
CITY OF KELOWNA

MEMORANDUM

Date: January 22, 2003
File No.: TA02-0007

To: City Manager

From: Planning and Development Services Department

Subject:

APPLICATION NO. TA02-0007 APPLICANT: CITY OF KELOWNA

PURPOSE: TEXT AMENDMENTS TO ZONING BYLAW
 NO. 8000, TO ADDRESS NEW PROVINCIAL LIQUOR
 CONTROL POLICIES

REPORT PREPARED BY: RYAN SMITH

1.0 RECOMMENDATION

THAT City of Kelowna Zoning Bylaw No. 8000 be amended by updating the provisions of Bylaw No. 8000 as detailed in Schedule "A" as outlined in the report of the Planning & Development Services Department dated January 21, 2003;

AND THAT Text Amendment No. TA02-0007 be forwarded to a Public Hearing.

2.0 SUMMARY

The proposed amendments to the City of Kelowna Zoning Bylaw, as listed in Schedule "A" are presented as amendments to address the Provincial Government's changes to liquor control and licensing policy.

3.0 BACKGROUND

Municipal councils have always enjoyed direct involvement in the liquor licensing process through their ability to review certain types of liquor license applications. Tools such as business licenses, zoning, building permits and noise control have also provided local governments an element of control over the sale of liquor.

In 1999, the Province engaged in a broad review of its liquor licensing policy. As a result of this review the provincial government emerged with a strategy to reduce the number of regulations and delays faced by applicants and current license holders. Other key pillars in the emerging strategy included drawing more attention to the need for safe and responsible liquor service; increasing local government involvement in liquor licensing decisions and to promote tourism in British Columbia.

Under new LCLB regulations that came into effect December 2nd, 2002 several significant changes have been made to Liquor Control and Licensing Regulations in

British Columbia. Furthermore, the LCLB also lifted its moratorium on new licensee retail stores (cold beer and wine stores) until November 29th, 2002. The product range at the LRS stores was also broadened to include spirits. The LCLB has not created a mechanism for local government input into the LRS development process.

The significant changes are as follows:

Licensing Classes and Hours of Operation:

- The 7 existing liquor-licensing classes were reduced to two. Liquor Primary and Food Primary.
- Food Primary establishments with a seating capacity of 50+ are entitled to apply for a lounge endorsement (the lesser of 40 persons or 20% of capacity).
- Establishments holding either type of license may increase their person capacity to the maximum occupant load for the building with approval from the LCLB. Local governments have input in the process only in so far as if the building size is increased to accommodate more capacity.
- Liquor primary holders can potentially provide service from 9am to 4am, 7 days per week.
- Food primary license holders are also able to extend their hours (9am-4am) provided food service remains the primary function during the extended hours with local government approval.

Role of Local Government:

- Local governments are entitled to send a recommendation to the LCLB for all new liquor primary operations (this recommendation will be based upon a variety of local interest and factors). Local governments are also required to gather public input on new applications.
- Local governments also have input on the extension of business hours for both types of licenses as well in cases where the physical size of a liquor primary licensed establishment is proposed to change.
- Food primary licenses will only require local government review should they be seeking an extension of operating hours or approval for dancing.

Other:

- Food and liquor primary establishments are no longer prohibited from serving free liquor.

Table 3.1

Change	Description	Role of Local Government
License Classes	-Reduction in number of license classes from seven to two: liquor primary and food primary	-Not Applicable
Lounges	-A food primary establishment (restaurant) with a seating capacity of at least 50 persons may open a lounge, the size of which is limited to the lesser of 40 persons or 20% of the establishment's person capacity	-None
Person Capacity	-A liquor primary establishment may automatically increase its person capacity to its maximum occupant load (Applies only to licenses existing prior to December 2, 2002)	-None
Hours	-Liquor/food primary license holders may apply to extend hours of liquor service to 4:00am	-Local government consent is required
Licensing Processes	-Two licensing process: one for liquor primary and one for food primary	-Local government has effective veto over all liquor primary applications -Local government has effective veto over food primary requests for extended liquor service hours, and patron participant entertainment
Licensee Retail Stores	-Moratorium on new LRS was lifted temporarily	-Local government involved only where rezoning is required
Other	-Licensed establishments no longer prohibited from serving free liquor -Two pieces of identification required for patrons	-None

