

TO: PLANNING AND DEVELOPMENT COMMITTEE (PDC)
FROM: GENERAL MANAGER PLANNING AND DEVELOPMENT
SUBJECT: **LIQUOR AND CANNABIS POLICY REVIEW – RECOMMENDED ACTIONS**
PURPOSE: To seek Council approval on the recommended liquor and cannabis policy directives.

RECOMMENDATIONS

THAT the proposed processing and assessment procedure for Liquor Primary Licences, as described in Section 3.1.2 of the report titled “Liquor and Cannabis Policy Review – Recommended Actions”, dated March 13, 2024, be approved;

THAT the proposed processing and assessment procedure for Food Primary Licences, as described in Section 3.2.2 of the report, be approved;

THAT the proposed processing and assessment procedure for Manufacturer Licences, as described in Section 3.3.2 of the report, be approved;

THAT the proposed processing and assessment procedure for Temporary Licence Changes, as described in Section 3.4 of the report, be approved;

THAT the proposed processing and assessment procedure for Liquor Service in Non-Traditional Businesses, as described in Section 3.5.2 of the report, be approved;

THAT the proposed processing and assessment procedure for Retail Liquor Stores, as described in Section 3.6.2 of the report, be approved;

THAT the proposed processing and assessment procedure for Retail Cannabis Stores, as described in Section 3.7.2 of the report, be approved;

THAT the proposed processing and assessment procedure for Cannabis Production and Processing Facilities, as described in Section 3.8.2 of the report, be approved; and,

THAT staff be directed to bring forward the required amendments to the *Burnaby Zoning Bylaw*, *Burnaby Fees and Charges Bylaw*, and *Development Procedures Bylaw*, highlighted in Section 3.9 of the report.

EXECUTIVE SUMMARY

This report proposes a framework for how the City assesses and processes various types of liquor licence establishment applications, retail liquor and retail cannabis store applications, and cannabis production facility applications. This framework includes the introduction of private retail cannabis stores in Burnaby. An overview of the results of the online public survey and feedback received from other agencies is also summarized. Next steps are outlined, which includes bylaw amendments, a business licence referral process, and public notification of the new policy.

1.0 POLICY SECTION

The Liquor and Cannabis Policy review as outlined in this report, is aligned with:

- Corporate Strategic Plan (2022);
- Burnaby Official Community Plan (1998);
- Burnaby Economic Development Strategy (2007);
- The Burnaby Social Sustainability Strategy (2011);
- Environmental Sustainability Strategy (2016);
- Climate Action Framework (2020); and
- Community Safety Plan (2020).

2.0 BACKGROUND

The Liquor and Cannabis Regulation Branch (LCRB) oversees liquor and non-medical cannabis regulations, which govern British Columbia’s sale of liquor and cannabis. This responsibility includes the supervision of regulation and licencing of establishments and events including: restaurants, bars, pubs, liquor manufacturers (breweries, wineries, and distilleries), private liquor stores, special events involving liquor, private cannabis stores, and cannabis marketing. The Liquor Distribution Branch (LDB) is the provincial body responsible for the distribution of alcohol and non-medical cannabis products as well as the operation of “BC Liquor Stores” and “BC Cannabis Stores.”

The LCRB is the licencing authority for liquor and cannabis licence applications and requires that these applications have the necessary local government zoning approvals, and in some cases allow local governments the opportunity to provide comments and lead community consultation processes. As such, Burnaby has procedures and guidelines for processing such applications, including *Processing Procedure and Criteria for Liquor Licence Applications (2003)*, *Liquor Store Locational Framework (2006)* and *Government Cannabis Store Guidelines (2020)*.

In May 2023, the Planning and Development Committee received a report titled *Liquor and Cannabis Policy Review – Project Initiation, Process, Next Steps*, which provided introductory information on the project including a brief overview of why the project was being undertaken, the goals of the review, a brief overview of the planned public consultation, and next steps. Staff have now completed the work outlined in that report,

and are recommending policy positions, which reflect an approach in line with the following goals and objectives:

- to update the City’s guidelines and processes to better align with current LCRB policies;
- to create a clear and concise policy document, providing transparency and direction for the benefit of both applicants and City staff;
- to reduce liquor and cannabis application processing timelines and costs for applicants, creating a more favourable business environment for both small and large operators alike;
- to reduce Council time spent reviewing applications, which are deemed to be relatively innocuous from a public safety standpoint and elicit significant concerns from the public;
- to respond to a request from Council, instructing staff to undertake a review of the City’s liquor store processing procedures; and,
- to support Burnaby’s sustainability and complete community goals, by helping to provide a wide range of services and amenities throughout Burnaby.

This report provides an overview of the existing and proposed approvals processes for the various liquor and cannabis license types the City reviews, as well as recommendations for next steps, including supporting Bylaw amendments. The purpose of this report is to seek Committee and Council approval of an amended and simplified approvals process for businesses selling, manufacturing, and processing liquor and cannabis in Burnaby.

3.0 PROPOSED LIQUOR AND CANNABIS POLICY

The following sections describe the existing approvals process for each liquor and cannabis license type and recommends new approvals processes that align with the stated goals and objectives of the liquor and cannabis policy review.

3.1 Liquor Primary Licences

Liquor primary establishments are associated mostly with hospitality, entertainment, or beverage service businesses. Examples of liquor primary establishments include nightclubs, pubs, lounges, casinos, theatres, and could also include places such as barber shops or spas. A liquor primary establishment can apply to the LCRB to have a Family Food Service endorsement, which permits minors to visit the establishment with a parent or guardian until 10:00 p.m. when food service is available.

