align Vancouver's occupant load with the occupant load set out in the BC Fire Code;

FURTHER THAT the Director of Legal Services be instructed to bring forward for enactment by Council a By-law to amend the Fire By-law, generally in accordance with Appendix A of the Report entitled "Alignment of Occupancy Limits between Building and Fire By-Laws", dated June 10, 2020, to come into force and take effect upon enactment;

FURTHER THAT Council direct staff to report back with clarification around moratoria on additional liquor seats including updated research and current context for any reconsideration of the policy in consultation with relevant authorities and advocates; and to report back on specific considerations including any necessary policy and by-law amendments to enable existing Liquor Primary establishments and other assembly uses to enable one-time occupancy expansions to align with the occupant load set out in the BC Fire Code, notwithstanding moratoria;

FURTHER THAT consideration be given to use of a one-time blanket approval to the Province for the above be provided by the City in order to assist with the processing of applications;

FURTHER THAT Council direct staff give consideration to potential increases in associated application and permit fees in order to support cost recovery of the processing of such applications;

FURTHER THAT Council direct staff to give consideration to the requirement for use of a registered professional by establishments with respect to establishing what occupant load can be sustained by their current building configuration prior to submitting an occupancy application, in order to help expedite the work and time required by the City to process such applications;

AND FURTHER THAT Council direct staff to review the policy and guidelines on the distancing requirements between liquor primary establishments of the same classification, and explore in conjunction with the Province and Liquor and Cannabis Regulation Branch, the possibility in the immediate future of a one-time increase in distancing requirements between establishments to prevent the costly potential reclassification of those that apply for an increase in occupancy load.

DEVELOPMENT, BUILDINGS & LICENSING
General Manager's Office

MEMORANDUM

December 4, 2020

TO: Mayor and Council

CC: Sadhu Johnston, City Manager
Paul Mochrie, Deputy City Manager
Karen Levitt, Deputy City Manager
Lynda Graves, Administration Services Manager, City Manager's Office
Gail Pickard, Director (Acting) of Communications
Rosemary Hagiwara, Acting City Clerk
Anita Zaenker, Chief of Staff, Mayor's Office
Neil Monckton, Chief of Staff, Mayor's Office
Alvin Singh, Communications Director, Mayor's Office
Kathryn Holm, Chief Licence Inspector, Development, Buildings and Licensing

FROM: Jessie Adcock
General Manager, Development, Buildings & Licensing

SUBJECT: Progress update on Council Motion to review liquor distancing and moratoria

PURPOSE

On July 7, 2020 Council approved alignment of the Vancouver Fire By-law occupant load with the BC Fire Code. This change can benefit businesses because the new occupant load calculation can yield a higher occupant load (patron capacity).

Council subsequently directed staff to report back on considerations for policy and by-law amendments to enable one-time occupant load increases for Liquor Establishments (pubs and nightclubs) with respect to the existing moratoria and distancing requirements

This Memo provides an update on the progress by staff to date, next steps and a timeline for report back.

BACKGROUND

New Fire By-law Occupant Load Calculations

Amendments to the Vancouver Fire By-law have aligned Vancouver's occupant load calculations with the BC Fire Code method of calculation. The new calculation factor generally

yields a higher occupant load, but the final occupant load for an establishment takes into consideration site/building specific conditions such as number of available washrooms and exits, which may limit the final occupant load calculation result.

Occupant loads for new businesses will be calculated under the amended Fire By-law; existing businesses can apply to Vancouver Fire and Rescue Services (VFRS) for a recalculation of their occupant load and may qualify for an increase. Applications for an increased occupant load will be reviewed for compliance with the Vancouver Building By-law (VBBL) and upgrades such as structural and washroom capacity may be required in order to qualify for the increased occupant load.

Liquor serving establishments seeking occupant load increases require approval from the Liquor and Cannabis Regulation Branch, a provincial process that requires public notification (See Report to Council, [Alignment of Occupancy Limits between Building and Fire By-Laws](#)).

