



LCLB Changes Affecting Local Governments and First Nations

The following changes come into effect on January 23, 2017:

1. Application process for liquor primaries, manufacturer lounges and special event areas

Current process

The Liquor Control and Licensing Branch (LCLB) reviews the application before requesting input from the local government/First Nation (LG/FN), so the application is processed by the two bodies consecutively.

New process

The applicant submits the application to the LG/FN first. If the LG/FN is ready to consider the application (the applicant has met the LG/FN requirements e.g. zoning, development permit, business licensing), they sign for the receipt of the application. The applicant immediately submits the signed application to the LCLB. The LG/FN and the LCLB process the application concurrently, and the LG/FN gathers public input and submits a resolution within 90 days. Applicants are encouraged to submit floor plans with occupant load as early as possible in the process. The LG/FN should contact the LCLB if they have any concerns about the application.

Local governments and First Nations can prepare for these changes by considering what requirements need to be in place before they are ready to consider an application, and deciding who will sign the application and who will serve as a contact person for the LCLB.

For more information about the process, please see [Appendix A](#).

2. Delegate so staff can provide comment on applications

Current policy

For application types that require a resolution, the LG cannot authorize staff to provide comment on the LG's behalf.

New policy

A local government (LG) can delegate authority to provide comments on some or all types of liquor licensing applications that would otherwise require a resolution. The LG must comply with section 40 of *the Liquor Control and Licensing Act*. See [Appendix B](#) for more information.

An LG must also ensure that there is a process in place for the reconsideration of delegated comments by the local government council or board, as the case may be, including how to apply.

3. Criteria for comment on applications

Current policy

The LG/FN must comment on the following criteria when providing a resolution to the LCLB on an application for a liquor primary, a manufacturer lounge, or a manufacturer special event area:

- the location of the establishment;
- the proximity of the establishment to other social or recreational facilities and public buildings;
- the person capacity and hours of liquor service of the establishment;
- the number and market focus or clientele of licence establishments within a reasonable distance of the proposed location;
- the impact of noise on the community in the immediate vicinity of the establishment; and
- the impact on the community if the application is approved.

New policy

For all application types, the LG or their delegate must include comments on:

- the impact of noise on the community in the immediate vicinity of the establishment;
- the impact on the community if the application is approved; and
- (for a food primary regarding hours after midnight or patron-participation entertainment) whether the amendment may result in the establishment being operated in a manner that is contrary to its primary purpose.

In providing comment, the LG/FN or their delegate must take into account the following attributes of the establishment (or proposed establishment):

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

4. Opting out of part of the LG/FN comment and public input process

Current policy

Unless a LG/FN opt outs of providing comment on an application, they normally conduct a public input process and provide a resolution commenting on the regulatory criteria. In some cases, the LG/FN provides a resolution but does not conduct public input, or vice versa. Where the LG/FN has not gathered input, the LCLB conducts a public input process prior to considering the resolution provided by the LG/FN (unless the proposed establishment is in a remote area with no nearby residents). In situations where the LG/FN provides input, but does not provide a resolution, the LCLB has often been able to consider the input received and move the application forward.

New policy

A LG/FN will need to do both – gather public input and provide a resolution/comment. If a LG/FN is not prepared to do both processes, the LG/FN will need to opt out.

If a LG/FN wants to provide comments on an application, a public input process is required unless there are no residents in the area of the proposed establishment. . The LCLB will only be able to consider LG/FN comment/resolution if the LG/FN has also conducted public input. This is to ensure that the comments are informed by the public input received.

On the flip side, where a LG/FN has conducted input, it's important to note that they must also provide comments. LG/FNs may want to consider delegating staff to provide comments (see #2 above) in situations where public input results in minimal opposition.

5. Applications where the LG/FN is the applicant

Current policy

If a LG/FN is applying for a new licence or a licence amendment that requires input, the LG/FN may gather the views of residents and provide a resolution to the LCLB.

New policy

If a LG/FN is the applicant, the LCLB will gather community input and consider the regulatory criteria; the LG/FN may not conduct public input or provide comments.

6. Manufacturer Picnic Areas – zoning and capacity

Current policy and procedure

Picnic area endorsement applications do not involve LG/FN comments. There is no person capacity for picnic areas. Only large or rural/agricultural properties are eligible.