3.1.1 Current Process

New Liquor Primary Establishment

- Step 1: Rezoning Application

- The City of Burnaby requires a rezoning application for new liquor primary establishments, as they are only permitted in select Commercial and Public and Institutional subdistricts.
- Step 2: Application Circulation
 - Planning and Development staff circulate the application to relevant City departments and the Burnaby RCMP.
- Step 3: Staff Assessment of Application
 - City staff undertake a technical review and evaluation based on the following criteria:
 - Observance of a sufficient distance or physical separation from uses such as existing liquor primary establishments, as well as potentially sensitive uses such as schools, care facilities and residential uses.
 - Nature of proposed establishment (eg: entertainment, outdoor patio, hours and person capacity).
 - Satisfaction of all parking requirements.
 - Safe and convenient access for vehicular traffic to the site, as well as safe access for pedestrians to the liquor licence establishment.
 - Good proximity (within 250 metres) of public transit.
- Step 4: Public Input Process
 - As with any rezoning, the public notification consists of:
 - Sign(s) placed on the site (one per bounding street);
 - a mailout notification to properties within 30m; and
 - notice published on the City's website and distributed as part of the City's online newsletter.
 - Historically, a public hearing has also been held as required through the rezoning process. As per recent Provincial changes, a public hearing is no longer required if the proposed zone district is compliant with the OCP land use designation.
- Step 5: Reporting to Council (Rezoning)
 - Council would receive both an initial report and a rezoning report (formerly public hearing report).
 - If Council determines that the land use is acceptable, the new zoning to permit the liquor primary establishment would be adopted.
- Step 6: LLA Application
 - Once the applicant has secured the zoning, the City would then take in a liquor licence application (LLA).
 - The specific details of the liquor licence application would be reviewed and would be circulated to relevant City Departments and Burnaby RCMP.
 - Staff would report to Council regarding the specific details of the LLA, along with a recommendation to Council whether to provide a positive or negative endorsement of the application to the LCRB.

- Step 7: Recommendation to LCRB
 - Based on staff’s assessment, public input, RCMP and staff circulation comments, Council would provide a resolution that the new licence be issued or not, along with any conditions (i.e. specific hours, person capacity, etc).
 - Following the Council resolution, the LCRB would be notified of the City’s decision.

Amendments to Existing Liquor Primary Licences

The LCRB refers certain types of liquor primary amendment applications to local government, such as permanent changes to liquor service hours, structural change applications that propose to increase person capacity or add a new patio, and relocation requests. As per current City policy, all permanent liquor primary amendment applications require that the City opt-in and conduct a public input process and provide comments to the LCRB. The current process for liquor primary amendment applications is identical to new applications, less the requirement for rezoning. The general LLA process for liquor primary licences with the City of Burnaby is as follows:

- Circulation of the application to relevant departments such as Social Planning, the respective Area Planner, and Burnaby RCMP;
- An initial report to Council, which requests permission to engage the public;
- The public input process similar to one conducted for a rezoning, except without a public hearing;
- A second report to Council summarizing the results of the public notification process and a recommendation to support or not support the application; and
- The registration of a Section 219 Covenant, to impose certain restrictions noted in the report to Council, such as the maximum person capacity of the establishment.

The current process for evaluating and processing liquor primary licences provides the City with significant oversight and control when responding to new and amendment licence requests, however, this level of oversight and control comes with tradeoffs. A rezoning process for a liquor primary establishment takes a minimum of six months to complete from start to finish. The process of executing a covenant typically adds another two plus months to the City’s process. These processing times are in addition to the LCRB’s processing times. Cumulatively, this existing process can be overwhelming and costly for small business operators, discouraging some from opening a new establishment or making an amendment application. Staff also spend a considerable amount of time on amendment applications as well, as reporting to Council (two reports are required), and potentially drafting the covenant are steps. As such, a revised process could seek to balance a reasonable level of oversight and control, while reducing processing timelines and the administrative burden on staff, Council, and businesses.

3.1.2 Proposed Process (both new liquor primary and liquor primary amendment)

There are three notable changes proposed to City liquor primary licence approvals:

- the removal of the rezoning requirement for new liquor primary establishments;
- the delegation of authority to the General Manager of Planning and Development to provide commentary on liquor primary liquor licence applications without a Council resolution; and
- the removal of the requirement to register a Section 219 covenant against the property.

As noted, the rezoning process can be especially daunting for small business operators, and often deters businesses from applying to open new liquor primary establishments in Burnaby. To create a more business friendly environment by reducing processing time, it is recommended that a rezoning no longer be required for new liquor primary establishments. The *Zoning Bylaw* would need to be amended to permit liquor primary establishments as accessory to the primary use in Commercial and Institutional zones. A reasonable level of oversight would still be maintained as a result of an in-depth staff review and the public input process.

The second notable change is the delegation of authority for providing comments and a recommendation for liquor primary applications to the General Manager of Planning and Development. This would eliminate the requirement to report to Council for most routine liquor primary applications and would permit the General Manager of Planning and Development to respond directly to the LCRB with comments and a recommendation for liquor primary applications. This change is recommended to improve processing times for staff and applicants, reduce “reporting fatigue”, and to reduce the number of innocuous applications going to Council. Most applications would not be reported to Council, however, if staff consider the application to be particularly sensitive, of significant size and/or the public input process generates considerable concerns from neighbourhood residents and businesses, the application may still be forwarded to Council for comment and a resolution. Following the Council resolution, the LCRB would be notified of the City’s decision.

The third recommended change is the elimination of the requirement for a Section 219 covenant for liquor primary licence applications. The terms and conditions related to maximum person capacity and hours of operation are already listed on the operator’s liquor licence, provided all terms are communicated from the local government to the LCRB at the time of recommendation. Additionally, the City can place these terms and conditions on the operator’s business licence. If the operator does not comply with the terms and conditions of their business licence, there is an enforcement process, which could result in the revocation of their business licence. As such, the Section 219 covenant is a redundant process.