Distancing

In 2002, the Liquor Control and Licensing Branch⁷ removed its policy related to capacity and location for establishments holding provincial Liquor Primary licences (pubs and nightclubs). This left a policy gap for local government. While the City's Zoning and Development By-law designates where pubs and nightclubs are permitted in the city, it does not generally regulate the size or number of establishments for a given area.⁸ In 2005 Council approved six business licence classes for pubs and nightclubs: Liquor Establishment Class 1 – 6 licences distinguish among small, medium and large establishments based on the approved number of occupants; each licence class has a maximum occupant load. Requirements for distance between establishments of the same licence class, were also implemented (Appendix B). These measures manage the density and distribution of pubs and nightclubs throughout the city. Their aim is to maintain the number and size of establishments that is suitable for a neighbourhood or area.

The location and distance requirements consider the relative impact that smaller compared to larger establishments can have on neighbours, for example noise, traffic and parking. They also distinguish between Downtown and Non-Downtown locations. Small establishments (Class 1, up to 65 occupants) generally have a low impact. They can be located relatively close to one another (within 50 meters). The largest venues (Class 5 & 6, 500+ occupants) can sometimes draw patrons from around the region, and can have a high impact on neighbourhoods. Class 5 establishments cannot be located within 500 meters of one another Downtown, and Class 6 not within 750 meters. Downtown supports a higher density of liquor establishments of all classes than Non-Downtown locations.

The City distancing guidelines were developed through a mapping exercise that indicated areas where Liquor Establishments were already concentrated, and areas that could afford opportunities for more Liquor Establishments. In addition to the maps, previous LCLB policy and staff experience played a role in determining where each licence class would best be located, and how far apart each establishment should be from other establishments of the same size. The distancing guidelines and licence classes were shared at two public open houses and overall, there was support for creating these parameters.

New businesses must find a location that is appropriately distanced from other establishments of its proposed size. Existing businesses that want to increase their occupant load beyond their

⁷ Now named BC Liquor and Cannabis Regulation Branch

⁸ Exceptions are HA-1, HA-1A, I-1, I-1A and I-1B zones.

business licence maximum must apply to amend their business licence to a different class and can do so as long as it does not put them in conflict with distancing requirements. The distancing requirements are found in the July 14, 2005 report to Council, [Liquor License Policy: Liquor Primary Size, Capacity, and Location](#).

Moratoria

Moratoria on new Liquor Establishments and on occupant increases at existing Liquor Establishments are in place for both the DTES and the GED. They were instituted and have been maintained as a means to limit social and public health harms associated with the high concentrations of Liquor Establishments in each area. Both have regularly been reconsidered, most recently as part of the 2017 [Liquor Policy Review](#) which had goals to protect health, safety and community livability; foster creativity, community connection and local economy; and ensure effective and efficient regulatory framework.

A high concentration of Liquor Establishments can present livability challenges for neighbourhood residents. The moratorium in the DTES was first instituted in the Oppenheimer District in 1990, and was expanded to include the whole DTES in 2012 following years of increase in the number of new Liquor Establishments. Those years also saw increased calls for police service on Friday and Saturday nights. VPD data showed that calls to the Gastown area decreased for three years following the 2012 expansion of the moratorium. Following its assessment as part of the 2017 Liquor Policy Review, the DTES moratorium was reaffirmed in the [Liquor Policy for the Downtown Eastside \(2017\)](#) aligning with the goals and principals of the DTES Plan (2014) to make the DTES a more livable, safe and supportive place for all of its diverse residents, and to protect its character and history. In keeping with goal of the Liquor Policy Review to foster creativity, community connection and local economy the policy retained exceptions to the moratorium for live performance based venues.

In the GED the aim of the moratorium since the mid 1990s has been to assist with diversifying the late night entertainment options on Granville Street, attracting a broader patron demographic and reducing late night disorder on weekends. The moratorium applies to Granville Street between W. Georgia and Drake Street. While the moratorium has served to limit the number of Liquor Establishments and occupants, late night violence and public health harms associated with intoxication have been on-going. Since 2006 additional policing has been allocated to Granville Street. VPD Lima Team responds to violence, vandalism, public drinking, public nuisance and general public disturbances, as well as occasional homicides and sex assaults. Many of these incidents are liquor related.⁹

When the GED moratorium was reviewed as part of the 2017 Liquor Policy Review, the GED was found to have higher incidents of arrest for Breach of Peace and cases of public drinking on weekend evenings than any other Downtown area. While some change in business types was taking place, progress toward a wider variety of entertainment businesses, restaurants and shopping, and a broader daytime and nighttime patron demographic was limited. The moratorium was reaffirmed although some new exceptions were introduced: support for liquor licensed live performance venues; relocation of existing seats (occupant load) with no net new seats; and creative solutions for net seat reductions in the GED; for example, the consolidation of seats from two venues into one with a net total reduction could be considered. In response to feedback from industry, new patios (without additional occupant load) were allowed in 2018.

