



Local Government/First Nations Qs & As

Licence Types and Eligibility

What are the eligibility criteria for a food primary?

To be eligible for a food primary licence, all licensing requirements must be met and the focus must be on food when liquor is being served. That means a food primary can be used for activities that are not food-focused, as long as there is no liquor service at that time (for example, a banquet hall could be used for a lecture). Also, any business, even businesses without a primary focus on food service, can apply for a food primary licence (e.g. a funeral home is not in the food business, but could apply for a food primary to offer food and refreshments after a service). Food primaries do not require local government/First Nations input unless they are applying for the patron participation endorsement or hours past midnight.

What are the eligibility criteria for a liquor primary?

Any business is eligible for a liquor primary licence, except those that operate from a motor vehicle or focus on minors, (e.g. store, spa, rental hall), subject to zoning, and to local government and public input. Liquor primary establishments must ensure food is available for patrons.

Where a liquor primary is in another business (e.g. a barber shop), the licensed area may completely or partially overlap the main business, or be adjacent to it. Also, the hours of operation may completely or partially overlap the main business' hours of operation. The Liquor Control and Licensing Branch (LCLB) will determine if and when minors are permitted. The licensee must apply to the LCLB if they want to change or close the main business, as that might affect the terms and conditions of the licence.

Can a food primary switch to a liquor primary late at night?

Yes, this is permitted as long as there is both a food primary licence and a liquor primary licence sharing the same space but with different operating hours (e.g. the food primary closes at 9 p.m. when the liquor primary opens). This requires two separate licences, with each licence subject to the normal licensing requirements, including local government and public input for the liquor primary licence.

What activities can take place at a manufacturing site?

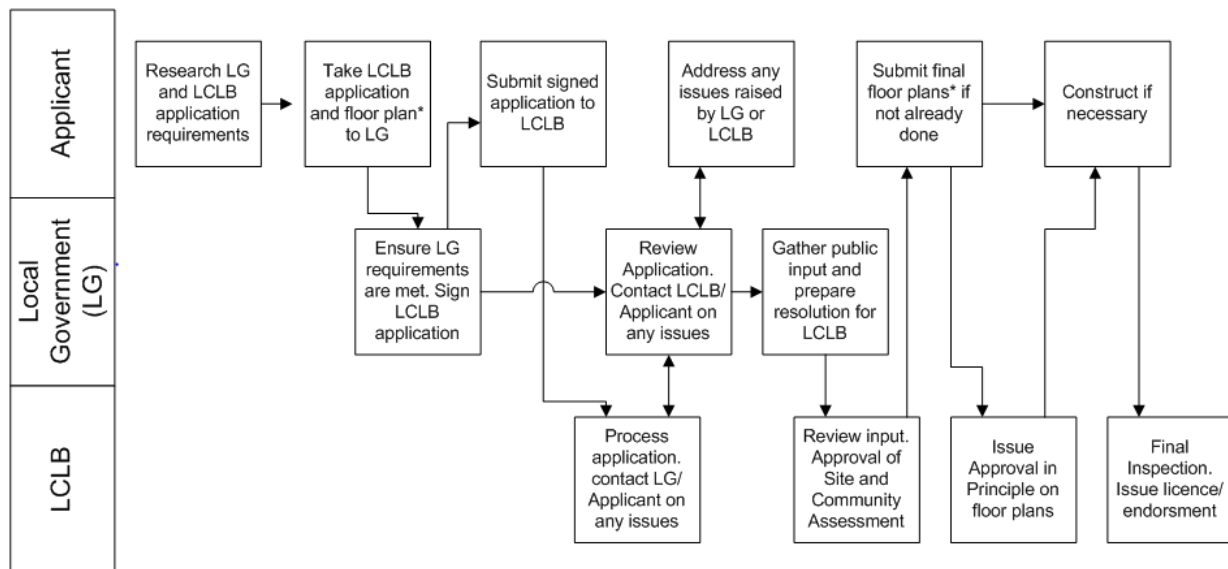
Manufacturers (wineries, breweries and distilleries) can have one or more indoor tasting areas where patrons can consume samples of product manufactured on-site. They can also conduct guided tours, with patrons consuming samples from the tasting area or drinks from the manufacturer lounge.