The proposed processing procedure for liquor primary amendments and new liquor primary licences is as follows:

- Step 1: Liquor Licence Application (LLA)
 - Following a request for comment from the LCRB to the City of Burnaby, the applicant must submit a LLA to City of Burnaby Planning and Development staff.

- Step 2: LLA Circulation
 - Planning and Development staff circulate the application to relevant City departments and the Burnaby RCMP.

- Step 3: Staff Assessment of Application
 - City staff undergo a technical review and evaluation based on the following criteria:
 - Nature and size of proposed establishment
 - The greater potential an establishment has for intoxication and noise behaviour may require additional attention and consideration from staff. For example, a nightclub may require closer scrutiny than a neighbourhood pub would.
 - Larger establishments (over 100 patrons) may require additional consideration when determining if the City is supportive of the application.
 - Location of the proposed establishment
 - The establishment should be compatible in scale and land use with the surrounding neighbourhood. For example, larger liquor establishments should be located within town centres and Urban Villages where entertainment zones are planned and encouraged.
 - Impact of potential noise
 - The LCRB requires local governments to comment on the impact of potential noise.
 - Other community and residential impacts
 - In addition to noise, will the community be impacted by the approval of the liquor licence? The LCRB requires local governments to comment on any potential community and residential impacts.
 - Proximity to transit
 - Liquor establishments should be located close to public transportation options (bus, SkyTrain, etc.), particularly larger and liquor primary establishments.

- Step 4: Public Notification
 - The public notification would align to the current rezoning process without a public hearing, consisting of:
 - sign(s) to be placed on the site (one per bounding street);
 - a mailout notification to properties within 30m; and

- notice published on the City’s website and distributed as part of the City’s online newsletter.

- Step 5: Recommendation to LCRB
 - Based on the assessment, public input, RCMP and staff circulation comments, the General Manager of Planning and Development can either:
 - Write positive recommendation to LCRB, or
 - Send application to Council. The application may be sent to Council for a resolution if:
 - The public input process generates significant concerns from nearby residents or businesses. Specifically, staff will consider the following as a “significant” response:
 - Outside of a town centre – staff receive concerns from the public at a rate of 10% of the number of notifications sent out.
 - Within a town centre – staff receive concerns from the public at a rate of 5% of the number of notifications sent out.
 - Depending on the nature of the application and responses received from the public, staff may refer the application to Council even if the minimum threshold of responses with concerns is not met.
 - RCMP identify public safety concerns or a recent (past year) history of police incidents; or
 - The General Manager of Planning and Development is considering sending a recommendation to not approve licence/licence amendment to the LCR.
 - Following the Council resolution, the LCRB would be notified of the City’s decision.

3.2 Food Primary Licences

Food primary licenced establishments focus primarily on the sale and service of food as opposed to liquor. These applications are the most common type of liquor licences processed by the City of Burnaby. Food primary licence applications are processed solely by the LCRB without a referral to local government, unless the applicant requests a patron participation endorsement (e.g. karaoke or dine and dance), or a permanent extension of liquor service hours before 9:00 a.m. or after midnight.

3.2.1 Current Process (Both New and Existing Food Primary Licences)

When the LCRB refers a food primary application to the City, staff utilize the following criteria when deciding whether to “opt in” to the public input process and provide commentary:

- Council will only comment on amendments to the hours of liquor sale in FP establishments past midnight if:
 - The proposed hours of liquor sale are later than 2:00 a.m.; or
 - The establishment has or proposes to have a patio; or

- The establishment has or proposes to have patron participation entertainment past midnight.

In May 1999, Council adopted the following guidelines for assessing an application for a patron participation entertainment endorsement, which includes karaoke:

- Minimum distances between proposed establishments with karaoke box rooms and liquor primary establishments of 200 metres (656 feet);
- Proposed establishments with karaoke box rooms and single- and two-family zoned areas of 100 metres (328 feet); and
- Restaurants wishing to have karaoke box rooms should have a minimum seating capacity of 100 patrons.

Physical Requirements

- Must have door/wall into karaoke box room be clear and visible to the outside/rest of restaurant; and
- Sufficient lighting in and outside of the box rooms, controlled by the establishment and not the patron.

After the City of Burnaby opts-in to the assessment process, the business operator is required to make a Liquor Licence Application (LLA) with the City. The remainder of the process follows the current liquor primary processing procedure described above, minus the requirement to register a Section 219 covenant.

Notes on Current Process

Similar to liquor primary licence amendment applications, the current City process requires that staff report to Council twice: first to obtain approval to consult with the public, and second, to summarize the results of the public consultation and to recommend whether to send a supportive or non-supportive recommendation to the LCRB. These reporting requirements along with a mandatory public consultation period makes for a lengthy processing timeline. Many of these applications receive a very low rate of response from the public and are generally considered “low risk” in terms of public safety and nuisance, as the primary purpose of food primary establishments is the service of food. Considering these things and the time spent by staff and council, a more streamlined approach could suffice.

3.2.2 Proposed Process (both new licences and amendments)

The purpose of aligning the food primary and liquor primary licence regulations and processing procedures is to provide greater transparency, consistency, and efficiency in our processing of liquor licence applications.

Karaoke is not generally considered a controversial use and is an important entertainment staple for many cultures. Recognizing the important role such establishments play in the City’s entertainment offerings and given that the LCRB

regulations already contain design requirements (e.g. clear glass windows on box room doors, no locks on doors, etc.), its recommended that the City remove redundant design and location guidelines for karaoke.

The proposed review process for food primary establishments is essentially the same as the proposed process for liquor primary establishments as outlined in Section 3.1.2 above. Based on the assessment, public input, RCMP and staff circulation comments, the General Manager of Planning and Development would either write a positive recommendation to the LCRB or send the application to Council for a resolution.

