



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council

File No.: 3030-00-01

From: Chief Administrative Officer

Date: June 1, 2020

Subject: Temporary Patio Program and Temporary Expanded Service Area Authorization

PURPOSE:

The purpose of this report is for Council to consider measures to facilitate temporary patios for businesses across the City and obtain Council's direction regarding the Liquor and Cannabis Regulation Branch's Temporary Expanded Service Area Authorization program.

CAO RECOMMENDATIONS:

1. That based on the June 1, 2020 Staff Report "Temporary Patio Program and Temporary Expanded Service Area Authorization" Council authorizes staff to suspend enforcement of Zoning Bylaw 2500 parking requirements until November 1, 2020 for Restaurants, Fast Food Restaurants, and Neighbourhood Pubs who need to erect a temporary outdoor seating and dining areas on existing parking areas provided that:
 - a. The combined indoor and outdoor seating does not exceed pre-COVID 19 maximum seating capacities;
 - b. The patio occupies a maximum of 50% of the business' required parking stalls;
 - c. The only structures permitted are fencing/translucent shields and ramps;
 - d. The patio must not be located over any landscaped area;
 - e. The patio must not be located within a yard adjacent to any residential use; and,
 - f. The patio can only be used between 7:00 am and 10:00 pm daily.
2. That the City of Courtenay provides the Liquor and Cannabis Regulation Branch pre-approval for all food primary, liquor primary and manufacturing licensees within the City who may apply for an expanded service area.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

The initial recovery from the COVID 19 pandemic presents a challenging scenario for the City's restaurants as they look to reopen while balancing physical distancing requirements with the need to maintain seating capacities necessary to make the business financially viable.

In a May 7, 2020 letter co-signed by the BC Restaurant and Foodservices Association, Alliance of Beverage Licensees, BC Wine Institute, and BC Craft Brewers Guild (**Attachment A**) the group requests Local Governments allow for additional seating space and provisions for patios.

At the May 19th Council Meeting Council endorsed changes to the Sidewalk Patio guidelines to allow for additional options and more seating on public land. These changes apply only to the Downtown Business Improvement Area. As a result, this proposal is a separate effort to provide City-wide flexibility for restaurants needing additional space for seating on private land as a result of COVID-19 public health restrictions.

In a May 20th 2020, report the Town of Comox outlines similar measures as proposed in this report be implemented for patios. This report also provided an outline of changes to the Town's Parklet program which will be dealt with in a future staff report for the City.

On May 22, 2020 the Liquor and Cannabis Regulation Branch initiated the Temporary Expanded Service Area Authorization program. This program allows local governments to subscribe to an expedited liquor licensing process whereby the municipality provides the LCRB pre-approval for all applications for expanded services areas (**Attachment B**).

The recommended changes described below are designed to coordinate and enhance the three initiatives described below.

PROPOSED CHANGES

1. City's Temporary Patio Program

Across the City different land uses have parking requirements which correlate to the size of the business or other aspects such as the number of seats. When establishing a business, either in an existing or new building, on-site parking requirements must be met. This is the case with three types of dining businesses listed in the zoning bylaw as shown below:

Land Use	Parking Ratio
Restaurant	1 stall per 6 seats
Fast Food Restaurant	8 stalls plus 1 stall per 6 seats
Neighbourhood Pub	1 stall per 6 seats

Physical distancing requirements mean that restaurants need more seating area to meet spacing requirements. Temporarily using on-site parking areas for seating presents an opportunity to expand the seating area and maintain the number of customers needed for business to be financially viable.

The temporary patio program proposes to suspend the City's enforcement of off-street parking requirements to allow for patio areas and seating to be installed until November 1, 2020. Five conditions have been recommended if this program is initiated. The first concerns the number of seats and ensuring the seating does not increase as a result of this program. This is an important limit as the number of seats is dictated by occupancy load calculations which in turn specify aspects such as fire protection requirements and washroom capacity.

The second condition is a limit on the number of stalls that can be used for the patio area. Half of a business' required parking may be used. For a typical 100 seat restaurant this correlates to a maximum of eight stalls of the required 17 parking stalls can be used for patio area.

The third condition specifies the types or structures that may be used which are limited to fencing, shields and ramps. The intent is to keep the patios temporary and also to avoid requirements for other City processes like development permits which may be required if more substantial structures were integrated.

In terms of siting, the patios must not be located over an existing landscaped area and cannot be located in a yard between the business and a residential use. The intent of this condition is to avoid any potential impact on residences in terms of additional noise or loss of privacy. The final condition limits the hours of operations to between 7:00 AM and 10:00 PM.