Manufacturers can also apply for the following endorsements, subject to zoning:

- An on-site store endorsement, which allows for sales to the public from an on-site retail store and/or via the internet;
- A manufacturer lounge with service by the glass or bottle (not restricted to sample size). Lounges are subject to local government/First Nations and public input;
- A special event area, which is similar to a lounge but can only be used during events.
- A picnic area, which is a no-service area where patrons can consume liquor they have obtained from the sampling area or an endorsement area. Picnic areas close half-an-hour after sunset and are subject to zoning and capacity limits.

Licensing Process

What is the licensing process for a liquor primary, manufacturer lounge or special event area?



*Requires occupant load stamp, normally provided by the local government.

What is the process for a licence amendment?

For licence amendments that require local government/First Nations (LG/FN) comment, the process is:

- The applicant takes the application to the LG/FN to be signed. This serves as notification that comment is required and initiates the 90-day timeframe.
- The applicant submits the signed application package to the LCLB.
- The LG/FN reviews the application, gathers the views of residents (unless there are no nearby residents) and submits comment to the LCLB regarding the [regulatory criteria](#). (The LG/FN may also choose to opt out of providing comment by noting that decision on the application form.)
- The LCLB reviews the comment and proceeds accordingly.

Local Government & First Nations Comment

What is the role of local government/First Nations in the liquor licensing process?

The role of local government/First Nations is to consider the impact of the licence application on their community and to provide comments, generally in the form of a resolution.

How does the process differ for Treaty First Nations?

Treaty First Nations may adopt the provincial model outlined in this document for providing input, or they may develop a method of their own. As different nations may have different provisions within their agreements with regard to liquor, any applicants on Treaty First Nations land should call the LCLB prior to applying.

Which applications will a local government/First Nation be invited to provide comment on?

New licence applications

- Liquor primary
- Liquor primary club

Amendments to a licence:

Liquor primary/liquor primary club

- Relocations Extension to the hours of liquor service
- Increase in person capacity
- Patio addition
- Adding or amending a temporary use area endorsement (golf courses and ski hills only)
- Transition from a liquor primary club to a regular liquor primary

Manufacturers

- Lounge endorsement
- Special event area endorsement
- Increase in the person capacity or hours of a lounge
- Increase in the capacity/size or hours of a special event area

Food primary

- Patron-participation entertainment (e.g. dine and dance or karaoke)
- Liquor service past midnight
- Temporary use area endorsement (golf courses and ski hills only)

Other Consultation Requirements:

- Picnic endorsements at a manufacturing site (new or change applications) requires input in regard to zoning only.
- Liquor primary relocations very close to the existing site (such as next door), in which case input would be in the form of objection/no objection

Input is requested for temporary changes (for an event) in the form of objection/no objection:

- Expand hours or person capacity for liquor primary
- Expand hours or size/capacity for manufacturer lounge or special event area

What should the comment include?

In providing comment, section 71 of the [Regulations](#) states that the local government/First Nation must take into account the following considerations:

- The location of the establishment;
- The person capacity and hours of liquor service of the establishment.

The local government/First Nation must comment on the following (see [resolution template](#) and example of resolution comments for a liquor primary):

- The impact of noise on the community in the immediate vicinity of the establishment;
- the impact on the community if the application is approved;
- (for a food primary only) whether the amendment may result in the establishment being operated in a manner that is contrary to its primary purpose;
- the views of residents, and a description of the method used to gather views; and
- the local government's/First Nation's recommendations (including whether the application should be approved) and the reasons on which they are based.

In addition to providing comments, the local government/First Nation should provide any reports that are referenced in its comments.

How do local government/First Nations provide comment?

- A [resolution](#) OR
- Delegation – For applications that would otherwise require a resolution, a local government can delegate authority to staff to provide comments. The delegation must comply with applicable local government legislation and section 40 of the *Liquor Control and Licensing Act*. The delegation can specify some or all types of liquor licensing applications, and can be very specific (for example, all applications to extend closing times up to 2 am, or all applications where public input resulted in no more than five letters of opposition). A local government that has delegated authority to staff should send a copy of the delegation to the LCLB at lclb.lclb@gov.bc.ca describing the parameters of the delegation.

