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To: "Direct to Mayor and Council - DL"

CC: "City Manager's Correspondence Group - DL"

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Date: 7/13/2020 9:36:56 AM

Subject: Memo: Liquor Service in Limited Service Food Establishments

Attachments: Memo - Liquor in Ltd Service Food Est. - July 13 2020.pdf

Greetings Mayor and Council,

The attached memo reports back on Council's May 27, 2020 direction to staff to work with the Province to explore ways that small food retailers operating as Limited Service Food Establishments could be allowed to sell liquor on a temporary basis to assist with their post-pandemic recovery.

The memo provides an overview of the provincial liquor licensing categories and the potential for application to this group of businesses.

A briefing for council on this issue is scheduled for July 20. As the subject matter is somewhat complex, the attached memo is intended to provide Council with some background in advance of the July 20th discussion. If you have any questions, please let me know and will be happy to address on July 20.

Best,
Paul

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The City of Vancouver acknowledges that it is situated on the unceded traditional territories of the Musqueam, Squamish, and Tsleil-Waututh peoples.

MEMORANDUM

July 13, 2020

TO: Mayor and Council

CC: Sadhu Johnston, City Manager
Karen Levitt, Deputy City Manager
Lynda Graves, Administration Services Manager, City Manager's Office
Rena Kendall-Craden, Civic Engagement and Communications Director
Rosemary Hagiwara, Acting City Clerk
Anita Zaenker, Chief of Staff, Mayor's Office
Neil Monckton, Chief of Staff, Mayor's Office
Alvin Singh, Communications Director, Mayor's Office
Jessie Adcock, General Manager, Development Buildings and Licensing
Iain Dixon, Assistant Director, Legal Services
Kathryn Holm, Chief Licence Inspector

FROM: Paul Mochrie
Deputy City Manager

SUBJECT: Liquor Service in Limited Service Food Establishments

PURPOSE

This memo reports back on Council's May 27, 2020 direction to staff to work with the Province to explore ways that small food retailers operating as Limited Service Food Establishments could be allowed to sell liquor on a temporary basis to assist with their post pandemic recovery. Staff are also planning a briefing for Council on this issue; this memo is provided as a preface to that briefing.

BACKGROUND

Limited (Ltd) Service Food Establishments

The City's *Ltd Service Food Establishment* business licence is issued to retail businesses that prepare, sell and serve fresh food at premises where seating is limited to a maximum of sixteen (16) seats of any kind, whether inside or outside. This category of retail licence was created to enable small sized businesses offering limited food service to operate without meeting the stringent building code and occupancy requirements of restaurants.

As of July 8, 2020 over 1,200 Ltd Service Food Establishment business licences have been issued in 2020. Examples of Ltd Service Food Establishments include independently operated bakeries, pizzerias, poke shops and cafes, and businesses like Subway, 7- Eleven and Tim Hortons.

As retail businesses, Ltd Service Food Establishments are expressly prohibited from serving alcohol in the License By-law.

CONSULTATION WITH LIQUOR AND CANNABIS REGULATION BRANCH (LCRB)

Staff consulted with provincial counterparts at the LCRB to discuss ways Ltd Service Food Establishments could be allowed to sell liquor on a temporary basis to assist with their post pandemic recovery. While the Province has made a number of COVID-related changes for businesses already licensed to sell and serve liquor (Table 1), the LCRB is not entertaining policy changes that would enable currently unlicensed businesses, like Ltd Service Food Establishments, to sell liquor on a temporary basis. Any business wishing to sell liquor is expected to apply and meet the requirements for permanent provincial liquor licensing, whether opting to operate as a Food Primary or a Liquor Primary establishment.

Temporary liquor licences remain available for special events such as festivals or private functions. This LCRB licence is for occasional events only and will not accommodate on-going liquor sales at Ltd Service Food Establishments.

Table 1 Temporary, pandemic-related policy changes to Provincial liquor licences

LCRB Liquor Licence Type	Policy Change for Licence Holders
Liquor Retail Store	Retail Stores – expanded hours of sale & allowed to deliver to customers
Food Primary; Liquor Primary	Allow food primary and liquor primary licensees to sell and deliver packaged liquor to patrons for off-site consumption in conjunction with the delivery of a meal. Starting in late July 2020 licensees will be able to purchase liquor from the province at wholesale prices.
Food Primary; Liquor Primary; Manufacturer with lounge endorsement	Expedited process for applications for temporary expanded service areas
Manufacturer with sales endorsement	Liquor manufacturers (breweries, wineries, distilleries) may make, sell and donate hand sanitizer

LIQUOR SALES & SERVICE OPTIONS FOR LTD SERVICE FOOD ESTABLISHMENTS

Given the LCRB will not be amending its existing liquor licensing to accommodate temporary liquor sales at unlicensed businesses for pandemic recovery, staff reviewed existing LCRB liquor licence types to determine how feasible each might be for Ltd Service Food Establishments. Table 2 summarizes the assessment; detailed description of the licence types and assessment follows.

Table 2 Summary: Compatibility of Provincial liquor licences with Ltd Service Food Establishments

Provincial Licence/Permit	Compatible with Ltd Service Food Establishment	Details
1. Liquor Special Event Permit	YES	Permit available from LCRB for 3 events/month up to 24/year
2. Food Primary Licence	YES with permanent change to business	Requires successful permanent change of business from retail to restaurant (meet Zoning, Building, Fire and Licensing requirements); feasibility is site specific.
3. Liquor Retail Store Licence	NO	LCRB moratorium on new licences. Provincial licence terms are incompatible with food service business
4. Liquor Primary Non-traditional Licence	NO	City liquor policy restricts to art galleries and retail art dealers.

