

TO: CHAIR AND MEMBERS
PLANNING AND DEVELOPMENT COMMITTEE

DATE: 2015 November 19

FROM: DIRECTOR PLANNING AND BUILDING

FILE: 42000 20
Reference: Bylaw Text Amendment

**SUBJECT: PROPOSED ZONING BYLAW TEXT AMENDMENT -
PERMITTED USES IN FARMERS MARKETS**

PURPOSE: To propose text amendments to the Burnaby Zoning Bylaw to permit the limited sale of liquor and other accessory uses at farmers markets.

RECOMMENDATIONS:

1. **THAT** Council be requested to authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw, as outlined in Section 3.0 of this report, for advancement to First Reading on 2015 December 14 and to Public Hearing on 2016 January 26 at 7:00 pm.
2. **THAT** a copy of this report be sent to Artisan Farmers Market Society, Box 74589, Kitsilano P.O., Vancouver, BC V6K 4P4.

REPORT**1.0 INTRODUCTION**

As part of the ongoing review of the Burnaby Zoning Bylaw, which usually takes place in the context of development enquiries and discussions regarding the intent of the bylaw and the general need to update it, text amendments are brought forward from time to time. These text amendment reports are submitted in order to provide clarification and improvements to the wording of the bylaw, and to respond to changes in related legislation and forms of development, land uses and social trends.

In this case, the proposed text amendments respond to new Provincial legislation that allows manufacturers to sell and offer samples of liquor at farmers markets, and seek to clarify that the full range of activities customary to farmers markets are permitted on an accessory basis. As detailed below, this report recommends that the uses permitted in the P2g Public Assembly and Administration District be amended to permit limited liquor sales and other accessory uses, such as wellness services and community activities, in association with farmers markets.

2.0 BACKGROUND INFORMATION

- 2.1 On 2008 January 14, Council gave Final Adoption to an amendment to the Burnaby Zoning Bylaw that established the P2g Administration and Assembly District, with “farmers markets for the retail sale of agricultural products, prepared foods and crafts” as a permitted use. The intent of the amendment was to enable the establishment of a seasonal farmers market in the north parking lot at City Hall.
- 2.2 Since 2008, Artisan Farmers Market Society has operated the Burnaby Farmers Market on Saturdays, from May to October, at this location (with the exception of the 2011 season, when the market was held at Burnaby Village Museum). The terms of operation for the market are governed by a Licensing Agreement with the City, which is renewed annually.
- 2.3 On 2014 June 21, the Province amended the *Liquor Control and Licensing Act* to permit the sale of BC manufactured liquor at farmers markets. Under the *Act*, licensed manufacturers may sell and offer samples of beer, wine, cider and spirits at farmers markets, subject to approval from market management and compliance with local bylaws. All vendors must have Farmers Market Authorization from the Liquor Control and Licensing Branch (LCLB). A full outline of LCLB requirements is provided in Section 3.2 below.

3.0 PROPOSED ZONING BYLAW AMENDMENTS

3.1 Accessory Uses

Farmers markets function not only as retail sales venues but as community gathering places. As such, activities that promote community involvement and a festival atmosphere are commonly found at farmers markets. These activities, which are typically accessory to the principal retail use, include the following:

- live music and entertainment
- non-profit community group information booths
- book exchanges
- children’s activities
- wellness services

These accessory activities are offered at the Burnaby Farmers Market and have helped the market become an established and well attended community event, as evidenced by Artisan Farmers Market Society observations of yearly growth in attendance and interest from vendors. These activities are consistent with the original vision for the market, which, as stated in the 2007 October 18 report, was to help create a “sense of community and vitality for the City through a wholesome community event” that could serve as a community gathering place.

In order to ensure that these activities are formally recognized in conjunction with the principal use of marketing agricultural products, prepared foods, and crafts, it is recommended that the bylaw be amended to permit these uses on an accessory basis.

3.2 Liquor Sales

In 2014 June 21, the Province amended the *Liquor Control and Licensing Act* to permit sale of BC manufactured liquor at farmers markets. Under the *Act*, licensed manufacturers may sell and offer samples of beer, wine, cider and spirits at farmers markets, subject to approval from market management and compliance with local bylaws. Licensing is obtained by the manufacturer, who must already possess an on-site store endorsement in order to obtain the necessary Farmers Market Authorization. Sales can only occur at a farmers market managed by a registered Society and comprised of at least six vendors.