2. LCRB's Temporary Expanded Service Area Authorization Program

The LCRB has created a program where existing licensees can temporarily expand their service area until October 31, 2020. The intent of this program is again to respond to physical distancing requirements and balance the need to maintain enough customers so that the business is financial viable. This program will apply to all existing food primary, liquor primary and manufacturing licensees.

To expedite approval the LCRB has given local governments the opportunity to pre-approve all applications for expanded service areas. As a result, individual applications would not be referred to the City for comments. Currently, all applications are referred to the City and advertised to the community to obtain feed-back prior to responding to the LCRB who ultimately approves permits.

Given the need to coordinate with the other two initiatives and support the recovery of local businesses staff recommend that Council subscribes to the program and gives pre-approval for applications by existing licensees for temporary expanded service areas.

3. City's Downtown Sidewalk Patio Program

At the May 19, 2020 Council meeting Council approved changes to the downtown sidewalk patio program that allowed a third type of patio erected within parking stalls. This option is in addition to two other patio configurations previously permitted upon the sidewalk. The LCRB's Temporary Expanded Service Area Authorization Program will further enhance this program and allows for liquor service on patios.

OPTIONS:

OPTION 1: (Recommended)

1. That based on the June 1, 2020 Staff Report "Temporary Patio Program and Temporary Expanded Service Area Authorization" Council authorizes staff to suspend enforcement of Zoning Bylaw 2500 parking requirements until November 1, 2020 for Restaurants, Fast Food Restaurants, and Neighbourhood Pubs who need to erect a temporary outdoor seating and dining areas on existing parking areas provided that:
 - a. The combined indoor and outdoor seating does not exceed pre-COVID 19 maximum seating capacities;
 - b. The patio occupies a maximum of 50% of the business' required parking stalls;
 - c. The only structures permitted are fencing/translucent shields and ramps;
 - d. The patio must not be located over any landscaped area;
 - e. The patio must not be located within a yard adjacent to any residential use; and,
 - f. The patio can only be used between 7:00 am and 10:00 pm daily.

2. That the City of Courtenay provides the Liquor and Cannabis Regulation Branch pre-approval for all food primary, liquor primary and manufacturing licensees within the City who may apply for an expanded service area.

OPTION 2: That Council postpone consideration of the changes with a request for more information.

OPTION 3: That Council not proceed with the changes.

Prepared by:



Matthew Fitzgerald, RPP, MCIP
Manager of Development Planning

Reviewed by:



Ian Buck, RPP, MCIP
Director of Development Services

Attachments:

Attachment No. 1: May 7, 2020 Letter from the BC Restaurant and Foodservices Association, Alliance of Beverage Licensees, and BC Craft Brewers Guild

Attachment No. 2: May 22, 2020 Letter and email from Liquor and Cannabis Regulation Branch

Attachment No. 1: May 7, 2020 Letter from the BC Restaurant and Foodservices Association, Alliance of Beverage Licensees, BC Craft Brewers Guild and BC Wine Institute



May 7, 2020

Mayor Bob Wells and Members of Council
City of Courtenay
830 Cliffe Avenue
Courtenay, BC
V9N 2J7

VIA EMAIL

Your Worship and Council:

On behalf of the British Columbia's 14,500 hospitality businesses—including restaurants, bars, craft breweries, and winery tasting rooms—we are writing to request your urgent support to aid the survival of local hospitality businesses and thousands of livelihoods during this pandemic crisis. Specifically, we are requesting your assistance for flexible, innovative, and expedited patio permitting.

British Columbia's hospitality industry is facing collapse. While the global COVID-19 pandemic has reverberated throughout our economy, our industry's local small hospitality businesses were hit first, hit hardest, and will be among the last to recover. The majority of BC's restaurants, bars, and tasting lounges have closed, laid off staff, and are facing bankruptcy and financial collapse. Even those businesses remaining opening during this pandemic to offer limited takeout and delivery services and are experiencing dramatically reduced revenues and are struggling to survive.

The collective economic disruption in our sector has been staggering:

- Job losses within the restaurant sector alone are estimated at 121,500.
- At least 1 in 10 restaurants have already closed forever with associated permanent job losses.
- Over 50 per cent of smaller independent restaurants say they will be bankrupt within three months from the start of this crisis (i.e. by June of this year).
- 80 per cent of BC's hospitality businesses have been forced to temporarily lay off the vast majority of BC's 192,000 foodservice employees.
- 80 per cent of Liquor Primaries (i.e. pubs, bars, nightclubs) are closed.
- Liquor Primaries who remain open for take-out/deliver services have experienced 90-95 per cent decline in revenues.