3.3 Manufacturer Licences

Manufacturer licences are issued to establishments that produce their own alcohol on site. Examples include breweries, distilleries, and wineries. In Burnaby, liquor manufacturers are currently permitted in the M2 and M3 Industrial districts. In addition to producing liquor, manufacturer licensees can apply for endorsements to operate a lounge, store, special event area, and picnic area. These endorsements for manufacturers are relatively recent changes to provincial legislation and therefore weren't contemplated in the City's previous liquor licencing policy.

3.3.1 Current Process

In the absence of manufacturer-specific regulations, City staff have been utilizing the liquor primary processing and assessment criteria for manufacturer licences, with the notable exception that rezoning is not required. A manufacturer licence with a lounge and/or other endorsements are permitted in the M2 and M3 industrial districts as an accessory to the primary use of producing alcohol. Additionally, through previous brewery applications, staff have developed additional criteria for manufacturer lounges, which impose limits on the maximum number of persons permitted indoors and the patio, the maximum percentage of the building that can be used as lounge area, and the maximum size of the patio area.

Similar to liquor primary liquor licence applications, a Section 219 Covenant is registered against the property which limits the person capacity of the establishment to that approved by Council, along with any other conditions imposed by Council at the time of application.

As noted above, in the absence of a manufacturer-specific processing procedure, the City has been applying the liquor primary processing procedure for manufacturer licence applications with the exception of requiring a rezoning. The same challenges that were identified with the current liquor primary application process also apply for manufacturer licence applications, specifically: lengthy processing timelines and unnecessary administrative burden on staff and Council.

Notwithstanding the above, it is recognized that a balance must be struck between encouraging lounges and patios, which play an important role in business operations

and the City’s entertainment offerings and preserving sufficient space for industrial purposes. To that end, formal regulations should be adopted to inform the size of lounges and patios in industrial areas.

3.3.2 Proposed Process

Size restrictions on accessory uses such as lounges and patios are recommended, to maintain industrial space for the intended primary uses (i.e. the manufacturing of alcohol products) and prevent uses which are more commercial or service in nature, from growing in industrial zoned districts. Limiting the size of the patio and lounge to 50% of the establishment’s total floor area ensures that the lounge and patio are accessory in nature, while giving the operator flexibility to allocate space between lounge and patio, at the ratio desired. It is recognized however, that through a neighbourhood planning or rezoning process, unique land uses which incorporate both industrial and commercial uses may be envisioned, in which case the recommended size restrictions may be varied.

When the LCRB refers a manufacturer licence application to the City, it is recommended that the City opt in to the review process and collect the views of nearby businesses and residents. The recommended processing procedure is the same as proposed for liquor primary and food primary licences. Staff will also utilize the following criteria to assess applications which contain a lounge endorsement and/or a patio:

- the interior floor area assigned to accessory brewery lounge and patio shall not exceed 50% of the business’s total floor area;
- The outdoor patio must occur on the private property and be located on the same lot as the primary use; and
- Manufacturer licensees which are part of a Comprehensive Development in a neighbourhood plan area may be exempted from the lounge endorsement and patio criteria described above. The criteria above should be used to assess manufacturer licence applications in straight zoned industrial properties.

3.4 Temporary Changes to a Liquor Licence, and Special Event Permits

The LCRB typically does not require a public input process and local government commentary for temporary changes to liquor licences, only an “objection” or “no objection” response from local government. Special Event Permits are not referred to local government, unless the event is proposed to be held on public property. Applications for temporary changes and special events are currently reviewed by staff and circulated to Burnaby RCMP. In most cases, staff provide a response to the LCRB directly, without a Council resolution. If the application is considered particularly sensitive based on staff review or feedback from the RCMP, staff then forward the application to Council for consideration before comments are sent to the LCRB. A liquor establishment is currently permitted two temporary changes per year in Burnaby.

The only change proposed is to raise the maximum number of temporary changes to a liquor licence per year to six, to align with LCRB regulations. No other changes to the current process are proposed.

3.5 Liquor Service in Non-Traditional businesses

Provincial liquor policy now permits essentially any business to apply for a liquor licence, except for businesses geared towards minors or those that operate out of a motor vehicle. Common examples of non-traditional licence holders include spas, barber shops, hair salons, and retail stores.

3.5.1 Current Process

Current City policy does not specifically address these types of applications. If the City receives, for example, a liquor primary licence application at a spa, it is treated the same as any other new liquor primary licence. A rezoning is required and is subject to the assessment criteria and processing procedure for liquor primary licences.

Notes on Current Process

Planning and Development staff have received inquiries from a diverse range of establishments who are interested in obtaining a liquor licence, however, none have materialized into a formal application to the City. It is likely that many small businesses are unwilling to undertake a rezoning application, due to the perceived time and cost of the process. Removing such barriers is a primary goal of the policy, to support the success of small operators by creating a more business friendly environment.

3.5.2 Proposed Process

It is recommended that the processing procedure follow the proposed process for liquor primary licenses in Section 3.1.2 above. In addition to the standard review criteria noted in Section 3.1.2, the following considerations and conditions would also apply:

- The service of liquor and service areas must be complementary and subordinate to the primary business;
- Liquor service may be provided only when the primary business is operating hours of liquor service may not extend beyond the hours of the primary business;
- Liquor service should enhance and not detract from the customer experience;
- The history of the business and compliance with City bylaws and regulations;
- The level of community support, following the public input process;
- The nature and size of the business; and
- If the business employs minors and if they are a significant customer base.