4.0 Planning and Development Services Department

The Planning and Development Services Department is recommending several courses of action to address the changes to Liquor Control and Licensing Regulations. Although Council has a fairly broad range of tools with which to address the province's change to liquor regulations, the Planning and Development Services Department feels that there is an immediate need to address issues of zoning. It is recommended that Zoning Bylaw No.8000 be amended to differentiate between various types of liquor primary businesses. In addition, it is recommended that a differentiation be made between liquor primary and food primary establishments.

Liquor Primary

The Planning and Development Services Department is proposing to create two subclasses relating to size under the heading of Liquor Primary Establishments. A Liquor Primary, major class and a Liquor Primary, minor class. The distinction between the two shall be made as follows: A Liquor Primary, major establishment shall be any Liquor Primary licensed establishment with a person capacity greater than 100, and a Liquor Primary, minor establishment shall be any Liquor Primary licensed establishment with a person capacity of less than 100.

To increase Council's control over the location of Liquor Primary, major establishments, the Planning and Development Services Department is suggesting that a rezoning be required to the Liquor Primary (LP) version of the parent zone for all new Liquor Primary, major establishments. This approach would be similar to that taken by Council to exert control over secondary suites. Liquor Primary, minor type establishments such as Neighbourhood Pubs would not require an LP rezoning. The "off-sales" of alcoholic beverages will be permitted under a Liquor Primary, minor use but not under a Liquor Primary, major use.

Food Primary

Food Primary establishments will become a permitted use in all zones where Eating and Drinking Establishments, major/minor previously existed. Food primary establishments may hold a Food Primary Liquor License.

Retail Liquor Sales

Wine/Beer Stores are currently defined in Zoning Bylaw No.8000; however, the definition does not include the sale of hard liquors. During the spring of 2002, the LCLB changed its regulations to allow the sale of hard liquor from Licensee Retail Stores (LRS). The Liquor Control and Licensing Branch has left local governments few tools other than zoning to control the location of new retail liquor sales establishments. Licensee Retail Stores may now carry the same range of product as Provincially run Liquor Distribution branches. In Zoning Bylaw No.8000 Provincially run liquor stores fall under **retail sales, general**. Deregulation by the Provincial Government has left little means through which to differentiate between the two. It is therefore suggested that Zoning Bylaw No.8000 be amended to recognise both Licensee Retail Stores and Provincially operated liquor distribution branches in one category (Retail Liquor Sales).

The Planning and Development Services Department recommends that further control over the retail sale of liquor be excersized through amendments to the zoning bylaw. The Department suggests the same course of action as

recommended for the control of Liquor Primary Establishments, major: Increasing Council control by requiring a rezoning to a **retail liquor sales** (“**RLS**”) designation for any new Licensee Retail Store development and any new Provincial liquor sales branch.

Summary

Should Council endorse this approach, staff will prepare a detailed schedule of proposed properties to be rezoned prior to first reading of the amending bylaw. These rezonings will be necessary to address the legal non-conformities that the adoption of these proposed zoning bylaw amendments would create. Existing **liquor primary, major** and **retail liquor sales** establishments will require rezoning to the “**LP**” and/or “**LRS**” version of their parent zone.

Andrew Bruce
Current Planning Manager

Approved for inclusion

R.L. (Ron) Mattiussi, ACP, MCIP
Director of Planning & Development Services

RWS
Attach.

SCHEDULE A – AMENDMENTS TO CITY OF KELOWNA ZONING BYLAW NO. 8000

1.0 Section 2 – Interpretation

The following amendments to Section 2 of Zoning Bylaw No. 8000 are proposed to correct inconsistencies, clarify interpretations and to add definitions that have been omitted to date.

