

TO: MAYOR & COUNCILLORS

FROM: GENERAL MANAGER PLANNING AND DEVELOPMENT

SUBJECT: **LIQUOR AND CANNABIS LICENSING POLICY IMPLEMENTATION – BYLAW AMENDMENTS, REPEAL AND COVENANT DISCHARGE**

PURPOSE: To propose amendments to the Burnaby Zoning Bylaw, Burnaby Consolidated Fees and Charges Bylaw, and Burnaby Development Procedures Bylaw, repeal of Burnaby Liquor Licence Application Fee Bylaw and to authorize the discharge of existing liquor and cannabis related covenants.

RECOMMENDATION

THAT the proposed amendments to Burnaby Zoning Bylaw, 1965, Development Procedures Bylaw 2022, and Burnaby Consolidated Fees and Charges Bylaw, and repeal of Burnaby Liquor Licence Application Fee Bylaw 2001, as described in Section 3.0 of the report titled “Liquor and Cannabis Licensing Policy Implementation – Bylaw Amendments, Repeal and Covenant Discharge” dated October 21, 2024, be approved;

THAT the City Solicitor be authorized to bring forward amendments to Burnaby Zoning Bylaw, 1965, substantially as set out in **Attachment 1** of the report;

THAT the City Solicitor be authorized to bring forward amendments to Burnaby Consolidated Fees and Charges Bylaw for 2024 fees and Burnaby Consolidated Fees and Charges Bylaw, Amendment Bylaw No. 2, 2024 for fees effective January 1, 2025, substantially as set out in **Attachment 1** of the report;

THAT the City Solicitor be authorized to bring forward amendments to Burnaby Development Procedures Bylaw 2022, substantially as set out in **Attachment 1** of the report;

THAT the City Solicitor be authorized to bring forward a bylaw to repeal Burnaby Liquor Licence Application Fee Bylaw, 2001, as described in Section 3.2 of the report;

THAT the City Solicitor be authorized to discharge existing liquor and cannabis related covenants, in accordance with Section 3.5 of the report; and

THAT a Public Hearing not be held for the proposed amendments to Burnaby Zoning Bylaw, 1965 described in the report, as they are consistent with the Burnaby Official Community Plan.

EXECUTIVE SUMMARY

This report provides a summary of proposed changes to the *Burnaby Zoning Bylaw 1965* (“Zoning Bylaw”), the *Burnaby Development Procedures Bylaw 2022* (“Development Procedures Bylaw”), and the *Burnaby Consolidated Fees and Charges Bylaw* and repeal of the *Burnaby Liquor Licence Application Fee Bylaw 2021* in support of the City’s recently adopted Liquor and Cannabis Licensing Policy. The report also requests Council’s authorization to discharge existing liquor and cannabis related covenants.

1.0 POLICY SECTION

The proposed amendments align with the following Council-adopted policies:

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

2.0 BACKGROUND

2.1 Zoning Bylaw Amendments

On July 22, 2024, Council adopted a new Liquor and Cannabis Licensing Policy along with a recommendation to bring forward the necessary bylaw amendments to implement the policy. One of the primary goals of the Liquor and Cannabis Licensing Policy review was to reduce application processing timelines, thereby reducing the administrative load on staff, Council, and applicants. Therefore, Zoning Bylaw-related amendments that eliminate rezoning requirements for liquor and cannabis establishments, and the differentiation between government stores and private stores, are presented in this report.

2.2 Consolidated Fees and Charges Bylaw Amendments

The new Liquor and Cannabis Licensing Policy also introduces assessment and processing procedures for retail cannabis stores (which will include private cannabis stores). Therefore, amendments to the Consolidated Fees and Charges Bylaw are required to introduce a new Planning application fee and business licence fee for retail cannabis stores. Also, the authority to impose the Planning application fee for liquor licence applications is proposed to be moved from the Burnaby Liquor Licence Application Fee Bylaw to the Burnaby Development Procedures Bylaw (as part of the delegation of authority to the General Manager Planning and Development to make comments and recommendations on liquor

licence applications (see section 2.3 below). This also requires an amendment to the Consolidated Fees and Charges Bylaw.