New policy and procedure

Any manufacturer, rural or urban, can apply for a picnic area (an outdoor area where patrons can consume liquor but where there is no liquor service).

Picnic areas are now subject to capacity limitations. For new picnic areas, applicants will propose a person capacity. The LG/FN will be asked to sign the application confirming that zoning allows for the operation of a picnic area with the proposed capacity and size, and in the proposed location on the manufacturing site. For existing picnic areas, a person capacity of 30 will be set. If the manufacturer wants a larger capacity, they will need to submit an application to the LCLB, including LG/FN confirmation that zoning allows for the requested capacity.

Because picnic areas have the potential to cause noise disturbance to nearby residents, they must be vacated half an hour after sunset, and amplified sound is no longer permitted. Manufacturers that want amplified sound outside may apply for a lounge patio or an outdoor special event area. LCLB staff will carefully assess applications to ensure the proposed size and location of the picnic area minimizes the potential for disturbance to nearby residents.

It's important to note that a picnic area is different than a lounge patio, which is a service area that can operate after sunset, and is subject to LG/FN and public input.

The purpose of this change is to ensure that a LG/FN is aware of proposed picnic areas and expansions to existing picnic areas, and that zoning permits outdoor liquor consumption at the proposed capacity. Local governments can prepare for this change by considering how zoning applies to picnic areas (as well as how it applies to manufacturing facilities in general, including an on-site store or lounge).

7. Other types of businesses can apply for a liquor licence

Current policy

Only businesses primarily engaged in liquor service, entertainment or hospitality may apply for a liquor primary licence. To be eligible for a food primary licence, the business must have a focus on food at all times.

New policy

Any business can apply for a liquor primary licence, except for businesses that operate out of a motor vehicle or are primarily directed at minors. This means, for example, that retail businesses, rental halls, spas, beauty salons, funeral homes and art galleries are now eligible. The application is subject to local government and public input, just like any other liquor primary application, and zoning would have to allow for a liquor primary at the site. The licensed area may completely or partially overlap the main business, or it may be adjacent to it. In

addition, liquor service hours may completely or partially overlap the main business' operating hours. The LCLB will determine if and when minors will be permitted. The licensee will have to apply to the LCLB if they want to either change or close the main business, as that might affect whether minors are permitted or other licence terms and conditions.

A food primary can now operate without a focus on food in the service area if liquor is not being served. This means a restaurant can now be used for activities that are not food-focused, as long as there is no liquor service at that time.

8. Permit establishments to have dual food primary and liquor primary licensing

Current Policy

Food primary and liquor primary establishments may not occupy the same location with each licence operating under different hours. For example, an establishment may not operate as a food primary until 9 p.m., and then as a liquor primary from 9 p.m. until closing.

New Policy

Food primary establishments can now apply for a liquor primary licence in the same space and operate as a bar or nightclub after a certain hour, such as 9 p.m. The standard process for applying for a liquor primary licence applies, including input from LG/FN and the public. Liquor primary establishments can also apply for a food primary licence at the same location and operate as a restaurant during specified hours (for example, from opening until 7 p.m.), during which time minors must be permitted as patrons (with or without a parent or guardian). Both licences must be issued to the same licensee.

9. Provide flexibility to extend the hours of liquor service in exceptional circumstances

Current Policy

Licensed establishments cannot be licensed outside the hours of 9 a.m. to 4 a.m. Liquor stores are permitted to operate between 9 a.m. and 11 p.m. Extended liquor hours are not permitted. For example, an establishment can open outside the permitted liquor hours to host a special event, such as an Olympic hockey game starting at 7 a.m., but liquor must not be served until 9 a.m.

New Policy

In exceptional circumstances, licensees can apply in writing to request the LCLB's approval to serve liquor at their establishment outside the permitted hours. The licensee should submit a detailed rationale for the exceptional circumstance. The LCLB has the authority to temporarily or permanently extend liquor hours in exceptional circumstances, as long as it is not contrary to the public interest or safety. Zoning would have to allow for the operation of the establishment during the proposed hours. The LCLB would request LG/FN comment for certain application types, such as liquor primary establishments.