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- Over 70 per cent of BC's hotels are closed.
- BC's tourism sector has laid off 70 per cent of all employees totaling over 130,000 workers.
- All 197 craft brewery tasting rooms in BC are closed, reducing average brewery revenues by over 80 per cent.
- All 366 licensed BC winery tasting rooms in BC are closed, reducing average revenues by over 50 per cent.
- 83 new breweries opened in BC since 2017, including 28 in the last 12 months. These new or recently opened businesses face the biggest threat of permanent closure for our industry.
- Over 250,000 hospitality and tourism workers have already been laid off in BC since the start of this COVID crisis.

While we are working with our provincial and federal governments partners on protocols for a gradual and phased reopening of our sector, BC's local communities have a key role to play in supporting economic recovery. We ask you to support our industry with fast, flexible, and nimble permitting and business services to help our industry get back up and running.

The first opportunity to offer concrete support is with regards to patios, as they offer a hospitality experience within the relative public trust of outdoor space. We ask that your municipality work creatively and collaboratively with operators to help expand current patio areas, add new patios quickly, and permit dining, liquor service and manufacturer's sampling in controllable public spaces.

Specifically, we request your support to:

1. Increase flexibility for patio types and sizes (including consideration for pre-detailed designs and formats), expedited permitting including applications and renewals, as well as the number of patios allowed;
2. Increase the space use of existing patios or picnic areas to allow chairs to be spread out to meet distancing requirements (i.e. many patios have more space than the current floor plans allow them to use);
3. Allow pop-up outdoor dining and manufacture sampling spaces;
4. Allow and increase the use of parklets and public space for dining;
5. Allow any increase in patio, picnic area or outdoor space be considered a continuation of an establishment's existing approved alcohol service area or manufacture's sampling area to provide samples and not require additional endorsements or authorizations.
6. Coordinate with any relevant bodies—such as the Liquor and Cannabis Regulation Branch, Fire Department, etc.—to reduce red tape and speed approval timelines wherever possible.

As a sample, we have attached a recent motion from Vancouver Councillor Sarah Kirby-Yung that is resoundingly supported by BC's hospitality businesses.

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It is our sincere hope that we can work with your council to find significant and meaningful measures to ensure our critical industry survives. We recognize that some of these measures may only be made possible for a limited time to help respond to the COVID-19 crisis. Short term assistance is as important as long term as our industry has never before faced a crisis of this magnitude. The very survival our industry's small businesses and the jobs they create now depend on urgent leadership and bold action from our government partners in communities such as the City of Courtenay.

Thank you in advance for your support. We would also like to offer our sincere thanks and appreciation to Council and staff for your diligent work to keep British Columbians healthy and safe during this provincial state of emergency and global crisis.

We remain at your disposal to offer advice and perspective on these issues. Please do not hesitate to contact us at any time.

Sincerely,



Ian Tostenson, President & CEO
BC Restaurant and Foodservices Association



Jeff Guignard, Executive Director
Alliance of Beverage Licensees



Ken Beattie, Executive Director
BC Craft Brewers Guild



Miles Prodan, President & CEO
BC Wine Institute

Cc: Hon. Carole James, Minister of Finance
Hon. Harry Bains, Minister of Labour
Hon. Adrian Dix, Minister of Health
Hon. Lisa Beare, Minister of Tourism, Arts and Culture
Hon. David Eby, Attorney General
Trevor Hughes, Deputy Minister of Labour

Attachment No. 2: May 22, 2020 Letter and email from Liquor and Cannabis Regulation Branch

From: LCRB Liquor Policy LCRB:EX [<mailto:LCRBLiquorPolicy@gov.bc.ca>]
Sent: Friday, May 22, 2020 9:44 AM
To: LCRB Liquor LCRB:EX <LCRBLiquor@gov.bc.ca>
Subject: Policy Directive 20-13 – Temporary Expanded Service Area Authorization

Hello,

The Liquor Control and Regulation Branch (LCRB) is aware of the significant ramifications the pandemic has had on B.C.'s hospitality sector and we understand that with reopening efforts underway, it is critical that licensees are supported in their needs to adhere to Provincial Health Officer's (PHO) direction and recommendations as they aim to resume operations.

As such, the LCRB has announced [Policy Directive 20-13](#), that permits food primary, liquor primary and manufacturing licensees to temporarily expand their service area footprint **until October 31, 2020**.

Helping licensees increase their service area will allow them to decrease the density of patrons in their establishments and to continue to serve patrons while complying with PHO orders and guidelines regarding physical distancing.