What if the local government/First Nation does not want to provide comment?

If the local government/First Nation does not want to provide comment, they can choose to “opt out”. This is done on a case by case basis by signing the application form that the applicant brings to the local government/First Nation. LCLB will be reviewing this process and consulting on options in the coming months to streamline this process.

A local government/First Nation can't opt out of half of the process. If a local government/First Nation has gathered public input, they must also provide the LCLB with their comments on the application. Similarly, if the local government/First Nation wants to provide comment, they must gather public input (unless there are no nearby residents).

Where the local government/First Nation opts out, the LCLB:

- Will gather the views of residents; and
- May request additional information from staff at the local government/First Nation to determine if it would be in the public interest to approve the application.

What if the comments provided do not meet all of the regulatory criteria?

If the comments fail to meet the [regulatory criteria](#), the LCLB will request that the local government/First Nation provide new or amended comments that address the outstanding criteria.

If the local government/First Nation is unable to provide comments that address all of the criteria, the LCLB will take over the process to determine if the application should be approved.

How long does the local government/First Nation have to provide comments? Comments must be provided within 90 days after the local government/First Nation has signed the LCLB application form. (The local government/First Nation can withhold signing the form until the applicant has met all of their requirements and they are ready to consider the application e.g. zoning, business licence application, fee submission, etc.)

If local government needs more time, they may submit a written request to the LCLB before the end of the 90 days explaining what stage they are at, and offer timelines for providing the LCLB with comments. If an extension is granted, the LCLB will provide written authorization. Please note that delays in the application process can have a significant impact on the applicant.

If the applicant is the reason for the delay, please notify the LCLB. If the applicant is not making efforts to move an application forward, the application will be terminated.

Can the local government/First Nation recommend approval subject to certain conditions?

In some circumstances, the local government/First Nation may want to recommend approval with certain restrictions (e.g. hours of liquor service) placed on the licence/endorsement. In these situations, the comments should clearly explain the rationale for recommending restrictions.

If the local government/First Nation is requesting the imposition of terms and conditions on a licence, they should consult with the LCLB first to ensure the LCLB has the required authority to do so before finalizing a conditional recommendation.

The local government/First Nation may also have the ability to impose other operating rules on the proposed establishment through the terms and conditions of the applicant's business licence. In these cases, it would fall to the local government/First Nation to enforce those rules.

Can the local government/First Nation provide its own restrictions on entertainment?

A local government/First Nation may, through a bylaw, restrict or prohibit any or all types of entertainment that would otherwise be permitted under the regulation or the terms and conditions of a licence, but that jurisdiction will be responsible for enforcing any bylaw.

Gathering the Views of Residents

When must a local government/First Nation gather the views of residents?

If the local government/First Nation wants to provide comments, they must first gather the views of residents (unless there are no residents nearby). The LCLB must be satisfied that residents have had an opportunity to express their views. The LCLB will only be able to consider comments if the local government/First Nation has also gathered public input.

What methods can be used to gather the views of residents?

The local government/First Nation may use one or more of the following methods:

- Receive written comments in response to a public notice of the application. Examples of public notice could include posting a notice at the site, advertising in local newspapers, or delivering letters to nearby residents.
- Conduct a public hearing
- Hold a referendum
- Any other similar process

The local government/First Nation must ensure the method they choose:

- Is fair and equitable to both the residents and the applicant;
- Provides all nearby residents with reasonable notice and opportunity to comment;
- Avoids any perception of bias;
- Is appropriate to local circumstances; and
- Provides sufficient information for residents to understand the nature of the application including:
 - The type of licence or change to a licence
 - The proposed person capacity and/or hours of liquor service, if applicable.

The local government/First Nation may gather the views of residents in conjunction with a public input process to consider a rezoning application for the proposed site.

Floor Plans with occupant load

What is local government's role in regards to occupant load?