Markets have no obligation to host liquor vendors, and need no authorization from the LCLB should they choose to do so. Markets can limit the number of vendors and the type of liquor sold. As with any vendor, markets must provide the invited liquor vendors with a defined sales area, within which all sales and sampling will occur. Patrons may not remove samples from the sales area.

Other LCLB regulations include the following:

- Sales may occur only between the hours of 9:00 a.m. and 11:00 p.m.
- Licensees may sell only the products registered to the licence and permitted in the manufacturer's on-site store. All market sales must be reported as usual through the on-site store endorsement.
- Staff at the market stall must have Serving it Right certification and must not be minors.
- Licensees may not charge for samples and sample sizes are restricted as follows (per person per day):
 - Wine: 20 ml for a single product and 30 ml for multiple products
 - Spirits: 10 ml for a single product and 20 ml for multiple products
 - Beer/Cider/Coolers: 30 ml for a single product and 45 ml for multiple products

Currently, the Burnaby Zoning Bylaw permits private liquor sales only in "licensee retail stores" (LRS), which is defined in Section 3 as

a store licensed under the provisions of the Liquor Control and Licensing Act to sell liquor for off-premises consumption and includes an agency store established under the provisions of the Liquor Distribution Act.

LRS are permitted only in the C2a Community Commercial District and the C3a General Commercial District. In addition, LRS are subject to the Council-adopted Liquor Store Location Framework, which seeks an appropriate balance between Liquor Distribution Branch (LDB) locations and private Liquor Retail Stores (LRS), and to additional locational guidelines that require consideration of surrounding uses.

The scale of liquor sales at farmers markets is considerably less than found in LRS, due to the relatively small size of vendor booths and available stock on hand, and limitations on the number of liquor vendors. At the Burnaby Farmers Market, the maximum booth size is 18.6 m² (200 ft²) and it is recommended that the number of liquor vendors be limited. For these reasons, it is anticipated that the addition of liquor sales as a permitted use in the P2g District, on an accessory basis, would have little impact on liquor sales in Burnaby as a whole and should therefore be exempt from the Liquor Store Location Framework. In order to ensure that liquor sales are maintained at an accessory level, it is recommended that the bylaw permit a maximum of three liquor vendors per market. This number represents 7.5% of the approximately 40 vendors present each week at the market.

Regarding sampling, the permitted sampling amounts per customer are small (less than 100 ml in total) and are not expected to contribute to nuisance behaviour. Moreover, the only existing P2g District property is the site of the Burnaby Farmers Market at City Hall, which is subject to a Licence Agreement with the City that can be reviewed should any concerns arise.

Overall, it is anticipated that the addition of a limited number of liquor vendors would enhance the experience of marketgoers by providing a wider product selection and the opportunity to sample locally produced liquor products in a community-oriented setting.

3.3 Recommended Bylaw Amendment

In order to implement the recommendations discussed above, the following amendment to the Burnaby Zoning Bylaw is proposed:

1. **THAT** Section 502.1B (Uses Permitted in a P2g Zoning District) be amended to permit liquor sales and other accessory uses in conjunction with farmers markets, consistent with the following:

...(2) Farmers markets for the retail sale of agricultural products, prepared foods and crafts, and the following accessory uses: non-amplified entertainment, personal services including massage and similar wellness services, community information booths, book exchange programs, children's recreational activities, and, for each market, a maximum of three licensed liquor manufacturers authorized to sell at farmers markets under the BC Liquor Control and Licensing Act.

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4.0 CONCLUSION

The above amendment is proposed in order to expand the uses permitted in the P2g Assembly and Public Administration District to include a range of accessory uses customarily found at farmers markets, as well as limited sales and sampling of BC produced liquor. It is recommended that Council approve the proposed text amendment outlined in Section 3.0 of this report for advancement to First Reading on 2015 December 14 and Public Hearing on 2016 January 26 at 7:00 p.m.



Lou Pelletier, Director
PLANNING AND BUILDING

LF/MS:tn

cc: City Manager
Director Engineering
Chief Licence Inspector
City Solicitor
City Clerk