



**REGULAR MEETING OF COUNCIL
Tuesday, May 26, 2020 @ 3:30 PM
George Fraser Room, Ucluelet Community Centre,
500 Matterson Drive, Ucluelet**

LATE AGENDA

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1. LATE ITEMS	
1.1. Streamlined Temporary Approval for Expanded Outdoor Seating Areas <i>Bruce Greig, Manager of Community Planning</i>	3 - 18
• Add the report "Streamlined Temporary Approval for Expanding Outdoor Seating Areas" having the report number 20-45 as item 12.5. after page 36 of the May 26, 2020 Regular Council Meeting Agenda. <u>R-5 Streamlined Temporary Approvals for Expanded Outdoor Seating Areas</u>	



STAFF REPORT TO COUNCIL

Council Meeting: May 26, 2020
500 Matterson Drive, Ucluelet, BC V0R 3A0

FROM: BRUCE GREIG, MANAGER OF COMMUNITY PLANNING

FILE NO: 3060-20-DP20-04

**SUBJECT: STREAMLINED TEMPORARY APPROVALS FOR EXPANDED
OUTDOOR SEATING AREAS**

REPORT NO.: 20-45

ATTACHMENT(S): APPENDIX A – POTENTIAL ADDITIONAL SEATING AREAS
APPENDIX B – LCRB POLICY DIRECTIVE 20-13

RECOMMENDATIONS:

1. **THAT** Council direct Staff to prepare, as a District initiative, Development Permits valid from June 1, 2020, through October 31, 2020, for expanded outdoor seating areas in the locations generally shown in Appendix 'A' to the staff report dated May 26, 2020, for any adjacent business requesting such expansion;
2. **THAT** Council direct Staff to explore options for a streamlined approval process for utilizing District road right-of-way areas for expanded outdoor seating, including confirmation of insurance;
3. **THAT** Council direct Staff to contact the Ministry of Transportation and Infrastructure (MoTI) to seek approval for temporary encroachment within those areas of Peninsula Road under MoTI jurisdiction where adjacent restaurants wish to temporarily expand their outdoor seating;
4. **THAT** Council direct Staff to make physical changes to outdoor spaces to increase public outdoor seating opportunities, as generally shown in Appendix 'A' to the staff report dated May 26, 2020, and report back to Council as necessary if such works exceed existing operational budgets;
5. **THAT** Council request that the Ucluelet Chamber of Commerce assist in reaching out to all food and beverage operators located in the centre of town, to spread the message that any businesses wishing to expand their outdoor seating to enable safe distancing of patrons during the COVID-19 pandemic should contact the District by June 1st to discuss their plans and the streamlined process for obtaining their Development Permit and, if necessary, approvals for use of public space; and,
6. **THAT** Council direct Staff to share the staff report dated May 26, 2020, with the Liquor and Cannabis Regulation Branch (LCRB) and indicate that the District expresses pre-approval for any liquor primary and manufacturer establishments who may apply for an expanded service area per LCRB Policy Directive 20-13.

PURPOSE:

To support local businesses as they adjust their operation to meet requirements for safely operating during the COVID-19 public health emergency, to nimbly adapt to changing economic circumstances, to efficiently deploy cost-effective measures to improve public spaces, to minimize the impact on staff time, and to cut red tape.

BACKGROUND:

On May 22, 2020, the BC Liquor and Cannabis Regulation Branch issued its Policy Directive 20-13 which provides for streamlined approvals for expanding the service area footprints of licensed establishments. The intent is to allow licensees to decrease the density of patrons in their establishments and continue to serve patrons while complying with Public Health Officer orders and guidelines regarding physical distancing. The directive allows for expanded service areas only, and does not increase the overall occupancy under existing licences.