2.3 Delegation of Authority

As part of the Liquor and Cannabis Licensing Policy approved in July of this year, staff recommended that the General Manager Planning and Development be authorized to respond with comments and recommendations on liquor licence applications and amendments (as permitted by section 40 of the *Liquor Control and Licensing Act*). This change was proposed to improve processing timelines, reduce “reporting fatigue”, and to reduce the number of innocuous applications going to Council. Most applications would not be reported to Council, however, if the General Manager Planning and Development considers the application to be particularly sensitive or 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. Where the General Manager intends to recommend that the licence not be approved, the application must be forwarded to Council for consideration.

Section 40 of the *Liquor Control and Licensing Act* permits a municipal council to delegate its powers and duties under Section 38(3) of the *Liquor Control and Licensing Act* (to make comments and recommendations relating to liquor licence applications and amendments), and requires a right to have Council reconsider the delegate’s decision. The *Community Charter* requires that any delegation of Council’s powers, duties and functions, and associated reconsideration by Council, be authorized by bylaw. It is proposed that these provisions be included in the Burnaby Development Procedures Bylaw, together with authority to impose fees for these applications and applications for retail cannabis stores.

2.4 Covenant Discharge

In addition to Zoning Bylaw amendments, it is requested that authority be provided to discharge the Section 219 covenants registered on title for the three government cannabis store locations and existing liquor licence establishments. The operator of the three government cannabis stores has expressed a desire to change the hours of operation at the stores, but is unable to do so without amending the covenants on title. As the new Liquor and Cannabis Licensing Policy no longer requires that a covenant be registered relating to conditions associated with a liquor licence or cannabis store licence, it is recommended that the existing retail cannabis covenants be discharged immediately and existing covenants relating to liquor licences be discharged as the operators of these establishments seek amendments to their licences.

3.0 GENERAL INFORMATION

The proposed bylaw amendments required to implement the Liquor and Cannabis Licensing Policy are summarized below and detailed in **Attachment 1**. Further repeal of

the Burnaby Liquor Licence Application Fee Bylaw is recommended. The process for discharging existing liquor licence and cannabis store covenants are also detailed below.

3.1 Zoning Bylaw Amendments

Liquor Licence Establishments

The Liquor and Cannabis Licensing Policy supports removing the need for a rezoning application to permit liquor primary establishments, as such, the following Zoning Bylaw amendments are proposed:

- Removing “liquor licence establishments” from the list of uses that are not permitted for temporary use permits under s. 6.28(3)
- removing any restrictions relating to “liquor licence establishments” and including “liquor licence establishment” as an outright permitted use in the C1, C2, C3, C4, C8, C9, P2, P3 and P6 Districts, and related liquor licence establishment subdistricts within these zones (i.e. C1f, C2f, C3f, C4f, C8f, C9a, P2f, P3f and P6f)
- repealing the reference to liquor licence establishment in the definition of “billiard hall”

Liquor Stores

Under the Liquor and Cannabis Licensing Policy, liquor stores (both government and private licensee stores) no longer require a rezoning and are to be permitted in the C1, C2, and C3 Districts, provided they are not located closer than 1.0 kilometre from another liquor store. The proposed Zoning Bylaw amendments to implement this policy change include:

- repealing the definition of “licensee retail store” (which is the term for private liquor store under the *Liquor Control and Licensing Act*)
- amending the definition of “liquor store” to include both government liquor stores and private licensee stores
- adding liquor store as a permitted use in the C1, C2, and C3 Districts, provided they are not located within a 1.0 kilometre of another liquor store);
- amending the C2a, and C3a subdistricts to permit liquor stores, provided they are not located within 1.0 kilometre of another liquor store; and
- amending the C2h and C3h subdistricts to remove “licensee retail store” as a permitted use and add liquor stores, provided they are not located within 1.0 kilometre of another liquor store.

