

NO: R172

COUNCIL DATE: **SEPTEMBER 9, 2013**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **September 9, 2013**

FROM: **General Manager, Planning and Development**

FILE: **0340-01**

SUBJECT: **Locational Guidelines for Private Liquor Stores (Licensee Retail Stores)**

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information; and
2. Approve the policy titled "Locational Guidelines for Private Liquor Stores" which is attached as Appendix I to this report that, if approved, will be referenced by City staff in reviewing any development application that involves a rezoning to allow the establishment of a private liquor store in Surrey.

BACKGROUND

The Provincial Liquor Control and Licensing Branch ("LCLB") is responsible for the issuance of licenses for private liquor stores (an "LRS license"), which are referenced in Provincial regulations as "licensee retail stores" ("LRS"). According to the regulations, an LRS may sell beer, wine, coolers, cider and a full range of spirits and may operate daily between the hours of 9:00 a.m. and 11:00 p.m. No unaccompanied minors are permitted within an LRS.

It should be noted that government-operated liquor stores are permitted wherever a "retail store" use is permitted under Surrey Zoning By-law, 1993, No. 12000 (the "Zoning By-law") and, as such, they are permitted in many commercial locations across the City.

The LCLB requires that there be a minimum of one-kilometer (one-half mile) between LRS stores and that any proposed LRS must be located in compliance with the zoning requirements of the local jurisdiction.

Historically, LRS had to be tied to an existing liquor-primary operation, being a neighborhood pub, a hotel, a cabaret or a resort.

In anticipation of the potential de-regulation by the Province related to liquor sales, in June 2003 Council approved amendments to the Zoning By-law to establish a definition for "liquor store" and to amend the "Community Commercial Zone (C-8)" and the "Town Centre Commercial Zone (C-15)" to permit "liquor store" as a principal use, but only in combination with a liquor-primary licensed establishment. The intention was to ensure that there would not be a proliferation of private liquor stores within the City.

Following the adoption of these Zoning By-law amendments, the relevant Comprehensive Development (CD) Zones were also amended to incorporate the restriction that a private liquor store was only permitted in conjunction with a liquor-primary licensed establishment on the same site.

In 2011, the Provincial Government changed the regulations with respect to private liquor stores, no longer requiring private liquor stores to be associated with a liquor-primary licensed establishment (i.e. a neighbourhood pub, hotel, cabaret or resort). However, in Surrey the relevant zones in the Zoning By-law still required the "link" between a "private liquor store" and a neighbourhood pub (i.e., liquor-primary licensed establishment).

In May 2012, Council considered Corporate Report No. R117, which recommended an amendment to the Zoning By-law that would allow a private liquor store to operate independently of any liquor-primary licensed establishment (i.e., a neighbourhood pub), which would bring Surrey into conformance with the new Provincial regulations and with the practices of surrounding municipalities. As outlined in Corporate Report No. R117, of the eight Metro Vancouver jurisdictions surveyed, none has regulations that require a private liquor store to be located on the same lot as a liquor-primary licensed establishment; however, Richmond and Port Coquitlam require site specific rezoning to allow for the establishment of any new private liquor store.

On October 1, 2012, the Zoning By-law was amended to allow a private liquor store as a permitted use in the C-8 and C-15 Zones without having to be associated with a liquor primary licensed establishment (e.g., a neighbourhood pub).

At its Regular Council – Land Use meeting on February 18, 2013, when considering Development Application No. 7912-0339-00 to rezone the lot at 6351 – 152 Street from C-5 to C-8 to accommodate a private liquor store, Council adopted the following resolution:

"[Resolution No. RES.R13-195] - That staff provide a report that discusses and makes recommendations for criteria required for the placement and location of private liquor stores within the City of Surrey".

On April 8, 2013, Council was informed that the development of location criteria for private liquor stores was underway. At that same meeting Council gave final reading to and adopted the rezoning by-law related to the lot at 6351 – 152 Street that completed its rezoning from C-5 to C-8.

On October 29, 2012, the owner of the Fraser Heights Shopping Centre submitted a rezoning application to amend CD By-law No. 11302 pertaining to the Shopping Centre to permit a private liquor store (LRS) to operate on the site. In essence, the applicant was requesting elimination of the "link" between the operation of a private liquor store and an associated liquor-primary licensed establishment on the site. This proposed rezoning in Fraser Heights was denied by Council on June 17, 2013.