For more information, please contact:

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Appendix A – Parallel process for LPs, manufacturer lounges and special event areas

Effective date: January 23, 2017

This document explains the process to address Liquor Policy Review (LPR) recommendation #39: *Government should consult with UBCM, local governments and First Nations about streamlining the liquor application process. An applicant for a liquor primary licence should be able to seek input from the local government or First Nation before or at the same time it applies to LCLB.*

This process applies to applications for:

- New liquor primaries (LPs), including LP Clubs
- LP relocations requiring local government and public input (input is not required if a LP is relocating very close by with no increase in capacity or hours)
- Manufacturer lounge endorsements
- Manufacturer special event area endorsements

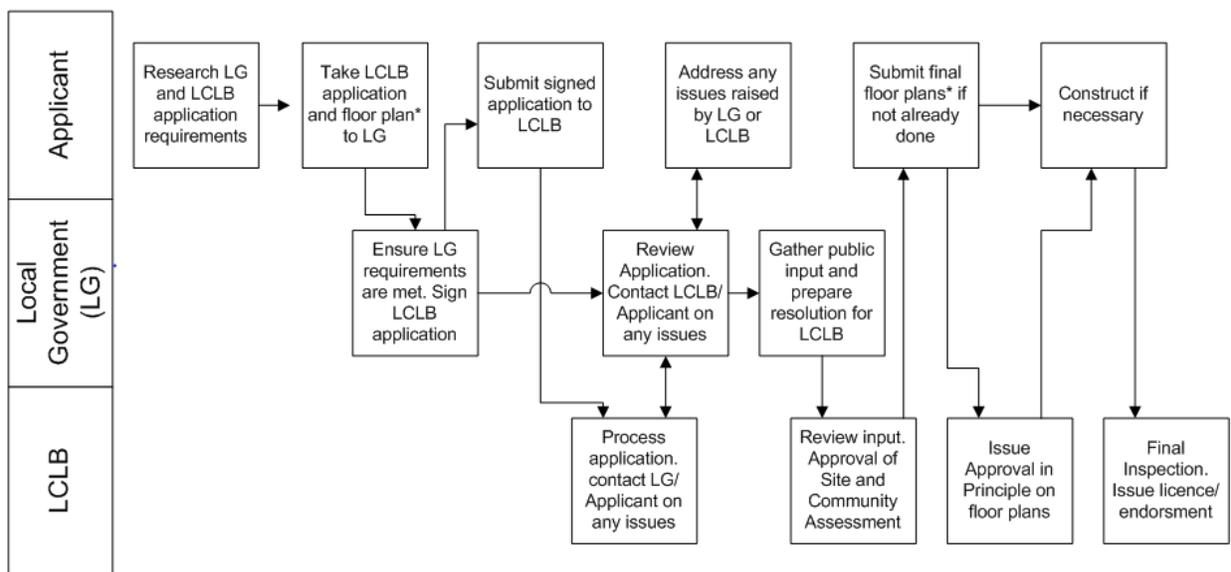
This process comes into effect January 23, 2017. Applications in progress as of that date will follow the new process – the LCLB will contact the LG/FN during the transition period about any applications in progress.

Key Changes Summary:

Key Change	Potential impacts on LGs/FNs
The LCLB will provide more detailed information to applicants, including an application guide. Applicants will be encouraged to research LG/FN and LCLB requirements before submitting their LCLB application.	LGs/FNs may get more enquiries in advance of applications being received. LGs/FNs may want to consider resource materials to explain their application processes and requirements, and identify contact people to address enquiries.
Along with the licence application, applicants will need to submit final floor plans to LCLB with occupant load stamp, wherever possible.	Many applicants will be going to building/fire officials to get an occupant load stamp prior to submitting the LCLB application.
Before sending the application to the LCLB, applicants will need to have the application signed by their LG/FN. Sign-off initiates the 90-day timeframe for the LG/FN to gather input and provide a resolution.	LGs/FNs may want to consider: <ul style="list-style-type: none"> • What requirements need to be in place prior to signing the application form and initiating the 90-day timeframe (e.g. LG/FN fee payment, LG/FN application form, zoning) • Who at the LG/FN would be authorized to sign the form, and who would serve as the contact for the LCLB.
Applicants will immediately submit LG/FN-signed form to the LCLB. The LCLB will notify the LG/FN that it has received the application.	If the LG/FN doesn't receive notification from the LCLB that it has received the application, the LG/FN should contact the LCLB