Cannabis Stores

Both private and government cannabis are now supported in the C1, C2, and C3 Districts and without the need for a rezoning application. The proposed Zoning Bylaw amendments to implement this change include:

- adding a new definition for “cannabis store” and defining it to mean either a government cannabis store or a licensee (private) cannabis store;
- adding “cannabis store” as a permitted use in the C1, C2, and C3 Districts, with the restriction that they are not permitted within 1.0 kilometre of another cannabis store; and
- replacing “government cannabis stores” in the C2i and C3i subdistricts with “cannabis stores”, with the restriction that they are not permitted within 1.0 kilometre of another cannabis store

Cannabis Production and Processing Facilities

Currently, a cannabis production facility requires a CD rezoning based on an industrial (M) District. The new Liquor and Cannabis Licensing Policy supports a cannabis production facility in the M1, M2, and M3 Districts and a cannabis processing facility in the M1 to M5 Districts. The following Zoning Bylaw amendments are proposed to implement the policy changes:

- amending the definition of “cannabis production facility” and adding a new definition for a “cannabis processing facility”;
- amending the M1 District to remove the CD rezoning requirement for a cannabis production facility;
- adding cannabis production facility as a permitted use in the M1, M2 and M3 Districts; and
- adding cannabis processing facility as a permitted use in the M1, M2, M3, M4 and M5 Districts.

3.2 Burnaby Consolidated Fees and Charges Bylaw

As private retail cannabis stores are a new application and business type in Burnaby, the City will require a new fee for the processing and assessment of cannabis stores and a municipal business licence fee for these establishments. Further, the authority to impose the cannabis store application fee will be included in the Burnaby Development Procedures Bylaw, and the authority to impose liquor licence application fees will be moved from the Burnaby Liquor Licence Application Fee Bylaw 2001 to the Development Procedures Bylaw. The fee amounts will be set out in the Burnaby Consolidated Fees and Charges Bylaw, similar to other City fees. Because City fees and charges effective January 1, 2025 have already been adopted by Council by way of Burnaby Consolidated Fees and Charges Bylaw, Amendment Bylaw No. 2, 2024, it is necessary to amend both the 2024 and 2025 versions of the fee schedules in the Consolidated Fees and Charges Bylaw (see proposed bylaw amendments in **Attachment 1**).

Cannabis Store Application Fee

Section 35 of the *Cannabis Control and Licensing Act* provides that a local government that gives comments and recommendations on a cannabis store application may, by bylaw, impose fees on the applicant in order to recover the costs incurred in assessing the application. This includes staff time for evaluating

the application, communicating with the applicant, sending out public notifications, reporting to Council, and various administrative tasks.

For liquor licence applications, the City charges fees of \$1,012.50 and \$514.50 (2024 rates) for new licence applications and amendment applications, respectively. In 2025, the fees will increase to \$1047.50 and \$532.50, respectively. The processing procedure for liquor licence and cannabis store applications are similar, however, cannabis store applications will involve additional efforts from staff to assess and recommend a single applicant for each quadrant and to send a report to Council. Considering the additional work required to process cannabis store applications, it is recommended that a fee of \$2,025.00 be charged for cannabis store applications received in 2024 and the rate be increased to \$2,095.00 effective January 1, 2025. The fee for amendment applications is proposed to be set at approximately 50% of the fee for new applications or applications for new locations. This fee is comparable to the application processing fee changed by other Lower Mainland municipalities (see Table 1 below).

Table 1: Comparison of cannabis store application fees

Municipality	One Time Application Fee (2024)
Burnaby (proposed)	\$2,025
Vancouver	\$2,877
Maple Ridge	\$500
City of North Vancouver	\$6,500
Mission	\$4,000
Abbotsford	\$7,500
Port Coquitlam	\$1,200

The Liquor and Cannabis Licensing Policy includes a two-year monitoring period for cannabis store applications. It is recommended that this application fee be reviewed at the conclusion of the monitoring period to ensure it is appropriate and covers the costs of reviewing and processing cannabis store applications.

Cannabis Store Business Licence Fee

Section 194 of the Community Charter provides authority for the imposition of fees for local governments to require a business licence and to impose a fee for the licence for any given type of business. Fees charged for a business licence are determined based on the servicing requirements (such as inspections, calls for City service, administrative costs, etc.) that can be attributed to businesses in that category. Since there is no history of private retail cannabis businesses operating in Burnaby, it is difficult to predict the service levels that will be required.