The intent of removing the requirement of rezoning for these types of establishments is to facilitate a more efficient and straightforward process for business operators requesting to serve liquor as an added amenity to their primary business. Providing

establishments with the option of liquor service allows local businesses to remain competitive with similar businesses in the region, and contributes to the customer experience. The intent of the assessment criteria proposed above is to ensure that the alcohol service will only take place in businesses which are complementary to that service and will not create a considerable disturbance for nearby businesses and residents, nor burden law enforcement.

3.6 Retail Liquor Stores

Retail Liquor Stores sell packaged liquor for off-site consumption. The City differentiates between government liquor stores and private liquor stores in the *Burnaby Zoning Bylaw 1965*, defining the former as a Liquor Distribution Branch (LDB) *Liquor Store* and the later as a *Licensee Retail Store (LRS)*.

There is currently a Provincial government-imposed moratorium on new LRSs, effective until July 1, 2032. Therefore, new applications for private liquor stores are not currently being accepted by the LCRB. The only exception is for current wine store licensees who want to convert their licence to an LRS licence. Existing LRS licence holders that wish to move their licence to a new location may do so, subject to LCRB and local government reviews and approvals. While the LCRB does not license government owned BC Liquor Stores, the LDB has advised it will not grow its network of BC Liquor Stores while the moratorium is in place. Notwithstanding the current moratorium, amendments to the City’s existing approvals process should be considered at this time to ensure a clear and efficient approvals process is in place once the moratorium is lifted.

3.6.1 Current Process

The City of Burnaby requires a rezoning application for liquor stores, as they are only permitted in the C2a, C2h, C3a, and C3h Commercial subdistricts. When evaluating a liquor store proposal, the City utilizes the following assessment criteria:

Government Owned Stores

- Signature Stores should be established in each of the town centres, the Big Bend and Kensington Shopping Centre commercial areas before a LRS or other LDB stores can be established elsewhere.

Private Stores (LRS)

- Locational Assessment
 - Supporting LRS would need to be a component of an established or new commercial centre (Town Centre, Urban Village or Neighbourhood Centre as outlined in the OCP).
 - A reasonable distribution of both government liquor stores and LRS’s that would allow these stores to sufficiently serve the municipality while avoiding a concentration of stores in any one area.
 - LRS establishments should not exceed a gross floor area of 4,500 sq ft.
 - Observance of a reasonable minimum distance from the following uses:

- Private and public schools – especially secondary schools (~500m);
- Senior citizens’ housing development and care facilities (~500m);
- Other LRS’s or government liquor stores (~500m); and
- Adjacent residential dwellings and public parks.
- Adequate vehicular, loading and pedestrian circulation on the site, including the satisfaction of all parking requirements on the site.

- Store Size and Operational Criteria
 - LRS establishments should not exceed a gross floor area of 4,500 sq ft.
 - Business hours:
 - The hours of operation should follow the general pattern of operating hours of the commercial businesses in the subject commercial centre.
 - The hours of operation are formalized through a covenant on title.
 - A minimum of two employees present at all times.

After staff assessment and circulation to relevant departments, the remainder of the process would continue in the same manner as other rezonings at the City, which would include reporting to Council and a public input process and public hearing. If the rezoning is adopted by Council, the registration of a Section 219 Covenant is required to formalize the hours of operation and any conditions of the rezoning.

The City of Burnaby receives few applications for liquor stores, due to a number of factors, including the Provincial moratorium, the LCRB requirement that private liquor stores be located at least 1 kilometer from another liquor store (both private and government), and the City’s requirement to rezone when opening a liquor store at a new location. As previously noted in this report, the requirement for rezoning prevents access to the market for many local and small businesses.

3.6.2 Proposed Process (for both Private and Government Stores)

Properties zoned C2 and C3 are generally located within established commercial areas, intended to serve the shopping needs of the community. Sufficient access to a wide range of amenities, including liquor outlets, which do not require vehicle travel is part of creating complete communities in the City of Burnaby. The removal of the rezoning requirement for liquor stores in the C2 and C3 Districts is recommended as it is an onerous process with respect to time and cost for local and small businesses.

There are very few crime and acute public safety issues associated with liquor stores. Liquor stores are strictly regulated provincially whether they are private or public. Therefore, there is little benefit to additional municipal regulation. Given the zoning and distancing requirements, there are currently very few potential locations for a new liquor store (see **Attachment 3**). Considering these reasons and the Provincial moratorium in effect until at least July 2032, it is not expected that Burnaby would see many new liquor stores in the near future.

The proposed processing procedure for government and private liquor stores is as follows:

- Step 1: Retail Liquor Store Application
 - The applicant will be required to make an application to the City for a retail liquor store.
 - Applications would be processed one-by-one in the order that they are received by the City. Only complete applications will be considered.

- Step 2: Circulation
 - Planning and Development staff circulate the application to relevant City departments and the Burnaby RCMP. For amendment applications, staff will consider if any compliance or enforcement issues have been identified in the past.

- Step 3: Staff Assessment of Application
 - Locational Criteria:
 - Must be located on a lot zoned C2 or C3, or comprehensive development based on those districts.
 - Must be compliant with the subject site’s OCP land use designation; and
 - Private stores must be at least 1 kilometer from another liquor store (both private and government owned).

- Step 4: Public Notification
 - The public notification would be identical to the current rezoning process without a public hearing, consisting of:
 - Sign(s) placed on the site (one per bounding street);
 - a mailout notification to properties within 30m; and
 - a notice published on the City’s website and distributed as part of the City’s online newsletter.

- Step 5: Recommendation to LCRB
 - Based on staff’s assessment, public input, RCMP and staff circulation comments, the General Manager of Planning and Development may:
 - Recommend that the licence be issued to the applicant, or
 - Send the application to Council for a resolution, if:
 - The public input process generates significant concerns from nearby residents or businesses. Specifically, staff will consider the following as a “significant” response:
 - Outside of a town centre – staff receive concerns from more than 10% of the public to whom notifications were sent.
 - Within a town centre – staff receive concerns from more than 5% of the public to whom notifications were sent.