Section No.	Amendment	Reason
2.3.3	Delete the following use and associated definition: Eating and Drinking Establishment, Major	Conformity with changes to provincial liquor control regulations.
2.3.3	Delete the following use and associated definition: Eating and Drinking Establishment, Minor	Conformity with changes to provincial liquor control regulations.
2.3.3	Add the following definition: “Liquor Primary Establishment, major means development where alcoholic beverages are offered for sale to the public from establishments which are characterised by one or more of the provision of dancing or cabaret entertainment; and facilities primarily intended for the provision and consumption of alcoholic beverages which have a person capacity of 100 or more. Typical uses include but are not limited to beverage rooms, cocktail lounge, cabarets, nightclubs. Must hold a Liquor Primary License.” The “off-sale” of alcoholic beverages is <u>not</u> a permitted use.	Conformity with changes to provincial liquor control regulations.
2.3.3	Add the following definition: “Liquor Primary Establishment, minor means development where food and alcoholic beverages are offered for sale to the public, for sale within the premises or off the site. Typical uses include neighbourhood pubs. The person capacity of such establishments will be less than 100. Must hold a Liquor Primary License. ” Off-sales of alcoholic beverages are a permitted ancillary use.	Conformity with changes to provincial liquor control regulations
2.3.3	Add the following definition: “Food Primary Establishment, means development where prepared food and beverages are offered for sale to the public. Typical uses include but are not limited to licensed restaurants, theatre restaurants, banquet facilities, cafes, delicatessens, tea rooms, lunch rooms, refreshment stands and take-out restaurants. These establishments may be holders of a Food Primary Liquor License.”	Conformity with changes to provincial liquor control regulations.
2.3.3	Replace existing definition of “RETAIL STORES, CONVENIENCE” with “RETAIL STORES, CONVENIENCE means development used for the retail sale of those	Conformity with changes to provincial liquor control regulations.

	goods required by area residents or employees on a day to day basis, from business premises which do not exceed 235m2 in gross floor area . Typical uses include but are not limited to small food stores, drug stores, florists and variety stores selling confectionery, tobacco, groceries, beverages, pharmaceutical and personal care items, hardware, or printed matter, or the rental of videos. In the case of the W2 zone , this includes items normally required by those people using marina facilities. This use excludes the retail sale of beer/wine/spirits by a Licensee Retail Store.”	
2.3.3	Delete the following definition: Wine/Beer Store	Conformity with changes to provincial liquor control regulations.
2.3.3	Add the following definition: “ RETAIL LIQUOR SALES ESTABLISHMENT (RLS) means development used for the retail sale of liquor, wine, beer and other such alcoholic beverages. Typical uses are limited to Provincially operated Liquor retail stores and Licensee Retail Stores (LRS).”	Conformity with changes to provincial liquor control regulations.

2.0 Section 14 – Commercial Zones

14.2 C2 – Neighbourhood Commercial

Delete section 14.2.2(c) and renumber the following sections.

Add the following section as 14.2.2(d):

14.2.2(d) **food primary establishment**

Add the following section as 14.2.2(f) and renumber the following sections:

14.2.2(f) **liquor primary establishment, minor**

14.3 C3 – Community Commercial

Delete Section 14.3.2(i)(ee) and renumber the following sections.

Add the following section as 14.3.2(j):

14.3.2(j) **food primary establishment**

Add the following section as 14.3.2(p) and renumber the following sections:

14.3.2(p) **liquor primary establishment, minor**

Add the following section as 14.3.2(ff)”

14.3.2(ff) **retail liquor sales establishment**

Add the following Section as 14.3.6(e)

14.4.6(e) An “**RLS**” notation shown on Schedule “A” as part of the identified zone classification indicates that a **Retail Liquor Sales Establishment** in the form of a government operated liquor retail establishment or licensee retail store liquor sales establishment is permitted on the properties so designated, subject to meeting the conditions of **use** of the **zone**. An “**RLS**” zoning classification on a property shall be established by rezoning the subject property to the “**RLS**” version of the parent **zone**.