Licences such as food primary and liquor primary licences cannot be issued unless the LCLB sets a person capacity based on occupant load. Occupant load is also required for structural expansions to various licence types. The LCLB directs applicants to take their floor plans to the local government/First Nation to be stamped with an occupant load (based on section 145 of the [Regulation](#)). If the local government/First Nation does not issue occupant load, the applicant must get something in writing to verify this. In these situations, the applicant can take their floor plans to a registered professional, such as an architect, to get the occupant load.

If you have any questions about this document, please contact the LCLB toll-free at 1-866 209-2111.

APPENDIX 1: Resolution Template

RE: *[Describe type of application, address and establishment name or proposed name]*

At the [council/board] meeting held on [date], the [council/board] passed the following resolution with respect to the above-referenced application:

“Be it resolved that:

1. The [council/board] has considered the following*:
 - The location of the establishment
 - The person capacity and hours of liquor service
2. The [council’s/board’s] comments on the prescribed criteria are as follows:
[Comment on the following]

Criteria requiring comment	Guidance
The impact of noise on the community in the vicinity of the establishment.	<i>Comments should be made in relation to potential impacts on the community in the vicinity of the establishment (or proposed establishment) if the new licence or licence change were to be approved. Comments should be made in the context of the considerations below (see footnote), and speak to:</i> <ul style="list-style-type: none"> • <i>the impact of noise</i> • <i>the general impact (impacts beyond noise)</i>
The general impact on the community if the application is approved.	
For a food primary licence only: Whether the amendment may result in the establishment being operated in a manner that is contrary to its primary purpose.	<i>The primary purpose of a food primary is to have a focus on food at all times when liquor is being served. Comments should speak to whether approval of the application may result in the food primary operating contrary to this (e.g. being operated more like a liquor primary, such as a nightclub or pub).</i>

3. The [council’s/board’s] comments on the views of residents are as follows: *[describe the views of residents, and the method used to gather the views].*
4. The [council/board] [recommends/does not recommend] the [issuance of the licence/ approval of the licence change] for the following reasons: *[provide detail]*

[Attach reports that are referenced in the comments.]

** The Regulations require that the local government/First Nation consider these factors before providing comment. These considerations provide the context for understanding the potential impact of any new licence or change application. For example, an application for later hours needs to be considered in the context of the establishment’s location and person capacity – as well as the proposed hours – to understand the potential impact to nearby residents.*

APPENDIX 3:

Example of Resolution Comments for a new liquor primary application

The following example illustrates the type of comments that local governments/First Nations might provide. Comments may be a mix of positive, negative and neutral observations relevant to each piece of criteria. The final recommendation is the result of balancing these “pros and cons.”

If the comments refer to a staff report, the staff report must be attached.

The impact of noise on the community in the immediate vicinity of the establishment

Noise is not expected to be an issue because of the size and closing hours. The location is in a commercial area that is removed from nearby residences and it is suitable for a late-night entertainment venue where some street noise at closing time can be anticipated.

The impact on the community if the application is approved

If the application is approved, the impact is expected to be positive in that it will support the growth in tourism and offer a new social venue for residents. The maximum person capacity of 150 with closing hours of 2 a.m. Tuesday through Saturday and midnight on Sunday is acceptable. A larger capacity or later hours is not supported given the low number of police on duty at that time.

Council’s comments on the views of residents

A total of 11 responses were received from nearby residents. Eight were in support of the application citing the creation of additional jobs and a new entertainment venue as their primary reasons. Three letters were received in opposition to the application, citing concerns about noise and increased risk of drunk driving.

Description of method used to gather views of residents

The views of residents within one kilometre of the proposed establishment were gathered through written comments received in response to a public notice posted at the site and newspaper advertisements placed in two consecutive editions of the local newspaper. Residents were given 30 days from the date of the first newspaper advertisement to provide their written views. Residents were also given an opportunity to provide comments at the public meeting of Council held on (date).

Council’s recommendation and rationale

Council recommends the issuance of the licence. Council believes the majority of residents in the area support the issuance of the licence, provided the closing hours are no later than 2 a.m. The establishment will create new jobs and provide a new entertainment venue that is needed in this area. The 2 a.m. closing time is consistent with other licensed establishments in the area and noise is not expected to be an issue.