⁹ VPD data (2016) show the majority of breaches of peace, fights and sexual assaults in District 1 (the Downtown peninsula) are concentrated in the GED during just a few hours on weekend evenings.

INITIAL ANALYSIS

New Fire By-law Occupant Load Calculations: Potential Impact on Number of Liquor Seats Citywide

The new Fire By-law occupant load applies to all types of liquor serving establishments and any existing business can apply to VFRS for a recalculation of its occupant load (Table 1). The impact of recalculation using the new occupant load calculation factor of 0.4m² will be most pronounced for businesses that have standing room only areas like dance floors because for each square meter of floor space, there is more space for people; whereas in a restaurant dining room for example, each square meter of floor space has a portion occupied by tables and chairs leaving less space for people. Consequently, Liquor Establishments are the business type most likely to see significant occupant load increases under recalculation.

Table 7 Liquor serving businesses eligible to apply for occupant load recalculation (2020)

Business Licence Type	Provincial Liquor Licence	# of Businesses	# of Current Liquor seats (occupant load)
Restaurant	Food Primary	1173	161,089
Venue (theatres, concert halls, PNE & Rogers Arena)	Liquor Primary	31	186,581
Liquor Establishment* (pub, nightclub)	Liquor Primary	175	33,782
Manufacturer (brewery, distillery)	Lounge Endorsement	28	1,162
Total	All types	1407	382,614

*Figures exclude 41 Class 7, Private Club licences with total of 20,000 seats.

The magnitude of occupant increases at liquor serving businesses cannot be forecast. It is unknown how many businesses will apply for recalculation; how many will qualify for an increase and the size of increase each could achieve given potential limiting factors such as requirements for additional exits and washrooms. The Fire By-law was amended in July, 2020; VFRS has not yet received any applications for recalculation.

Distancing: Assessment of Existing Capacity

Liquor Establishments Class 1 – 5 business licences have maximum seating capacity (occupant load) as a condition of the licence; for Class 6 (more than 950 seats) no maximum is stipulated (Appendix B). Business seeking to increase occupant load beyond their class size must apply to amend their business licence to appropriate class.

Assessment of existing Liquor Establishments finds there is significant capacity to increase occupant loads under their current business licence classes, meaning they can increase

occupant load without having to change licence class, and without running into conflict with distancing requirements.

Among all Liquor Establishments in the city including those located in GED and DTES, 93% have capacity to increase occupant load without changing their licence class; a large number, 41%, have capacity to increase by 50% or more occupants. Only 12 out of 175 Liquor Establishments do not have room to grow meaning that if they qualify for an increase under the Fire By-law recalculation they may not be able to obtain the associated business licence due to distancing conflicts. The City’s distancing requirements do not appear to be a significant limiting factor for businesses seeking to increase occupant load.

Table 8 Liquor Establishment occupant increase capacity within business licence class size (2020)

Liquor Establishments Class 1 - 6	Number of Establishments	% of All Establishments
Citywide Total (includes GED & DTES)	175	100%
Liquor Establishments with capacity to increase occupant load	163	93%
Can increase occupant load by more than 50%	71	41%
Can increase occupant load by 30% to 50%	36	21%
Can increase occupant load by 20% to 29%	29	17%
Can increase occupant load by up to 20%	27	15%
Liquor Establishments at Class Maximum and cannot increase occupant load	12	7%

Non-Moratoria Area

The vast majority of Liquor Establishments, 125 of 175, are located outside of the moratoria areas. Of these establishments, 93% can increase occupant load without changing their licence class. Forty-four percent can increase capacity by 50% or more without changing their licence class.

Table 9 Non-Moratoria Liquor Establishment occupant increase capacity within business licence class (2020)

Liquor Establishments Class 1 - 6	Number of Establishments	Percent
Non-Moratoria Total	125	100%
Liquor Establishments with capacity to increase occupant load	116	93%
Can increase occupant load by more than 50%	55	44%
Can increase occupant load by 30% to 50%	27	22%
Can increase occupant load by 20% to 29%	21	17%
Can increase occupant load by less than 20%	13	10%
Liquor Establishments at Class maximum/cannot increase occupant load	9	7%

GED

In the GED, all Liquor Establishments can increase capacity without changing their licence class. Forty percent can increase capacity by 50% or more.