- Depending on the nature of the application and responses, staff may refer the application to Council even if the minimum threshold of responses with concerns is not met.
- RCMP identify public safety concerns or a recent (past year) history of police incidents (for amendment applications).
- The General Manager of Planning and Development is considering sending a recommendation to not approve licence/licence amendment to the LCRB.

Following the Council resolution, the LCRB or LDB would be notified of the City's decision.

It is recommended that the same processing procedure be followed for both private and government stores and that the requirement for rezoning be removed with the use being permitted in the C2 and C3 zones (and CD zones based on those districts). To remain consistent with current Provincial regulations, it is recommended that a private liquor store be located at least 1 kilometer from another liquor store (both private and government). It is noted that this distancing requirement only applies to private liquor stores and not government liquor stores, as per Provincial regulations. The City may consider a relaxation to the 1-kilometer distance criteria if the reason aligns with LCRB policy for exemptions, specifically:

- If the relocation of the store is necessary because it is substantially damaged by a fire, flood or other event beyond the licensee's control;
- If the shortest travelling distance by road is more than one kilometer due to watercourse or body of water;
- If the store is already within one kilometer of another liquor store and the new location is not closer than the current one; or
- If the new location has the same parcel identifier as the current location.

If the LCRB amends its policy to change or remove distancing requirements between LSRs and other liquor stores, the City of Burnaby would then review these locational guidelines. The operating hours of both private and government owned stores shall begin no earlier than 9:00 a.m. and end no later than 11:00 p.m.

3.7 Retail Cannabis Stores

On October 17, 2018 the Federal Government introduced and approved Bill C-45 legislation that legalized the production, processing, sale, and use of recreational cannabis in Canada. The LCRB oversees the regulation of licensing of cannabis retailers in a manner similar to liquor license establishments. Local retailers must be pre-approved by the Province's LCRB before they can apply for a business license with the municipality in which they seek to operate. Both the Federal and Provincial Governments have left the control of cannabis retail locations to the Local Governments.

3.7.1 Current Process

The City of Burnaby currently does not accept applications for private cannabis retail stores, only BCLDB government stores. BCLDB government stores are required to rezone to the C2i or C3i subdistricts. When evaluating a new government cannabis store proposal, staff are guided by the 2020 report *Government Cannabis Store Guidelines*. The assessment is based on the following:

- Core locational criteria:
 - Must be located within one of the four designated Town Centres on a site that is designated for commercial or mixed use commercial/residential (maximum one government cannabis store per Town Centre).
 - General observance of a minimum 200 metres (656 feet) separation from the following uses:
 - public and private schools;
 - public playgrounds; and
 - community/recreation centres, community resource centres, neighbourhood houses, and youth centres.
 - Observance of an appropriate relationship to the following adjacent uses in terms of their direct proximity or orientation to the government cannabis store:
 - Residential and mixed-use developments;
 - Café/restaurant outdoor patios;
 - Public parks; and
 - Potential “sensitive” uses such as temporary shelters or group homes.
 - Adequate vehicular and pedestrian circulation on the site, including the satisfaction of all parking requirements; safe, convenient and non-intrusive means of vehicular access to the site; and, avoidance of any undue traffic impacts on the surrounding area.
- Store Size and Operational Criteria:
 - Government cannabis stores should not exceed a gfa of 5,000 sqft;
 - Hours should be determined through the rezoning process and based on anticipated community impacts on adjoining land uses;
 - Government cannabis stores should have a security plan;
 - Should have a strategy to ensure they are good neighbours; and
 - Would be required to post signs regarding Burnaby’s smoking bylaw.

After staff assessment and circulation to relevant departments, the remainder of the process would continue in the same manner as other rezonings at the City, including a report to Council and a public input process and public hearing. If the rezoning is adopted by Council, the registration of a Section 219 Covenant is required to formalize the hours of operation and any conditions of the rezoning.

3.7.2 Proposed Process

Private retail cannabis stores have been operating in most municipalities in the lower mainland since legalization in 2018.

The rezoning process is particularly onerous for private retail cannabis operators, as the LCRB requires an operator to present a lease or lease agreement at the time of application. A lengthy rezoning process may either deter a landlord from renting the space to a private cannabis operator or cause the operator to incur significant rent costs. Even without a rezoning, the City would still have sufficient control with respect to determining if the licence is granted or not. With respect to private cannabis stores, the LCRB cannot issue a licence without a positive recommendation from the local government. Government operated BCLDB stores are not bound by the same rules, however, would still comply with local zoning and policy regulations. Given the proposed locational framework with respect to distancing and zoning, potential locations for new retail cannabis stores will be somewhat limited.

To align with the regulations proposed for retail liquor stores, it is recommended that the registration of a Section 219 covenant not be required. The purpose of a Section 219 covenant is to formalize the hours of operation and impose other restrictions, if applicable. The LCRB restricts the permitted hours of operation of private cannabis stores to the hours of 9:00 a.m. and 11:00 p.m., mirroring the hours of operation permitted at retail liquor stores. Additionally, the City can place these terms and conditions on the operator’s business licence and if the operator does not comply with the terms and conditions of their business licence, the City can undertake enforcement, which could result in the revocation of the business licence. As such, the Section 219 covenant is a redundant process.

As mentioned above, the City of Burnaby currently does not have guidelines nor processes applications for private cannabis stores. Most municipalities in the lower mainland have implemented regulations for cannabis retail stores. These regulations typically focus on the overall number of permitted stores, the separation of approved stores from other cannabis stores and other sensitive uses, and visual appearance of the store and business front. Staff are proposing a framework to evaluate and assess both private and government stores.