DISCUSSION

Currently, Surrey has no specific locational criteria to regulate the location of private liquor stores. It should be noted, however, that although the LCLB is not releasing any new licenses for private liquor stores at this time, there have been applications to LCLB to relocate existing private liquor store licenses. For example, the recent proposed rezoning to permit a private liquor store on the Fraser Heights site at 16033 – 108 Avenue (File No. 7912-0305-00) was a proposed relocation of the South Point Liquor Store that is located at 3020 - 152 Street.

As noted previously the LCLB requires that there be a minimum separation of one-kilometer (0.6 miles) between private liquor stores and that the proposed location of such a store be in compliance with the zoning requirements of the local jurisdiction. These same location criteria are incorporated in the location criteria as recommended in this report.

The City's policy in relation to the location of neighbourhood pubs requires that a neighbourhood pub be located a minimum of 400 metres (1/4 mile) from children's facilities which include a school, a children's park and/or a playground (a copy of the City's location guidelines for neighbourhood pubs is attached to this report as Appendix II). These same criteria are proposed to be applied to the location of private liquor stores. It is also proposed that private liquor stores not be located within 400 metres (1/4 mile) of public libraries and recreation centres as well, since these facilities are frequented by children.

The primary reason cited by residents who opposed the proposed private liquor store in Fraser Heights site at 16033 – 108 Avenue was the proximity of the proposed private liquor store to the Fraser Heights Secondary School, which is immediately to the south of the subject shopping centre.

Appendix I attached to this report is a policy titled "Location Guidelines for Private Liquor Stores" that is proposed to be used in reviewing applications for private liquor stores where a rezoning is required to allow for the establishment of the private liquor store.

The Community Commercial (C-8) Zone and the Town Centre Commercial (C-15) Zone currently allow a private liquor store as a permitted use. As such, an application for a business license to allow the operation of a private liquor store on a site covered by either of these zones would not need any approval from Council and would not be subject to the location criteria proposed in this report; however, such a liquor store would still need to be approved by the LCLB before it would be permitted on a site in the City.

SUSTAINABILITY CONSIDERATIONS

The location criteria as proposed in this report will assist in achieving the objectives of the City's Sustainability Charter; more particularly, the following Charter scope action items:

- EN9: Sustainable Land Use Planning and Development Practices; and
- SC18: Community Economic Development.

CONCLUSION


Based on the above discussion it is recommended that Council approve the policy titled "Locational Guidelines for Private Liquor Stores" which is attached as Appendix I to this report that, if approved, will be referenced by City staff in reviewing any development application that involves a rezoning to allow the establishment of a private liquor store in Surrey.

Original signed by
Jean Lamontagne
General Manager
Planning and Development

JR:saw

Attachments:

Appendix I Locational Guidelines for Private Liquor Stores (Licensee Retail Stores)
Appendix II Locational Guidelines for Neighbourhood Pubs

 CITY OF SURREY	<h1>City of Surrey</h1> <h1>Policy</h1> <p style="text-align: right;">No. _____</p>
Policy Title: Approval Date: Revision Date: Department:	Locational Guidelines for Private Liquor Stores (Licensee Retail Stores) Planning and Development

Policy Guidelines

The following locational guidelines for private liquor stores (licensee retail stores) will be used as part of the analysis of determining the suitability of a site for a private liquor store when such a use is pursued through a rezoning application process.

1. Private liquor stores should not be located:
 - 1.1 Within 1 kilometre (0.6 mile) of another private liquor store; or
 - 1.2 Within 400 metres (1/4 mile) of a school, a public children's park, a public children's playground, a public library or a public recreation centre;
2. Where a private liquor store is proposed to be relocated within 400 metres of its current location, the new location for the private liquor store should be no closer to a school, a public children's park, a public children's playground, a public library or a public recreation centre than it was at its former location.

LIQUOR LICENSE APPLICATION

This bulletin is intended to provide information on the Planning and Development Department Liquor Application Process.

PROVINCIAL LIQUOR LICENSING REGULATIONS

There are three (3) types of Provincial Liquor Licenses:

1. Food-Primary Licenses: where the primary focus is serving food.
2. Liquor-Primary Licenses: associated primarily with the hospitality, entertainment, or beverage service businesses.
3. Winery Licenses: which allow the licensee to manufacture and store wine, and provide samples of product in a designated sampling area.