Table 10 GED Liquor Establishment occupant increase capacity within business licence class (2020)

Liquor Establishments Class 1 - 6	Number of Establishments	Percent
GED Total	20	100%
Liquor Establishments with capacity to increase occupant load	20	100%
Can increase occupant load by more than 50%	8	40%
Can increase occupant load by 30% to 50%	5	25%
Can increase occupant load by 20% to 29%	3	15%
Can increase occupant load by less than 20%	4	20%

DTES

In the DTES 90% of Liquor Establishments can increase capacity without changing their licence class. Just over a quarter of the establishments can increase capacity by 50% or more.

Table 11 DTES Liquor Establishment occupant increase capacity within business licence class (2020)

Liquor Establishments Class 1 - 6	Number of Establishments	Percent
DTES Total	30	100%
Liquor Establishments with capacity to increase occupant load	27	90%
Can increase occupant load by more than 50%	8	27%
Can increase occupant load by 30% to 50%	4	13%
Can increase occupant load by 20% to 29%	5	17%
Can increase occupant load by less than 20%	10	33%
Liquor Establishments at Class maximum/cannot increase occupant load	3	10%

Table 12 Citywide capacity for occupant load increase within licence class by total number of occupants (2020)

	Number of Liquor Establishments Class 1 - 6	Total Number of Occupants (Current)	Total Increase Capacity by Number of Occupants
Non-Moratoria Areas	125	23,440	8,235 (+35%)
GED	20	4,309	1,536 (+36%)
DTES	30	6,033	1,782 (+30%)
Total	175	33,782	11,553 (+34 %)

Tables 2 to 6 show that there is significant capacity for Liquor Establishments to increase occupant load without changing their licence class, and the distancing requirements do not restrict occupancy load increases in the vast majority of businesses. It must be noted that this capacity does not reflect the reasons some businesses may not be using their full licence class capacity. The most likely reason is a site or building specific constraint; for example, the space

is not physically large enough to accommodate the licence class maximum occupant load, or it does not have the necessary exits, washrooms or other structural requirements of the Vancouver Building By-law.

Initial Finding: There is significant capacity for the vast majority of Liquor Establishments to increase their occupant load within their current business licence class and the associated occupant load limits. Business seeking recalculation under the amended Fire By-law are more likely to encounter occupant load constraints related to their building or physical space, rather than licence/distancing requirements.

Moratoria Review: GED and DTES

There are currently 20 Liquor Establishments in the GED moratorium area and 30 in the DTES. The conditions of the moratoria in each area mean that Liquor Establishments that might qualify for increased occupant loads under the Fire By-law, are currently prohibited from obtaining them.

The 2017 extension of moratoria in the GED and DTES was strongly supported by Vancouver Coastal Health and the Vancouver Police Department. Data on the social and public health harms associated with alcohol consumption, and on impacts to public safety particularly late night were identified as central reasons for maintaining the moratoria on new Liquor Establishments, and on occupant load increases at existing Liquor Establishments.

Staff are undertaking an interdepartmental review of the GED and DTES moratoria to consider opportunities and risks associated with enabling existing Liquor Establishments to take advantage of the new Fire By-law occupant load calculation. This work includes review of data on late night disorder and consideration of neighbourhood changes such as composition of businesses and late night entertainment options.

NEXT STEPS & TIMELINE

As part of the moratoria review, staff will consult with stakeholders to hear perceptions of opportunities and risks associated with making changes to each of the moratorium areas. A preliminary list of stakeholders includes

- Industry: Hospitality Vancouver Association; individual business owners
- BIAs (DVBIA; Gastown; Chinatown; Strathcona; Hastings Crossing)
- BarWatch; Restaurant Watch
- Good Night Out
- Neighbourhood and Community Associations
- Vancouver Coastal Health
- Liquor and Cannabis Regulation Branch
- Consultation with VPD
 - Review of relevant data on late night call-outs; VPD resource allocation

Staff will report back with recommendations in response to the motion by end of Q1, 2021.

Please do not hesitate to contact me, Jessie Adcock, or Kathryn Holm with any questions.