14.4 C4 – Town Centre Commercial

Delete Sections 14.4.2(i)(j)(hh) and renumber the following sections.

Add the following section as 14.4.2(k):

14.4.2(k) **food primary establishment**

Add the following section as 14.4.2(r) and renumber the following sections:

14.4.2(r) **liquor primary establishment, major (C4LP, only)**

Add the following section as 14.4.2(s) and renumber the following sections:

14.4.2(s) **liquor primary establishment, minor (C4LP only)**

Add the following section as 14.4.2(ii):

14.4.2(ii) **retail liquor sales establishment (C4RLS only)**

Add the following section as 14.4.6 (e)

14.4.6(e) An “LP” notation shown on Schedule “A” as part of the identified **zone** classification indicates that a **Liquor Primary, major** establishment in the form of facilities primarily intended for the provision and consumption of alcoholic beverages which have a seating capacity of 100 or more persons is permitted on the properties so designated, subject to meeting the conditions of **use** of the **zone**. An “LP” zoning classification on a property shall be established by rezoning the subject property to the “LP” version of the parent zone.

Add the following Section as 14.4.6(f)

14.4.6(f) An “**RLS**” notation shown on Schedule “A” as part of the identified zone classification indicates that a **Retail Liquor Sales Establishment** in the form of a government operated liquor retail establishment or licensee retail store liquor sales establishment is permitted on the properties so designated, subject to meeting the conditions of **use** of the **zone**. An “**RLS**” zoning classification on a property shall be established by rezoning the subject property to the “**RLS**” version of the parent **zone**.

14.6 C6 – Regional Commercial

Delete Sections 14.6.2(d)(e)(w) and renumber the following sections.

Add the following section as 14.6.2(f):

14.6.2(f) **food primary establishment**

Add the following section as 14.6.2(k) and renumber the following sections:

14.6.2(k) **liquor primary establishment, major (C6LP only)**

Add the following section as 14.6.2(l) and renumber the following sections:

14.6.2(l) **liquor primary establishment, minor**

Add the following section as 14.6.2(x):

14.6.2(x) **retail liquor sales establishment (C6RLS only)**

Add the following section as 14.4.6 (e)

- 14.6.6(e) An “LP” notation shown on Schedule “A” as part of the identified **zone** classification indicates that a **Liquor Primary, major** establishment in the form of facilities primarily intended for the provision and consumption of alcoholic beverages which have a seating capacity of 100 or more persons is permitted on the properties so designated, subject to meeting the conditions of **use** of the **zone**. An “LP” zoning classification on a property shall be established by rezoning the subject property to the “LP” version of the parent zone.

Add the following Section as 14.6.6(f)

- 14.6.6(f) An “**RLS**” notation shown on Schedule “A” as part of the identified zone classification indicates that a **Retail Liquor Sales Establishment** in the form of a government operated liquor retail establishment or licensee retail store liquor sales establishment is permitted on the properties so designated, subject to meeting the conditions of **use** of the **zone**. An “**RLS**” zoning classification on a property shall be established by rezoning the subject property to the “**RLS**” version of the parent **zone**.

14.7 C7 – Central Business Commercial

Delete Sections 14.7.2(j)(k)(kk) and renumber the following sections.

Add the following section as 14.7.2(l):

- 14.7.2(l) **food primary establishment, major**

Add the following section as 14.7.2(t) and renumber the following sections:

- 14.7.2(t) **liquor primary establishment, major (C7LP only)**

Add the following section as 14.7.2(u) and renumber the following sections:

- 14.7.2(u) **liquor primary establishment, minor**

Add the following section as 14.7.2(ll):

- 14.7.2(ll) **retail liquor sales establishment (C7RLS only)**

Add the following section as 14.4.6 (d)

- 14.7.6(d) An “LP” notation shown on Schedule “A” as part of the identified **zone** classification indicates that a **Liquor Primary, major** establishment in the form of facilities primarily intended for the provision and consumption of alcoholic beverages which have a seating capacity of 100 or more persons is permitted on the properties so designated, subject to meeting the conditions of **use** of the **zone**. An “LP” zoning classification on a property shall be established by rezoning the subject property to the “LP” version of the parent zone.