Food-Primary Licenses do not require public input and are not, therefore, handled by the Planning and Development Department. *Food Primary Licenses* are processed by Surrey's By-law Enforcement & Licensing Section in conjunction with the Surrey Building Division.

Liquor-Primary Licenses require public input and local government input.

Winery Licenses do not require public input or local government input.

Liquor License Amendments

In addition to the three (3) types of Provincial Liquor Licenses noted above, there are five (5) types of Provincial Liquor License Amendments:

1. Addition of a patio to a *liquor-primary license* or a winery lounge endorsement;
2. Addition of patron participation entertainment to *food primary licenses*;
3. Extension of hours of liquor service past midnight for *food-primary licenses*;
4. Extension of hours of liquor-primary licenses or winery license endorsements; and
5. Increase in person capacity of liquor-primary licenses or winery license endorsements.

Liquor License Amendments require public input and local government input.

Winery License Endorsement

There are four (4) types of Winery License Endorsements.

1. Picnicking endorsement that allows the consumption of wine at a designated area on the winery site;
2. Winery tour areas that permit patrons to consume wine while on a guided tour of a winery either indoors or outdoors, provided the wine has been purchased from the on-site storage, winery lounge or special event endorsement area or has been provided from the sampling room;
3. Winery lounge endorsement that allows the consumption of wine in an indoor area and/or a patio on the winery site; and
4. Winery special event areas that set hours and locations on the winery site for special events.

The City of Surrey has no involvement in Picnicking Endorsements and winery tour area permits.

Winery Lounge Endorsements are processed the same way as Liquor License Amendment Applications.

Winery Special Event Area Endorsements are processed the same way as Liquor Primary License applications.

SURREY LIQUOR PERMIT APPLICATION PROCESS

Those making an application to the Liquor Control and Licensing Branch (LCLB) for either a Liquor-Primary License, Liquor License Amendments, or certain Winery License Endorsements must also submit a Liquor Application to the Planning and Development Department.

Liquor-Primary Licenses (Including Winery Special Event Area Endorsements)

Step 1: Plan Your Liquor Application

- Make inquiry to the Planning and Development Department.
- Identify regulations and policies relevant to the proposal for a Liquor-Primary License (zoning or other City policies etc.).
- Inquire as to what other approvals (servicing, etc.) may be required.

Step 2: Submit Your Liquor Application

- Make an application to the LCLB for a Liquor-Primary License.
- Submit a Liquor Application to the Planning and Development Department and pay the appropriate application fees. A copy of the application form that the applicant submitted to the LCLB must also accompany the Surrey Liquor Application.

Step 3: The City Considers Your Liquor Application

- The Liquor Application is assigned to a Planner in the Planning and Development Department for review.
- As part of the review process, the applicant is required to erect a Development Proposal Sign on the site informing the public of the application.
- The Planner sends out preliminary notification letters to apprise land owners within 100 metres (300 ft.) of the subject site to solicit their opinion with respect to the proposal.
- The Planner sends the application to internal and external agencies for their review and comment.
- If the proposal involves the construction of a new building or patio, the application will also be subject to design review.

Step 4: Council Makes a Decision on Your Liquor Application

- Upon receiving comments from internal and external referral agencies, and upon resolution of design and other issues, a Planning Report is submitted to City Council.
- This report includes an assessment of the application and a recommendation that the application be supported or not supported by Council.
- If Council supports the application, Council will hold a Public Hearing to solicit opinions from area residents and businesses.
- After the Public Hearing, Council will pass a resolution to support, or not support, the application and will forward this resolution to LCLB, who, in turn, will determine whether or not to issue the Liquor-Primary License.

Liquor License Amendments

Step 1: Submit Your Liquor Application

- The applicant must bring a Provincial "Permanent Change to a Liquor License Application" or an "Application for Structural Change" to the City for signature.
- Prior to the City signing the Provincial application, the applicant must submit a complete Liquor application to the Planning and Development Department and pay the appropriate fees.
- Once the Liquor Application is submitted, the City will sign the "Application for Structural Change" and "Permanent Change to a Liquor License Application" and the applicant can forward the application to Victoria.

