

# Report to Council



**Date:** 9/28/2015  
**File:** 0930-50  
**To:** City Manager  
**From:** Ryan Smith, Community Planning Department Manager  
**Subject:** Policy and Regulation relating to the Retail Sale of Liquor in Kelowna

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## **Recommendation:**

THAT Council receives, for information, the Report from the Community Planning Department Manager dated September 28, 2015 with respect to "Policy and Regulation relating to the Retail Sale of Liquor in Kelowna".

## **Purpose:**

To provide Council with an update on the details of Retail Liquor Store Policy and Regulation in Kelowna and British Columbia.

## **Background:**

The City of Kelowna regulates the retail sale of liquor through its Zoning Bylaw No.8000 and through Council Policy #359. The current regulations pertaining to the retail sale of liquor were introduced into the bylaw in 2004. During this update, staff created a Zoning Bylaw definition for the retail sale of liquor:

**RETAIL LIQUOR SALES ESTABLISHMENT (rls)** means development used for the retail sale of liquor, wine, beer and other such alcoholic beverages. Typical uses include provincially operated Liquor retail stores, **Licensee Retail Stores (LRS)**, **VQA Wine Retail Stores** and cold beer and wine stores. The stores may sell liquor and alcohol any time between the hours of 9:00 a.m. and 11:00 p.m. daily and may also sell convenience retail products. Minors are allowed in **retail liquor sales establishments** if accompanied by a parent or guardian. This use does not include the retail sale of wine/cider by wineries/cideries at the site where they are produced.

This definition would include any business retailing liquor in a commercial area of the City (on a permanent or temporary basis). Further to this land use definition, staff also created a sub-

zoning designation within a number of the City's zones. This designation is called the "RLS" designation. Any business wishing to sell liquor in one of the City's commercial zones requires this designation. Those retail liquor establishments that were in existence when the bylaw was adopted in 2004, were all given an "RLS" designation. New "RLS" operations require a rezoning to allow retail liquor sales.

### Policy Context

#### **City of Kelowna Mayors Entertainment District Task Force Report (2004)**

This process reinforced staff's use of the the "subzone" designation method to regulate by land use the location and relocation of retail liquor stores. The report also proposed proximity restrictions to liquor primary establishments. These proximity policies were entrenched in Council Policy #315 which was later superceded by Council Policy #359 containing similar proximity policy.

#### **City of Kelowna Liquor Policy Review 2011**

The 2011 Liquor Policy Review did not contain any proposed changes to the "subzone" regime to control the location of retail liquor stores and noted that the existing policy/regulation in place was considered adequate.

#### **Current Liquor Control and Licensing Branch Regulations for Licensee Retail Stores (private liquor store)**

Currently a 1km rule prohibits liquor stores from locating with 1km (as the crow flies) of each other. A retail liquor store may also relocate from any area of the province provided that the new location meets the 1km rule.

*\*Note: See attached map showing the impacts of this rule in Kelowna.*

The rules noted above will not apply to grocery stores should they seek to sell BC wine on store shelves.

#### **2014/2015 Provincial Government Liquor Law Changes Impacting the Retail Sale of Liquor**

In January 2014, the Provincial Government completed its BC Liquor Policy Review (by John Yap) considering 73 recommendations. At that time, the provincial government voted to endorse all recommendations. Since this time, the Provincial Government and Liquor Control and Licensing Branch (LCLB) have been working with stakeholders to implement the recommendations. The implementation of the "liquor sales in grocery stores" recommendation has become quite controversial.

The recommendations relating to the provinces liquor retail model are the following:

19. The Province should develop and implement a retail model that meets consumer demands for more convenience by permitting the sale of liquor in grocery stores. Government should continue to restrict the total number of retail

outlets and require separation of grocery products and liquor. This reflects the views of health and safety advocates and the acknowledged safety benefits of restricting minors' access to liquor.

20. Introducing liquor in grocery stores should be phased in, giving public and private liquor stores time to adjust to the new retail model.

22. As a grocery model is developed, government should look at consistency in operating hours for licensed, rural agency and manufacturer retail stores.