Jessie Adcock

Jessie Adcock
General Manager, Development, Buildings and Licensing
604.873.7160 | jessie.adcock@vancouver.ca



Mayor and Council
City of Vancouver
453 West 12th Ave
Vancouver, BC
V5Y 1V4

Mayor and Councillors,

Please accept this letter as being in support of what we believe to be the content of the staff report on *Distancing and Moratoria – One Time Exceptions*.

This report is highly anticipated by our membership and comes following the decision by Mayor and Council to revisit a number of decades old policies that have unfairly penalized liquor primary establishments in the moratoria area of the city.

Hospitality Vancouver Association (HVA) participated in a number of online dialogues and stakeholder engagement sessions with City of Vancouver staff since the July, 2020 motion by Council. Based on conversations with the staff involved in the process, we believe the report will propose a one-time exemption of the old, outdated and punitive policies which came into effect in the early 1990's for those establishments within the moratoria areas.

Specifically, we support two key aspects that were identified in our consultation with the City including:

- The recommendation for a one-time exception to the moratoria on occupant increases for existing Liquor Establishments in the GED & DTES moratorium areas
- The recommendation for city-wide one-time exceptions to distancing requirements (up to 30% above current occupant load)

Our members, which represent hundreds of millions of dollars of annual economic spin off and as estimated ten-thousand jobs, are highly supportive of both the Council decision to review these policies and the quick action taken by staff to hear and respond to this key concern of the city's night life sector.

This report serves as a potential lifeline to our members, particularly in light of the dramatic impact COVID-19 has had on the sector. We believe that the one-time exception for current establishments within the moratoria may result in up to 40% of the

most impacted businesses being able to reopen when the time is right, saving thousands of jobs in the process.

Members of HVA make up a portion of the 250 liquor primary licenses in Vancouver which generate in excess of \$725 million in annual revenue, create upwards of 10,000 full and parttime jobs, and have a sustained monthly payroll of over \$5.3 million.

We wish to thank Mayor and Council, as well as City of Vancouver staff for their attention to this critical issue for our sector, and for responding quickly to save businesses and jobs in our city.

Respectfully,

A handwritten signature in black ink, appearing to read 'Laura Ballance', with a long horizontal flourish extending to the right.

Laura Ballance

On behalf of the membership of Hospitality Vancouver Association

Staff consulted with the following stakeholders via video meeting:

Industry Organizations and Business Owners/Operators

Hospitality Vancouver Association

Liquor Establishment Owners (5 establishments)

BC Craft Brewers Guild

Container Brewing

Business Improvement Associations

Downtown Vancouver Business Improvement Association (GED)

Yaletown Business Improvement Association

West End Business Improvement Association

Chinatown Business Improvement Association (DTES)

Gastown Business Improvement Association (DTES)

Hastings Crossing Business Improvement Association (DTES)

Strathcona Business Improvement Association (DTES)

Mt. Pleasant Business Improvement Association

West Broadway Business Improvement Association

Hastings North Business Improvement Association

South Granville Business Improvement Association

Public Health

Vancouver Coastal Health

Public Safety

Vancouver Police Department

Email for Information

An email update on the proposed approaches to one-time exceptions to Distancing and moratoria was provided to:

Alliance of Beverage Licensees (ABLE)

BarWatch

Chinatown Heritage Advisory

Chinatown Legacy Committee

Chinatown Merchants Association

Gastown Heritage Advisory

Good Night Out

Distancing Exception: How it would work

Example 1: Cathy's Pub

- Occupancy is at licence class maximum (0% increase capacity within business licence class)
- Prohibited from moving to next licence class because of a Distancing conflict

The exception allowing an increase of up to 30% of existing occupant load is applied.

Cathy works with Code consultant to see how much of the 30% she can achieve given site and building conditions

Case 1

- Cathy can achieve 20%
- COV supports the 20% increase
- Cathy retains existing licence class and pays for the additional 20% occupants

Case 2

- Cathy can achieve 40%
- COV supports 30%
- Cathy retains existing licence class and pays for the additional 30% occupants

Example 2: Cathy's Pub

- Has 35% capacity to increase within class
- Is in conflict with distancing requirements if she wants a larger increase

Cathy works with Code consultant to see what increase she can achieve given site and building conditions

- She can achieve 40% and applies to LCRB & COV
- Staff support 35% increase
- No exception is made because the applicant can achieve >30% within class