Step 2: The City Considers Your Liquor Application

- Once the Liquor Application is submitted to Surrey, the application is assigned to a Planner in the Planning and Development Department for review.
- As part of the review process, the applicant is required to erect a Development Proposal sign on the site informing the public of the application.
- The Planner sends out preliminary notification letters to apprise landowners within 100 metres (300 ft.) of the subject site to solicit their opinion with respect to the proposal.
- The Planner sends the application to internal and external agencies for their review and comment.

Step 3: Council Makes a Decision on Your Liquor Application

- Upon receiving comments from internal and external referral agencies and upon resolution of design and other issues, a Planning Report is submitted to Council.
- This report includes an assessment of the application and a recommendation that the application be supported or not supported by Council.
- If Council supports the application, it proceeds to Public Notification. Public Notification letters are sent by the City Clerk to land owners and tenants within 100 metres (300 ft.) of the subject site to solicit their opinion with respect to the proposal.
- Council reviews comments generated by the Public Notification letters.
- After reviewing written comments generated by Public Notification, City Council passes a resolution to support, or not support, the application and forward the resolution to the LCLB, who, in turn, determines whether or not to issue the Liquor License Amendment.

LIQUOR STORES

Provincially Operated Liquor Stores

In Surrey, Provincially operated liquor stores are considered to be a "retail store" and are, therefore, permitted on sites where "retail stores" are a permitted use under the zone for that site.

Licensee Retail Stores (Privately Operated Liquor Stores)

A privately owned and operated liquor store is called a Licensee Retail Store (LRS) by the LCLB. These LRS's can sell beer, wine, cider, coolers and a full range of spirits, as well as B.C. lottery products, cigarettes, packaged snacks and liquor related items such as glasses, bottle openers, corkscrews, etc.

Those wishing to operate a LRS must have a LRS "License" issued by LCLB.

(It should be noted that, in November 2002, the Liquor Control and Licensing Branch placed a moratorium until July 21, 2022 on the acceptance of applications for new Licensee Retail Store permits. However, under certain conditions, existing LRS licenses may be sold and/or transferred to new locations. It is recommended that Liquor Control and Licensing Branch be contacted for further information.)

Under Surrey Zoning By-law, 1993, No. 12000, as amended, LRS establishments are classified as "liquor stores". "Liquor Stores" are defined as follows:

*"a licensee retail store licensed under the regulations of the British Columbia
Liquor Control and Licensing Act, R.S.B.C. 1996, c.267, s.84."*

Licensee Retail Stores are permitted in the C-8 Zone and C-15 Zone, and in certain Comprehensive Development Zones.

Retail Wine Stores

A privately owned and operated retail wine store is called an Off-Site Retail Wine Store by the LCLB. An off-site retail wine store includes any kind of wine store that is not on the site of a winery, including winery-operated off-site wine stores, off-site independent wine stores, VQA stores and tourist wine stores. Off-site retail wine stores can sell only wine (no other types of alcoholic beverages) and wine related products such as wine racks, corkscrews, wine glasses, chillers, books and pamphlets, etc.

Off-site retail wine stores are regulated and monitored by the LCLB.

In Surrey, off-site retail specialty wine stores are considered to be a "retail store" and are, therefore, permitted on sites where "retail stores" are a permitted use under the zone for that site.

Guidelines

Liquor Applications & Licensed Premises

LOCATIONAL CRITERIA FOR LIQUOR-PRIMARY ESTABLISHMENTS (NEIGHBOURHOOD PUB)

1. Neighbourhood public houses should:
 - (a) be close to but not surrounded by a residential area. The higher the residential density of the development the better the opportunity to develop a locally supported community facility. Densities of one house to the acre or less are in general not adequate for this purpose. Small, established rural communities would be an exception to this. It is desirable to locate a pub in the centre of a neighbourhood yet not surrounded entirely by houses. Where possible, a central location is preferred, if the pub can be located adjacent to other adult community facilities.
 - (b) be adjacent to or in local commercial nodes. Neighbourhood commercial areas designated for convenience and local shopping needs form an excellent node for community facilities. Local stores, grocery stores, service station and so on are areas where traffic and noise are presently generated and often these uses continue throughout evening hours. Therefore, it makes sense to locate another local community facility in or adjacent to such area.
 - (c) not be on a provincial highway. Because of highway speeds, the lack of parking and other restrictions, no pub should be located on a major highway. Accessibility is enhanced by locating on through collector roads adjacent to major arterials. Easy access is obtained without disturbing local residential roads.
 - (d) not be close to children's facilities. No pub should be located within 400 metres of a school, a children's park or playground. Some concern has been expressed by members of the community that exposing children to neighbourhood pub use is not a desirable influence.
2. Neighbourhood public houses can be:
 - (a) adjacent or in industrial areas. Industrial areas which are adjacent to urban residential areas form good locations for neighbourhood pubs. In this way there is a supporting residential community for evening use and also a facility for use by the

industrial work force. Additional noise and traffic generated by pub use can be easily absorbed in an industrial area.