Key Change	Potential impacts on LGs/FNs
<p>Applications will be considered concurrently by the LG/FN and the LCLB.</p> <p>The LCLB will not provide the LG/FN with an application summary, since it is no longer needed.</p>	<p>LG/FN review:</p> <ul style="list-style-type: none"> The LG/FN will base its review on the information contained in the application package (location, hours, capacity, how it will operate, etc.), as well as any additional information provided by the LCLB. The LG/FN should contact the LCLB with any questions or concerns they have about the application. LCLB review: The LCLB will notify the LG/FN of any issues, clarifications or changes to the application

Application process:



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

Prior to application:

Applicants will be directed to contact the LG/FN before applying to ask about their requirements (fees, development permit, business licensing, zoning, etc). Where possible, an applicant will be required, to obtain final floor plans with an occupant load stamp prior to submitting their application.

Applicant submits application to the LG/FN:

The applicant initiates the process by taking the required components of the application package to the LG/FN. The application package will include the letter of intent (describing how the establishment would operate) and, where possible, final stamped floor plans. Once the LG/FN requirements are met and the LG/FN is ready to consider the application, the LG/FN will sign and date the application form, initiating the 90-day timeframe within which to provide the LCLB with comments. The LG/FN will also identify who at the LG/FN will serve as the

contact for the LCLB. Alternatively, the LG/FN could choose to advise that they are opting out of providing comment (see LG/FN opting out, below).

Applicant submits application to the LCLB:

The applicant submits the LG/FN-signed application package to the LCLB. The application form will clearly state that the application will not be considered unless it is also submitted to the LCLB.

The LCLB then notifies the LG/FN contact that the LCLB has received the application, and provides the LCLB contact person. If the LG/FN doesn't hear from the LCLB, they should contact the LCLB or the applicant.

Consideration of the application:

Communication between the LG/FN and the LCLB is critical at this stage, as both are reviewing the application concurrently.

LCLB review of application: The LCLB will review the application to ensure it includes critical information, such as the proposed location, hours of operation, person capacity and floor plans. The LCLB will follow up on anything that requires clarification, or if the applicant is requesting something that is contrary to legislation or policy. The LCLB will work with LG/FN to resolve any issues. If any major changes to the application are made, the applicant will be required to provide revised documents to the LG/FN. At this stage, the LCLB will also assess issues such as applicant suitability (see below).

LG/FN review of application: The LG/FN will consider the application based on the information contained in the application form, including location, capacity, hours, the letter of intent and any additional information provided by the LCLB. The application form will request that the LG/FN gather public input (if there are any residents nearby) and provide a resolution commenting on the application within 90 days of signing the form. If the LG/FN needs more time, they can submit a written request to the LCLB.

Resolution, SCA, AIP and licence issuance:

Once received, the LCLB will review the LG/FN comments and make a decision on Site and Community Assessment, copying the LG/FN on the email. If stamped floor plans have been provided, the LCLB can also grant Approval in Principle (AIP) at the same time or shortly thereafter. AIP is granted for a year to allow the applicant time to build or renovate. Once the establishment is ready to begin operating, a final inspection is conducted and the licence/endorsement is issued.

Additional Information:

Occupant load/Floor plans

Applicants will be required, where possible, to provide floor plans with stamped occupant load when they first submit their application, even if the occupant load stamp is preliminary (some LGs/FNs won't give final occupant load until construction is complete). Otherwise, occupant load should be submitted as soon as available.

LG/FN opting out of providing comment

Applicants will take the application form to the LG/FN. LGs/FNs should indicate on the application form if they are choosing to opt out of providing comment. We would ask that the LG/FN decide as soon as possible if they are opting out, so as not to delay the application; this should be done within 30 days of the LG/FN receiving the application.

In these situations, the LCLB will manage the public input process. The LCLB will ask LG/FN staff for information to assist in the process of considering whether to issue the licence/endorsement, including factors which may impact noise or the potential for community disturbance.