Local governments have the option, with LCRB applications for expanded service area, to provide either pre-approval to cover all liquor primary and manufacturer applications or review and approval of each individual application. Expansion of food primary licences will not involve local government approval, and will be handled by the LCRB. However, business owners are responsible for ensuring that they comply with all local bylaws and permitting requirements, including any approvals necessary for use of public land (streets, sidewalks, etc.). The LCRB announcement on Friday of their new policy directive included the bold statement to: **“Please get in touch with your local government to determine their approach prior to submitting your application.”**

DISCUSSION:**Permits:**

Expanding outdoor seating for an existing business could typically engage the following regulations and approvals:

- **Development Permit** for changes affecting the form and character of the site (e.g., if visible from the public road or sidewalk);
- **Development Variance Permit** if not in strict compliance with Zoning regulations (e.g., displacing required parking spaces, encroaching within minimum setbacks);
- **Encroachment Agreement** if the seating area would use public land in front of a business (i.e., a “Licence of Occupation” for a defined area of sidewalk, boulevard, street, etc.). This requires confirmation of business owners’ liability insurance covering the District;
- In the case of Peninsula Road and Main Street, an **MoTI Permit** for doing works or placing structures within the provincial public Highway; also may include proof of liability insurance;
- **Building Permit** for any structure engaging the BC Building Code (e.g., constructed overhead canopy, etc.).

If a business holds a liquor licence then changes to that licence would be in addition to the above steps.

The recommendations at the outset of this report aim at reducing the above process to the absolute minimum, avoiding the need for individual businesses to be the “applicant” in a permitting process which would require Council approval. This is an exceptional circumstance; staff are therefore recommending that, if Council is comfortable with the general direction of the temporary changes shown in **Appendix “A”**, that a streamlined process be initiated by the District to minimize the regulatory steps. A District-initiated Development Permit process, approved at the staff level for these permits (which would be valid for 5 months), would not carry an application fee and would not require the time to prepare staff reports on each application to bring them to Council.

Ministry of Transportation highway jurisdiction:

For a business wishing to place seating out front within the Peninsula Road right-of-way, approval from the Ministry of Transportation and Infrastructure (MoTI) would also be required. Staff have contacted the Ministry to see if a streamlined process is possible for a MoTI Encroachment Permit. This is an unusual request within the provincial highway system; the idea of permitting sidewalk seating areas within the Peninsula Road right-of-way has met with some initial resistance from the Province. Staff will continue to explore this possibility.

At the very least, staff expect that businesses would need to provide proof of liability insurance naming the Ministry and the District as additional insureds (typically \$5M liability). One adjacent business has already expressed a preference for placing tables out front on Peninsula; an indication this week from any other businesses seeking similar approvals would enable the District to move forward with a defined request of the Ministry.

Public Seating:

New pedestrian facilities and seating in areas of public land are also shown in Appendix “A”, in the following locations:

- near the Small Craft Harbour;
- in front of the Chamber of Commerce;
- at the corner of Helen Road and Fraser Lane; and,
- in the Village Square.

Some of these improvements have already been anticipated in the ongoing design work for Peninsula Road and the Village Green. Staff are recommending that interim improvements could be placed to improve pedestrian comfort and safety, and increase the general availability for outdoor seating to serve community member and visitors. Staff consider this important as the proportion of take-out dining is expected to increase, along with the need for maintaining physical distancing in public places.

TIME REQUIREMENTS – STAFF & ELECTED OFFICIALS:

If directed by Council, this work would be treated as a priority by staff and would displace other current project work. The approach being proposed would minimize staff time by avoiding multiple individual applications and reports to Council.

FINANCIAL IMPLICATIONS:

If the District initiates preparation of a series of Development Permits for the businesses identified in this report it would remove the requirement for an application fee from those businesses. The DP fee is normally \$1,000 and if variances are involved the fee for a DVP is \$1,100.

Some improvements to public spaces could be achieved within the existing 2020 budget but additional detail will be necessary as plans are developed for those areas.

SUMMARY AND CONCLUSION:

The *District of Ucluelet COVID-19 Community Recovery Plan* includes, under its list of economic recovery actions, #14 “support businesses looking to shift [their] business model”. The steps recommended in this report aim at providing such support for businesses who are planning on re-opening and must reduce their customer density - by expanding the footprint of their outdoor seating areas. Under social recovery options, #9 “prepare facilities for conditional reopening” would extend to adapting outdoor spaces for better community use. Providing interim improvements in public spaces in the centre of town will benefit businesses, visitors and residents by enabling more opportunities for people to enjoy town this summer - while maintaining safe social distancing.

OPTIONS:

Alternatively, Council could consider the following:

7. **THAT** Council provide alternative direction to Staff.