1. Liquor Special Event Permit

This liquor permit allows businesses, individuals, and organizations to serve and sell liquor at special events such as private functions or community events. Permits are limited to 3 events per month to a maximum of 24 per year. The licence fee is \$25/day (event with pre-sold tickets to invited guests) or \$100/day (event open to public with tickets available at the door). Permit applications are made online to the province.

ASSESSMENT: Compatible. Ltd Service Food Establishments are eligible to apply.

2. Food Primary Licence

This permanent provincial liquor licence is for a food service establishment with a fully equipped kitchen and menu including appetizers and main courses. It allows for liquor sale and service during hours when the kitchen is open and the full food menu is available. The Province restricts liquor sale and service to between 9:00 a.m. and 4:00 a.m.; the City further restricts hours of liquor sale and service to between 9:00 a.m. and 1:00 a.m. Monday – Friday, and 9:00 a.m. – 2:00 a.m. Saturday and Sunday. The provincial application and first year licensing fee is \$950; the provincial application process requires public notification.

To be eligible for this provincial licence, a Ltd Service Food Establishment must meet City requirements to change its land use designation from retail to restaurant which include

- Zoning By-law review, and associated Development Permit amendment;
- Building Review - recalculation of occupant load from retail to assembly occupancy, and review of structural, ventilation, washroom and other Building Code requirements.

The business must also amend its business licence from Ltd Service Food Establishment, with a fee of \$558/year, to Restaurant Class-1, with a fee of \$807.00 +\$10.40 per seat/year (based on 2020 fees).

The timeframe for an applicant is estimated to be a minimum of six months and depends upon applicant readiness, LCRB processing and review (currently reporting a 12 week

processing time); and the feasibility of the specific premises (Zoning and Building review and any upgrades required).

ASSESSMENT: Compatible, if Ltd Service Food Establishments make a permanent change to their business type and operations. . Feasibility and resource investments (time and money for review and possible upgrades) are site specific. This option might be of interest to some Ltd Service Food Establishments looking for a longer term option.

3. Liquor Retail Store Licence

This licence is for the sale of liquor or wine only, for consumption off site. The LCRB restricts the number of licences it issues and has a current moratorium on new licences. Licensees may sell a limited number of items in addition to liquor, B.C. lottery products, cigarettes, packaged snacks (i.e., chips and nuts) and liquor-related items such as glasses, bottle openers and corkscrews. However, the store must not resemble a convenience store, and may not stock other items, such as milk and newspapers.

ASSESSMENT – Not compatible. The terms and conditions of the provincial licence are not compatible with the business of Ltd Service Food Establishment. The LCRB has a moratorium on new licences.

4. Liquor Primary – Non-traditional Licence

This provincial licence was introduced in 2017. Any business not operating out of a moving vehicle, and not aimed primarily at children, can apply for a licence to sell and serve liquor. The licence is a liquor primary licence (the licence held by bars and night clubs) and all provincial liquor primary application processes, terms and conditions (including the application fee of \$4400) and public notification apply. In Vancouver, Council resolutions are required for all new liquor primary applications. The difference is that unlike bars and nightclubs, liquor sale and service must not be the primary business. As such, these licences are referred to as liquor primary - non-traditional. The LCRB reports that since 2017, approximately 10 such licences have been issued in B.C. to businesses like hair salons, spas and art galleries.

Non-traditional liquor primary licences were considered during the city-wide liquor policy review (2016-2017) and Council approved a policy to support applications only for art retailers and art galleries. This policy aligned with City liquor policy goals to balance access to liquor and support for arts, culture and local economy, with protection of public health and safety. Considerations included policy in other municipalities – no BC municipality had issued a non-traditional licence at the time, and few had made policy decisions about the type of businesses they would consider. Public surveys revealed strong support for liquor sales at art galleries. The current City policy for retail art dealers and art galleries requires businesses to hold two city business licences: a primary business licence and a secondary business licence as a Class-8 liquor establishment. Liquor may be sold only during regular hours of the primary business not earlier than 9:00 a.m. and not later than 11:00 p.m. The City's liquor establishment distancing requirements do not apply as liquor sales are not the primary business. While city staff have had a few inquiries, as of June 2020, the City has not yet received a complete application or issued a Class 8 licence.

ASSESSMENT: Not compatible. City policy restricts this licence to retail art dealers and art galleries.

A change to city-wide liquor policy to enable consideration of Ltd Service Food Establishments for liquor primary non-traditional licences would require staff to undertake

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Deputy City Manager



There is no mechanism through which the LCRB will temporarily license businesses like Ltd Service Food Establishments to assist with their COVID-recovery. Ltd Food Services Establishments may take advantage of liquor special event permits for occasional hosted events, up to 24 per year. Businesses wishing to sell liquor on a permanent basis may choose to change their business model and undergo the necessary City Zoning, Building and Licensing by-law reviews, and apply to the province for licensing. This change will take time and cost money; it may not assist operators in the short term with COVID recovery. Any changes to City policy on the liquor primary non-traditional licence would require reconsideration of city-wide liquor policy. It should be noted that such a review would include broad consultation and is also unlikely to provide short term, temporary support to existing Ltd Service Food Establishments. As set out above, staff will provide Council with a detailed briefing on this matter. If you have any questions in advance of the briefing, please let me know and we can incorporate answers into our presentation.

CONCLUSION

- possible limitations due to zoning restrictions;
 - possible limitations due to occupant load reassessments for assembly use;
 - DTES and GED moratoria.
- This work would include internal and external consultation:
- Internal departments (PDS; DBL; Legal);
 - Vancouver Fire and Rescue Department;
 - Vancouver Police Department;
 - Vancouver Coastal Health;
 - Industry;
 - BIAS.
- inter-departmental policy review and analysis to consider impacts, potential benefits for business, and implementation requirements. Considerations would include