In order to arrive at an appropriate business licence fee, staff propose using the average of the annual licence fee charged by other municipalities in the Lower Mainland. Using this method, the proposed business licence fee would be approx. \$3,830.00 per year for 2024 (and increased to \$3,962.00 effective January 1,

2025), for both the initial and annual renewal licences. Below is a table showing the annual business licence fees for retail cannabis stores for select municipalities in the Lower Mainland:

Table 2: Comparison of cannabis store business licence fees

Municipality	Annual Business Licence Fee (2024)
Burnaby (proposed)	\$3,830 (initial) \$3,830 (renewal)
Vancouver	\$5,300
City of North Vancouver	\$3,691
Maple Ridge	\$5,000
Mission	\$5,000
Abbotsford	\$2,500
Port Coquitlam	\$1,500

Similar to the application fee described above, at the conclusion of the two-year monitoring period for cannabis store applications, the annual business licence fee will be reviewed to ensure it is appropriate and covers all City costs required to service cannabis store operations.

Liquor Licence Application Fee Bylaw

Currently, the amounts of the liquor licence application and amendment fees are set out in the Burnaby Consolidated Fees and Charges Bylaw, but the authority to impose these fees are included in the Burnaby Liquor Licence Application Fee Bylaw. With the delegation and process for assessing liquor licences proposed to be included in the Burnaby Development Procedures Bylaw (see below), it is no longer necessary to have a separate fee imposition bylaw for liquor licence applications. It is proposed that the Burnaby Liquor Licence Application Fee Bylaw be repealed, effective January 1, 2025. The fees will remain \$1,012.50 and \$514.50 for 2024 (increased to \$1047.50 and \$532.50 effective January 1, 2025) for new licence applications and amendment applications, respectively.

3.3 Delegation of Liquor Licence Applications

Pursuant to Section 40 of the *Liquor Control and Licensing Act*, Council is permitted to delegate its powers and duties under section 38(3) of the *Liquor Control and Licensing Act* with respect to providing comments and recommendations for liquor licence applications referred from the Liquor and Cannabis Regulation Branch (LCRB). Where Council has chosen to delegate its powers and duties under section 38(3), it must advise the applicant of their right to have the delegated decision reconsidered by Council as well as establish and set out such procedures for such reconsideration. The *Community Charter* requires that any delegation of a local government’s powers, duties and functions, and reconsideration procedures, be established by bylaw.

Under the Liquor and Cannabis Licensing Policy, Council has identified that it wishes to delegate its authority under section 38(3) of the *Liquor Control and Licensing Act* to the General Manager Planning and Development, except that the General Manager may continue to refer applications to Council for consideration and must refer applications to Council where the General Manager intends to recommend not approving a liquor licence application or amendment. It is proposed that this delegation of authority and related provisions be included as a separate section in the Burnaby Development Procedures Bylaw, which will entail amendments to some definitions in the bylaw as well. See **Attachment 1** for the proposed provisions and amendments to implement the delegation of authority.

3.4 Cannabis Retail Store Licence Comments and Recommendations

Section 33(3) of the *Cannabis Control and Licensing Act* permits a local government to provide comments on and make recommendations to the Liquor and Cannabis Regulation Branch in respect of cannabis retail store licence applications. Council is authorized to delegate its powers and duties under section 33(3); however, under the City’s Liquor and Cannabis Licensing Policy, Council has identified that it wishes to retain this authority during a two-year monitoring period. During this period, it is proposed that the procedure for cannabis store licence applications to the City be set out in the Burnaby Development Procedures Bylaw. These provisions will include the authority to impose a fee for these applications, with the amount of the fee to be included in the Consolidated Fees and Charges Bylaw. The proposed provisions and amendments to the Burnaby Development Procedures Bylaw are set out in **Attachment 1**.

3.5 Covenant Discharge

Existing Government Cannabis Store Covenants

On June 1, 2022, Council adopted Guidelines for Assessing Rezoning Applications for Government Cannabis Stores. Part of the guidelines state that the business hours established through a rezoning process be formalized through the registration of a Section 219 Covenant. As such, the three government cannabis stores located in Burnaby (7300 Market Crossing in Big Bend, 2-4615 Lougheed Highway in Brentwood, and 1-4429 Kingsway in Metrotown) are bound to the operating hours specified within the covenants, which were registered at the time of original rezoning.