- Step 1: Retail Cannabis Store Application
 - Only applications referred from the LRCB or BCLDB to the City of Burnaby will be accepted by the City. Following a request for comment from the LCRB to the City of Burnaby, the applicant must submit a retail cannabis store application to the City of Burnaby Planning and Development staff. For private cannabis stores, it is noted that for the LCRB to forward a request for comment to the City of Burnaby, the applicant would have made a paid application with the LCRB, which also includes a proof of lease or a lease agreement.
 - Applications would be processed one-by-one in the order that they are received by the City. Only complete applications will be considered.

- Step 2: Circulation
 - Planning and Development staff circulate the application to relevant City departments and the Burnaby RCMP. For amendment applications, staff will

consider if any compliance or enforcement issues have been identified in the past.

- Step 3: Staff Assessment of Application
 - Locational Criteria
 - Must be located on a lot zoned C2 or C3, or comprehensive development based on those districts;
 - Must be compliant with the subject site’s OCP land use designation; and
 - Private retail cannabis stores must be at least 1 kilometre from another retail cannabis store location.

- Step 4: Public Notification
 - The public notification would be identical to the current rezoning process without a public hearing, consisting of:
 - Sign(s) placed on the site (one per bounding street);
 - a mailout notification to properties within 30m; and
 - a notice published on the City’s website and distributed as part of the City’s online newsletter.

- Step 5: Recommendation to LCRB
 - Based on staff’s assessment, public input, RCMP and staff circulation comments, the General Manager of Planning and Development may:
 - Recommend that the licence be issued to the applicant, or
 - Send the application to Council for a resolution, if:
 - The public input process generates significant concerns from nearby residents or businesses. Specifically, staff will consider the following as a “significant” response:
 - Outside of a town centre – staff receive concerns from more than 10% of the public to whom notifications were sent.
 - Within a town centre – staff receive concerns from more than 5% of the public to whom notifications were sent.
 - Depending on the nature of the application and responses, staff may refer the application to Council even if the minimum threshold of responses with concerns is not met.
 - RCMP identify public safety concerns or a recent (past year) history of police incidents (for amendment applications).
 - The General Manager of Planning and Development is considering sending a recommendation to not approve licence/licence amendment to the LCRB.

Following the Council resolution, the LCRB or LDB would be notified of the City’s decision.

As noted above, retail cannabis store applications received will be processed one application at a time, in the order a complete application is received by the City, and only after the LCRB has referred an application to the City. The General Manager of

Planning and Development will assess the application and respond to the LCRB or LDB directly after circulation and public consultation when there is a positive recommendation. If the public notification generates considerable concerns from neighbourhood residents and businesses, if the RCMP identify public safety concerns, or if the General Manager Planning and Development is considering sending a recommendation to not approve the licence/licence amendment to the LCRB, the application may be forwarded to Council for a resolution.

3.8 Cannabis Production and Processing Facilities

The *Cannabis Act* creates a framework for controlling the production, distribution, sale, and possession of cannabis in Canada. Under this framework, cannabis production and processing facilities are required to obtain a licence issued by Health Canada and meet the requirements of the Cannabis Act and its Regulations, as well as other applicable federal, provincial, and municipal bylaws.

3.8.1 Current Process

A *Cannabis Production Facility* is defined in the Burnaby Zoning Bylaw as a building or portions thereof providing for the production, finishing, packaging, warehousing and/or distribution of cannabis. These facilities are permitted within the M1 (and by extension the M2 and M3 Districts), M4, and M5 Districts, provided that use is included as part of a comprehensive development district. Therefore, every new application for a cannabis production facility must go through a rezoning application.

Current City policy requires that a Section 219 Covenant be registered through the rezoning to ensure compliance with Metro Vancouver’s Emissions Regulation for Cannabis Production and Processing Operations. It has been confirmed that this Metro Vancouver Policy has been suspended for the time being, thereby making that requirement redundant.

3.8.2 Proposed Process

It is recommended that cannabis production, which includes the cultivation, propagation and harvesting of cannabis, be a permitted use in the M1, M2, and M3 Districts (or CD based on those Districts) and on a lot designated for industrial use in the OCP. It is recommended that cannabis processing facilities, which includes the processing and tested of cannabis, be permitted in the M1, M2, M3, M4 and M5 Districts (or CD based on those Districts) and on a lot designated for industrial use in the OCP. Both cannabis production and cannabis processing facilities would be subject to the following:

- All cannabis production, processing, and storage must take place inside a wholly enclosed building or structure.
- Any building used for cannabis production or processing must be equipped with an air filtration system that prevents the escape of cannabis odours to the outdoors, and the system must be maintained to function properly over time. The

City may request an Air Quality Management Plan prepared by a registered professional and a third-party review of this plan at any time.

It is also noted that cannabis production cannot be prohibited in the Agricultural Land Reserve (ALR) if grown lawfully under certain conditions:

- in an open field;
- in a structure that has a soil base;
- in a structure that was either fully constructed or under construction, with required permits in place, prior to July 13, 2018; or
- in an existing licensed operation.

Requiring a rezoning would add little value in terms of determining if the land use is located within the appropriate area. It is proposed that cannabis production and processing be located within industrial zoned and designated areas. Regarding odour, the federal government requires filtration and ventilation in facilities where cultivation, propagation, or harvesting are taking place. Also, cannabis operations must responsibly manage their waste and not cause pollution, as required by the B.C. Environmental Management Act (EMA). This policy also proposes that an Air Quality Management Plan be available upon request, prepared by a registered professional and a third-party review. Therefore, it is proposed that the requirement for rezoning is removed.

Regarding inspections and enforcement procedures for commercial cannabis producers, the Federal government has developed their own rigorous inspections and enforcement procedures, and as such, staff do not see a need for additional inspections and enforcement procedures over and above existing municipal and federal procedures.