As of April 1, 2015, a grocery store may acquire a retail liquor store license and incorporate it into its footprint provided it adheres to a "store within a store" model. A select number of grocery stores (yet to be determined) will also be able to sell BC wine on their shelves. While the "store within a store" model is subject to the 1km separation rule, the sale of BC wine on grocery store shelves would not be.

### Discussion

The City's 2011 Liquor Policy review did not indicate any dissatisfaction with the current model of regulating retail liquor sales by land use. Staff have been actively involved in the province's roll-out of liquor licensing changes in order to monitor the potential impacts on land use regulation. The current zoning regime which controls the location of retail liquor stores by zoning "sub-designation" is considered to give Council adequate control over the location of new and relocated liquor licenses in the community in most situations.

Staff would require the "RLS" sub-designation in the following situations:

- retail sale of BC wine on the shelves of a liquor store
- retail sale of liquor at a temporary market
- retail sale of liquor in the "store within a store" model
- retail sale of liquor by a BC liquor store

The only situation where Council could not regulate the retail sale of liquor would be if the province granted a grocery store on the same site as private liquor store the ability to sell wine on the shelves. In this case, the property would already hold an "RLS" subdesignation and therefore the use would be permitted. If Council was concerned about this situation, additional proximity regulations could be added into the City's Zoning Bylaw to prevent this situation. This situation exists on fewer than 5 properties in Kelowna at the moment. Additional regulations relating to proximity would make some of the existing liquor stores in close proximity to one another legally non-conforming. At the present time, staff are not aware of any conflicts caused by the proximity of retail stores already operating within 1km of one another.

Other than in the 5 cases mentioned above, staff would like to highlight that Council has control over the location of new BCLS and private liquor retailers. At this time 3 of the 5 grocery stores which currently sit on land with the 'RLS' subdesignation have acquired BC VQA Liquor Sales licenses and are seeking to retail wine on grocery store shelves.

Liquor Sales Model	Municipal Regulation	Provincial Regulation	Other Info
Stand-alone Retail Liquor Store	Requires "RLS" Retail Liquor Sale zoning	1km Separation required to another	Properties with Grocery stores which

	designation	Retail Liquor Store	currently have an RLS designation: -Save-on-Food Mission -Urban Fare - Mission Park Mall -Save-on-Foods - Orchard Plaza -IGA - Willow Park -IGA - Glenpark Village
Store Inside a Grocery Store	Requires "RLS" Retail Liquor Sale zoning designation	1km Separation required to another Retail Liquor Store	n/a
BC Wine on Grocery Store Shelves	Requires "RLS" Retail Liquor Sale zoning designation	N/A	-Save-on-Food Mission* -Urban Fare - Mission Park Mall* -Save-on-Foods - Orchard Plaza*  *Establishment has acquired VQA Wine Store License
Government Liquor Store	Requires "RLS" Retail Liquor Sale zoning designation	1km Separation required to another Retail Liquor Store	n/a
VQA/Specialty Wine Store	Requires "RLS" Retail Liquor Sale zoning designation	N/A	n/a

**Internal Circulation:**

Policy and Planning Manager

**Legal/Statutory Authority:**

Liquor Control and Licensing Act and Local Government Act

**Existing Policy:**

Council Policy #359 Liquor Licensing Policy and Procedures

**External Agency/Public Comments:**

See attachment from BC Private Liquor Store Association.

**Considerations not applicable to this report:**

**Financial/Budgetary Considerations: n/a**

**Personnel Implications: n/a**

**Alternate Recommendation: n/a**

**Communications Comments: n/a**

**Legal/Statutory Procedural Requirements: n/a**

Submitted by:

R.Smith  
Urban Planning Manager

Approved for inclusion:



Doug Gilchrist, Division Director of Community Planning and Real Estate

Attachments:

2004 Mayor's Entertainment District Task Force Report  
2011 City of Kelowna Liquor Policy Review Report  
British Columbia Private Liquor Store Association Bulletin  
Council Policy #359  
Map "A" 1 Km buffer for Retail Liquor Store locations

cc: Policy and Planning Manager