LCLB will be reviewing the process and consulting on options for streamlining the opting-out process in the coming months. Incomplete LG/FN recommendations

If the LG/FN plans to comment on an application, they must gather public input (unless, there are no residents nearby) and provide LCLB with their comments on the application. The LCLB will only be able to consider LG/FN comments if the LG/FN has also gathered public input. On the flip side, if an LG/FN has gathered public input, they are required to also provide comment to LCLB. Both components are required to meet the regulatory criteria.

Zoning

If rezoning is required, the LG/FN may want to address zoning prior to considering a liquor licence application. In these situations, the LG/FN would not sign the liquor licence application. When and if zoning is approved, the LG/FN would sign the application, initiating the 90-day timeframe.

If the LG/FN wants to consider zoning and liquor at the same time, the LG/FN would sign the LCLB application and ensure the LCLB is aware that rezoning would be required. The public input process can address both zoning and liquor as long as the input process provides sufficient detail about the proposed establishment (such as hours, capacity, location, etc.).

Application problems and delays

- If an LG/FN requires more than 90 days to provide comment, they are required to submit a request to the LCLB contact explaining why, and provide a proposed alternate date for providing comments.
- If an LG/FN has issues with the proposed establishment or the application is delayed for some reason, LG/FN will notify the LCLB contact.
- If the applicant is not providing the LG/FN with the information they need to be able to consider the application, LG/FN will notify the LCLB; the application will be terminated if the applicant is not taking the necessary steps to move it forward.

Applicant suitability

In rare cases, it may be determined that an applicant is not suitable to hold a licence as a result of a history of criminal activity, or other issues. The LCLB will notify the LG/FN if there are potential issues that will likely lead to an application being denied.

Appendix B – Delegate so staff can provide comment on applications

A local government (LG) can delegate the authority to provide comment on some or all types of liquor licensing applications that would otherwise require a resolution. The delegation must comply with applicable local government legislation and section 40 of the *Liquor Control and Licensing Act*, as follows.

Delegation by local government regarding comments and recommendations

- 40** (1) Despite section 154 (2) (c) of the *Community Charter*, a council as defined in that Act may delegate its powers and duties under section 38 (2) or (3) of this Act.
- (2) If a council referred to in subsection (1) delegates its powers and duties under section 38 (3) of this Act, an applicant whose application is the subject of delegated comments and recommendations under that section has the right to have the delegated comments and recommendations reconsidered by the council, and section 156 of the *Community Charter* applies as if the council had delegated a power to make a decision.
- (3) Despite section 10 of the *Islands Trust Act*, the trust council as defined in that Act may delegate its powers and duties under section 38 (2) or (3) of this Act.
- (4) If the trust council referred to in subsection (3) delegates its powers and duties under section 38 (3),
- (a) the trust council must, by bylaw, establish procedures for a reconsideration of delegated comments and recommendations, including how a person may apply for a reconsideration,
 - (b) in undertaking a reconsideration referred to in paragraph (a) of this subsection, the trust council has the same authority as that conferred on the delegate, and
 - (c) the delegate must advise the applicant whose application is the subject of the delegated comments and recommendations of the applicant's right of reconsideration.
- (5) Despite section 229 (2) (e) of the *Local Government Act*, a board as defined in that Act may delegate its powers and duties under section 38 (2) or (3) of this Act.
- (6) If a board referred to in subsection (5) delegates its powers and duties under section 38 (3), an applicant whose application is the subject of delegated comments and recommendations under that section has the right to have the delegated comments and recommendations reconsidered by the board, and section 232 of the *Local Government Act* applies as if the board had delegated a power to make a decision.
- (7) If the Council as defined in the *Vancouver Charter* delegates its powers and duties under section 38 (3) of this Act to make comments and recommendations,
- (a) the Council must, by bylaw, establish procedures for a reconsideration of delegated comments and recommendations, including how a person may apply for a reconsideration,
 - (b) in undertaking a reconsideration referred to in paragraph (a) of this subsection, the Council has the same authority as that conferred on the delegate, and
 - (c) the delegate must advise the applicant whose application is the subject of the delegated comments and recommendations of the applicant's right of reconsideration.

The delegation 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 LG 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.