Respectfully submitted: Bruce Greig, Manager of Planning
Mark Boysen, Chief Administrative Officer

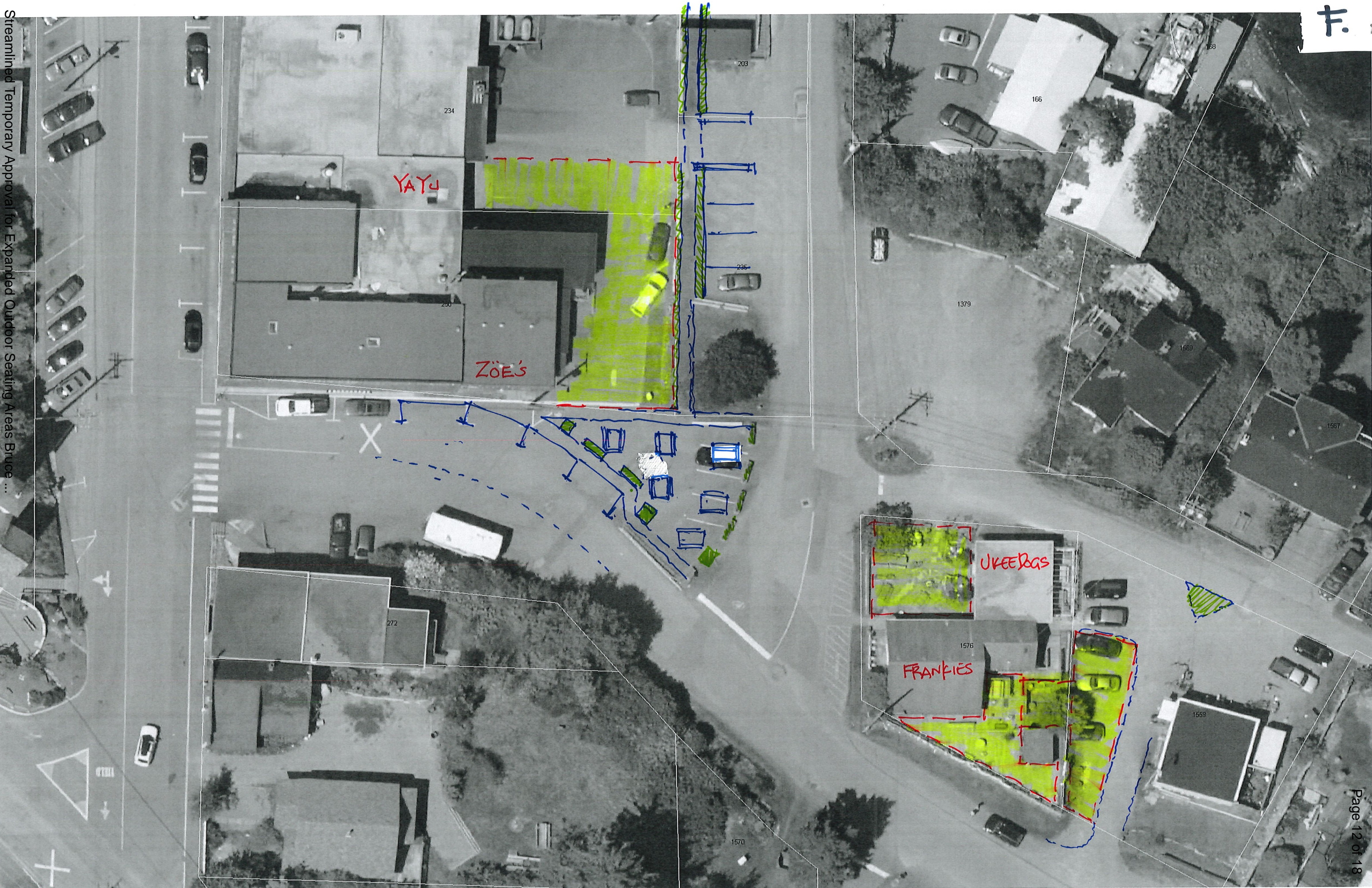














From: [Darcey Bouvier](#) on behalf of [Info Ucluelet](#)
To: [Bruce Greig](#)
Cc: [John Towgood](#); [Brent Ashton](#); [Nicholas Henderson](#)
Subject: Policy Directive 20-13 – Temporary Expanded Service Area Authorization
Date: May 25, 2020 8:13:07 AM
Attachments: [20-13 Temporary Expanded Service Area Authorization.pdf](#)

From: LCRB Liquor Policy LCRB:EX <LCRBLiquorPolicy@gov.bc.ca>
Sent: 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