Add the following Section as 14.4.6(e)

- 14.7.6(e) An “**RLS**” notation shown on Schedule “A” as part of the identified zone classification indicates that a **Retail Liquor Sales Establishment** in the form of a government operated liquor retail establishment or licensee retail store liquor sales establishment is permitted on the properties so designated, subject to meeting the conditions of **use** of the **zone**. An “**RLS**” zoning classification on a property shall be established by rezoning the subject property to the “**RLS**” version of the parent **zone**.

14.8 C8 – Convention Hotel Commercial

Delete Sections 14.8.2(e)(f)(l) and renumber the following sections.

Add the following section as 14.8.2(e):

- 14.8.2(e) **food primary establishment**

Add the following section as 14.8.2(g) and renumber the following sections:

- 14.8.2(g) **liquor primary establishment, major (C8LP only)**

Add the following section as 14.8.2(h) and renumber the following sections:

- 14.8.2(h) **liquor primary establishment, minor**

Add the following section as 14.8.2 (m):

- 14.8.2(m) **retail liquor sales establishment (C8RLS only)**

Add the following section as 14.4.6 (d)

- 14.8.6(d) An “LP” notation shown on Schedule “A” as part of the identified **zone** classification indicates that a **Liquor Primary, major** establishment in the form of facilities primarily intended for the provision and consumption of alcoholic beverages which have a seating capacity of 100 or more persons is permitted on the properties so designated, subject to meeting the conditions of **use** of the **zone**. An “LP” zoning classification on a property shall be established by rezoning the subject property to the “LP” version of the parent zone.

Add the following Section as 14.4.6(e)

- 14.8.6(e) An “**RLS**” notation shown on Schedule “A” as part of the identified zone classification indicates that a **Retail Liquor Sales Establishment** in the form of a government operated liquor retail establishment or licensee retail store liquor sales establishment is permitted on the properties so designated, subject to meeting the conditions of **use** of the **zone**. An “**RLS**” zoning classification on a property shall be established by rezoning the subject property to the “**RLS**” version of the parent **zone**.

14.9 C9 – Tourist Commercial

Delete Sections 14.9.3(e)(f)(h) and renumber the following sections.

Add the following section as 14.9.3(e):

14.9.3(e) **food primary establishment**

Add the following section as 14.9.3(g) and renumber the following sections:

14.9.3(g) **liquor primary establishment, major (C9LP only)**

Add the following section as 14.9.3(h) and renumber the following sections:

14.9.3(h) **liquor primary establishment, minor**

Add the following section as 14.9.3(l) and renumber the following sections:

14.9.3(l) **retail liquor sales establishment (C9RLS only)**

Add the following section as 14.9.6 (e)

14.9.6(e) An “LP” notation shown on Schedules “A” as part of the identified **zone** classification indicates that a **Liquor Primary, major** establishment in the form of facilities primarily intended for the provision and consumption of alcoholic beverages which have a seating capacity of 100 or more persons is permitted on the properties so designated, subject to meeting the conditions of **use** of the **zone**. An “LP” zoning classification on a property shall be established by rezoning the subject property to the “LP” version of the parent zone.

Add the following Section as 14.4.6(f)

14.4.6(f) An “RLS” notation shown on Schedule “A” as part of the identified zone classification indicates that a **Retail Liquor Sales Establishment** in the form of a government operated liquor retail establishment or licensee retail store liquor sales establishment is permitted on the properties so designated, subject to meeting the conditions of **use** of the **zone**. An “RLS” zoning classification on a property shall be established by rezoning the subject property to the “RLS” version of the parent **zone**.

14.10 C10 – Service Commercial

Delete Section 14.9.3(p) and renumber the following sections.

Add the following section as 14.9.3(t) and renumber the following sections:

14.9.3(t) **food primary establishment**

Add the following section as 14.9.3(z) and renumber the following sections:

14.9.3(z) **liquor primary establishment, minor**