3.9 Summary and Next Steps

The proposed policy provides a consolidated set of liquor and cannabis licencing processes and regulations. By aligning the processes of different liquor licence types (liquor primary, food primary, and manufacturer) and aligning the retail liquor store and retail cannabis store regulations, transparency and clear direction is provided to both applicants and City staff. The proposed regulations are updated to align with current LCRB policies.

Another goal of the policy is to reduce time spent by Council and staff reviewing applications which pose a relatively low risk to public safety and do not elicit significant concerns from the public. Several initiatives are proposed to reduce application processing timelines, thereby reducing burdens on staff, council, and applicants:

- the elimination of a rezoning requirement for several licence types including liquor primary establishments which includes liquor service in non-traditional businesses, retail liquor stores, and retail cannabis stores;
- the elimination of the requirement for a Section 219 covenant for all licence types; and

- the delegation of authority to the General Manager Planning and Development, to provide comments and a recommendation to the LCRB for several application types.

Finally, the proposed policy aims to support Burnaby’s sustainability and complete community goals by providing a wider range of locational opportunities for these types of services and amenities throughout the City. This is achieved in part by providing locations for liquor establishments, retail liquor, and retail cannabis stores within a short walk, or transit trip within Burnaby.

Bylaw Amendments

It is recommended that Committee and Council approve the proposed framework for liquor and cannabis approvals in Burnaby. If approved by Committee and Council, a subsequent report with the corresponding *Zoning Bylaw* amendments will be brought forward for further consideration. In addition, amendments to the Burnaby *Fees and Charges Bylaw* would be brought forward for Council consideration to include application and amendment fees for retail cannabis store applications.

The *Liquor Control and Licensing Act* and *Cannabis Control and Licensing Act* permit a municipal council to delegate its powers and duties with respect to liquor establishment licencing and private retail cannabis store licensing. Section 154 of the *Community Charter* states that a bylaw is required for Council to delegate its powers, duties, and functions. Also, section 156 of the *Community Charter* and section 40(2) of the *Liquor Control and Licensing Act* requires the bylaw to set out procedures for reconsideration of a delegated decision. Should council accept staff’s recommendation to delegate the authority to staff for commenting on liquor licence establishment and retail cannabis store applications, staff would be required to make the necessary bylaw changes. Staff request that Council direct the City Solicitor to draft the required amendments.

Public Notification and Information

In addition to the proposed Bylaw amendments, the Marketing and Communications Division would update the City’s project webpage to inform the public of the policy changes. A simplified policy brochure would also be created to aid prospective applicants when navigating the City’s policy process on Liquor and Cannabis applications.

Business Licence Referral Process

The business licensing team would be responsible for notifying liquor and cannabis establishments at the time of business licence renewal of the change in policy.

In addition, the licensing team would be required to request Planning and Development’s approval when liquor license establishments propose changes to the terms of their licence such as hours of operation or person capacity, for example. Planning approvals would now be required when business licence changes are requested, to ensure that the terms and conditions of the liquor and cannabis policy are adhered to, and those terms and conditions are accurately reflected on the business licence. Having these reflected accurately is important to ensure that Licencing and Bylaw Enforcement can properly exercise enforcement in the case of non-compliance.

4.0 COMMUNICATION AND COMMUNITY ENGAGEMENT

To help inform this policy review an online survey seeking community input was available on the City of Burnaby’s website from September 5 to October 3, 2023. The survey and policy review were promoted through the City’s website, social media, the Burnaby Beacon, and via posters in City libraries and recreation centres. Overall, 395 survey responses were received (for a detailed summary of survey questions and responses see **Attachment 1**). In addition to the survey, staff hosted several focused engagement meetings with key partners, including Fraser Health.

In general, the questions on liquor establishments and retail liquor stores did not provoke many strong opinions or responses. The most common response regarding liquor establishments indicated a “neutral” satisfaction towards adequate access to liquor licence establishments and retail liquor stores.

The majority of respondents did not support the introduction of private retail cannabis stores to Burnaby. Further to this, most respondents were in favour of large buffers of physical separation between retail cannabis stores and potentially sensitive uses such as school and public parks. It was commonly expressed that respondents were opposed to the smell of cannabis smoke and that there should be stronger regulations around preventing the smoking of cannabis in public spaces. The nuisance of secondhand cannabis smoke was a major concern amongst respondents.

Those that were in favour of retail cannabis stores commonly noted that since cannabis is legal like alcohol, it should be regulated in a similar way. It was also noted that Burnaby is underserved with respect to the number of retail cannabis stores available and believe it is unfair that they must commute to a nearby municipality in some cases to obtain cannabis products.

Fraser Health Population Public Health provided a brief with their recommendations for best practices of a public health approach to alcohol and cannabis public policy. The brief outlined best practices of a public health approach to alcohol and cannabis public policy, and specifically addressed outlet density, proximity and buffer zones, hours of operations, the consumption environment, and marketing and pricing. A copy of the brief can be found attached in **Attachment 2**.

5.0 FINANCIAL CONSIDERATIONS

There are no financial considerations related to this proposed policy.

Respectfully submitted,

E.W. Kozak, General Manager Planning and Development

ATTACHMENTS

- Attachment 1 – Liquor and Cannabis Policy – What We Heard About
- Attachment 2 – Fraser Health - Evidence Brief on Alcohol and Cannabis
- Attachment 3 – Potential Liquor Store Locations

REPORT CONTRIBUTORS

This report was prepared by Cody Bator, Planning Analyst, and reviewed by Mark Norton, Planner 3, and Johannes Schumann, Director Neighbourhood Planning and Urban Design, and Lee-Ann Garnett, Deputy General Manager.