- (b) adjacent to agricultural areas. On the fringes of some urban residential areas there are areas of agricultural use. In certain areas such locations could provide a supporting residential population for a neighbourhood pub. Traffic and noise problems would be reduced in these fringe areas if some of the traffic would be dissipated through the agricultural areas.
- (c) at minor intersections. Neighbourhood pubs can be located at minor intersection for easy traffic dispersal. Location in the middle of a block containing non-residential land use is also recommended.

(Council Resolution No. X-369, December 3, 1979)

HOURS OF OPERATION FOR LIQUOR-PRIMARY ESTABLISHMENTS

Sunday through Thursday: 11:00 a.m. to no later than 1:00 a.m.; and
Friday and Saturday: 11:00 a.m. to no later than 2:00 a.m.
However, where special circumstances exist, operating hours may be further restricted.

(Council Resolution R04-0386, February 23, 2004)

HOURS OF OPERATION OF AN OUTDOOR PATIO

Where an outdoor patio of a licensed establishment is located within 100 metres of a residential area, the permitted hours of operation of the outdoor patio are between 11:00 a.m. to 10:00 p.m. every day of the week.

(Section 53(4) of Surrey Business License By-law, 1999, No. 13680, as amended)

GOOD NEIGHBOUR AGREEMENT

Every proprietor of a Licensed Premise (Liquor Primary) and of a Licensed Premise (Food Primary) that offers patron participation entertainment, or liquor service past midnight, or operates a separate lounge area where food service is optional, must enter into a good neighbour agreement with the City, the RCMP and Surrey Fire Services as a condition of receiving a new business license or amending an existing business license.

(Section 53(5) of Surrey Business License By-law, 1999, No. 13680, Amendment By-law, 2007, No. 16386)

SURREY LIQUOR LICENSING PROCESS

The *Liquor Control and Licensing Act* requires Local Government input on the following types of Liquor License applications:

1. Liquor-Primary Licenses
2. Liquor License Amendments as follows:
 - (a) Addition of a patio to a liquor-primary license or a winery lounge endorsement;
 - (b) Addition of patron participation entertainment to a food-primary license;
 - (c) Extension of hours of liquor service past midnight for a food-primary license;
 - (d) Extension of hours of a liquor-primary license or winery license endorsement; or
 - (e) Increase in person capacity of a liquor-primary license or winery license endorsement.

Applicants who apply to the Liquor Control and Licensing Branch (LCLB) for any Liquor License that requires Local Government input must submit a Liquor Permit Application to the Planning and Development Department.

APPLICATIONS FOR A LIQUOR-PRIMARY LICENSE

Applicants will be required to erect a Development Proposal sign on the site, which is the subject of the application in accordance with Council Policy O-8.

Within three weeks of the submission of the Liquor Application, the Planning and Development Department will send a pre-notification letter to all owners of properties within 100 metres (300 ft.) of the site, which is the subject of the application.

Council will hold a Public Hearing to obtain public input regarding the application. Staff of the Legislative Services Department will send a Public Hearing notification letter to all owners of properties and tenants of properties located within 100 metres (300 ft.) of the site which is the subject of the application and will advertise the Public Hearing in 2 consecutive editions of a local newspaper in a process similar to that used for rezoning applications.

APPLICATIONS FOR A LIQUOR LICENSE AMENDMENT

Applicants will be required to erect a Development Proposal sign on the site, which is the subject of the application in accordance with Council Policy O-8.

Applications for Liquor License Amendments will be processed following the same procedures used for Development Variance Permits except that public notification letters regarding such applications will be forwarded by staff of the Legislative Services Department to the owners of properties and tenants of properties located within 100 metres (300 ft.) of the site which is the subject of the application and the letters will state that all comments must be submitted in writing to the City within 3 weeks of the date of the Public Notification letter.

(Council Resolution R03-2634, September 29, 2003)