To support this directive, we have implemented an expedited process for the authorization of temporary expansions to service areas. These temporary authorizations will be focused on expanding licensee service areas only and will not increase currently approved person/patron capacities or occupant loads. This will allow the LCRB to expedite approvals while mitigating any public safety risks or local government requirements. Licensees will still be subject to any PHO orders requiring reduced occupancy loads and must also comply with all local bylaws and health and fire regulations.

Licensees will be able to submit applications for **Temporary Expanded Service Area Authorizations** via our [online portal](#) at no charge. This user-friendly online system will ensure information is gathered from licensees efficiently and will enable faster processing times.

We understand that some local governments may want applications in their jurisdiction approved as soon as possible, while others may want an opportunity to review individual applications more extensively. Therefore, the LCRB is offering the following two options for local government input into the temporary authorization application process for liquor primary and manufacturer licensees:

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

Considerations:

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

If you choose this option, please send confirmation directly to our local government liaison, Allan Lingwood, at Allan.Lingwood@gov.bc.ca so that your pre-approval can be recorded in our system.

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

Considerations:

- This will increase the time required for businesses to begin operating their expanded areas.
- You will have the ability to determine what information you require from applicants seeking your approval, and to withhold approval if you have concerns.
- If you approve the application, you will be asked to provide written approval directly to the applicant (email is sufficient). The applicant will be required to include this information with their application to the LCRB.
- You will receive notice when an expanded service area is authorized by the LCRB.

Please note: This is the default process. You do not need to contact LCRB if you wish to follow this process.

Local governments who choose to review/approve all individual requests will be required to provide written approval to each applicant (via letter or email) prior to submission, with the following information:

1. Establishment name
2. Licence number
3. Establishment address
4. Local Government's confirmation of "no objection"
5. Permission to use publicly owned spaces, if applicable
6. Comments, if any.

Since food primary establishments are not generally required to obtain prior local government approval to expand their service areas, the LCRB will continue to process food primary requests for expanded service areas without requiring local government approval. Food primary licensees are responsible for following all local bylaws and for obtaining any permits as required by their local government. You will receive notice when an expanded food primary service area is approved by the LCRB.

Finally, it's important to note that the LCRB will not require evidence from licensees ensuring they have appropriate permissions (including the use of publicly owned spaces like parking lots, sidewalks, etc.) from local governments, if their local government has selected the blanket-approval approach. It is the responsibility of the licensee to ensure they abide by all local bylaws and acquire any necessary permits. However, all applicants will be required to affirm through an online disclosure that they have met all local government requirements.

Please quickly decide your local governments approach and either communicate your decided administrative process to the LCRB, or the licensees and applicants that will be likely reaching out to you soon.

The LCRB will also continue with its end-to-end review of the existing permanent structural approval process, with the goal of streamlining and modernizing the process, making future applications more straightforward and aligned with today's business needs.

We look forward to continuing to work with you to ensure B.C. businesses have the support they need during this challenging time.

If you have any questions, please contact our local government liaison, Allan Lingwood, at Allan.Lingwood@gov.bc.ca.

Sincerely,

Mary Sue Maloughney
Assistant Deputy Minister and General Manager
Liquor and Cannabis Regulation Branch
Ministry of Attorney General



Liquor and Cannabis Regulation Branch
POLICY DIRECTIVE
No: 20 - 13

Date: May 22, 2020

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

Re: Temporary Expanded Service Area Authorization

General Manager Authority

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 Authorization to food primary, liquor primary, and manufacturer licensees.

New Policy

In response to the COVID-19 pandemic, the Province's March 2020 declaration of a state of emergency and the Provincial Health Officer's March 2020 declaration of a public health emergency, the GM is putting in place time-limited measures to support the Provincial Health Officer's (PHO) direction and recommendations.

This new authorization permits a licensee to temporarily expand their service areas **until October 31, 2020**. The increased service area will allow licensees to serve patrons while complying with the PHO's guidelines regarding physical distancing.

Accordingly, food primary, liquor primary and manufacturer licensees (i.e., wineries, breweries, distilleries) may apply for a Temporary Expanded Service Area Authorization.

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.

An expedited online application will be available for licensees 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. Increasing the size of existing service areas is expected to support licensees in complying with requirements under the Provincial Health Orders 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 <https://www2.gov.bc.ca/gov/content/employment-business/business/liquor-regulation-licensing>

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.

Original signed by

Mary Sue Maloughney
Assistant Deputy Minister and General Manager
Liquor and Cannabis Regulation Branch