The British Columbia Liquor Distribution Branch has since reached out to the City, requesting to extend the hours of operation at all three government cannabis stores. The requested hours are from 9:00 a.m. to 10:00 p.m., daily, at all stores. The current operating hours for all three subject stores are from 10:00 a.m. to 9:00 p.m., Monday to Saturday, and 11:00 am to 6:00 pm Sunday. No other changes are sought. All three stores are located within established commercial areas, with businesses that close at or later than the requested closing hours of 10:00 p.m. Therefore, the proposed hours of operation of the subject establishments are consistent with those of nearby businesses and are considered supportable.

The recently adopted Liquor and Cannabis Licensing Policy no longer requires that retail cannabis store operators enter into a covenant to restrict the hours of operation. In addition to being listed on the Provincial cannabis store licence, these terms and conditions will now be stated on the operator’s City business licence, so if there is a breach of business licence terms, the City can carry out enforcement.

As the hours of operation were conditions of rezoning, it is considered prudent that a Council resolution be requested to discharge the covenants.

Existing Liquor Licence Establishment Covenants

The previous liquor policy required that a Section 219 covenant be registered against the property to restrict matters such as hours of operation, person capacity, and noise produced by the establishment. The new policy no longer requires that liquor licence establishments enter into a covenant with the City and instead these restrictions would be placed as terms and conditions on the operator’s business licence.

Since liquor service restriction covenants were registered on title as a Council approved condition of rezoning or as a condition of licence recommendation to the Province, it is considered prudent to obtain Council authorization to discharge these covenants. Since there are a large number of these covenants registered on title over the years, it is recommended that the City Solicitor be authorized to discharge existing liquor licence establishment covenants at the time that these establishments request amendments to their liquor licence application through the review process that is delegated to the General Manager Planning and Development (see section 3.3 above).

4.0 COMMUNICATION AND COMMUNITY ENGAGEMENT

At the December 11, 2023 Open meeting, Council directed staff to include a recommendation to not hold a Public Hearing for rezoning applications or Zoning Bylaw text amendments that are consistent with the Burnaby Official Community Plan (as authorized by Section 464 of the *Local Government Act*). The proposed text amendments to the Zoning Bylaw set out in **Attachment 1** of this report are consistent with the Official Community Plan policies on transportation (Section 8.0), climate action goals (Section 10.0), and social planning (Section 11.0). As the text amendments are consistent with the Official Community Plan and other City policies, it is recommended that a Public Hearing not be held for these proposed amendments to the Zoning Bylaw.

First and Second Readings of the text amendment bylaws will be held at a future Council meeting. In advance of that, a notice in respect to the text amendment bylaw will also be published on the City’s website and as part of the City’s online newsletter, in accordance with the Burnaby Public Notice Bylaw.

The *Community Charter* requires that before adopting a bylaw in regard to business regulation, Council must first give notice of its intention and provide an opportunity for

persons who consider they are affected by the bylaw to make representations to Council. In order to ensure all interested parties are provided sufficient notification of the proposed business licence fee for cannabis stores, to be implemented through the proposed amendment to the Burnaby Consolidated Fees and Charges Bylaw (for 2024 fee) and Burnaby Consolidated Fees *and* Charges Bylaw, Amendment Bylaw No. 2, 2024 (for the fee effective January 1, 2025), public notices will be published on the City’s website and as part of the City’s online newsletter, in accordance with the Burnaby Public Notice Bylaw 2023. All responses will be collected and provided to Council prior to final adoption of the amendment bylaws.

Amendments to the Burnaby Development Procedures Bylaw do not require public notice. Applicants for liquor licence applications and cannabis store applications will be advised of the new procedures and the applicable policies in the new Liquor and Cannabis Licensing Policy.

5.0 FINANCIAL CONSIDERATIONS

The proposed amendments are anticipated to reduce processing resources for City staff and applicants.

Respectfully submitted,

E. W. Kozak, General Manager Planning and Development

ATTACHMENTS

Attachment 1 – Proposed Text Amendments

REPORT CONTRIBUTORS

This report was prepared by Cody Bator, Planner, and reviewed by, Mark Norton, Senior Planner, Carl Isaak, Director Neighbourhood Planning and Urban Design, May Leung, City Solicitor, Dan Layng, Chief Licence Inspector, and Eugenia Adamovitch, Staff Solicitor.