

REPORT

Community Services

To: Mayor Johnstone and Members of Council in Workshop **Date:** June 17, 2024

From: Blair Fryer, Acting Director Community Services **File:** 2414965

Item #: 2024-362

Subject: Extending Patio Hours

RECOMMENDATION

THAT Council direct staff to implement a temporary policy that permits liquor licence patios to operate until 11:00 pm, unless a later time has been previously indicated on their liquor licence, until November 1, 2024;

THAT Council direct staff to endorse the applications of establishments applying to the Liquor and Cannabis Regulation Branch for increased hours, in alignment with the temporary policy.

PURPOSE

To report back to Council on the motion of extending permitted patio service hours to 11:00 pm.

SUMMARY

Staff are recommending a temporary policy approach be implemented that would align liquor primary patio closing times to 11:00 pm. The intent of this temporary policy is to create more consistent rules for patio closing times, encourage activation in commercial areas and support local businesses while also being considerate of noise levels of patios for nearby residents. If the temporary policy approach is successful, staff would report back in the fall with proposed amendments to the patio program guidelines and bylaw.

BACKGROUND

In the 1990’s, the City’s Sidewalk Café Patio program was initiated. In 2022, during the COVID-19 pandemic, the program was updated and a new bylaw was adopted. During this update, the closing time for liquor primary and manufacturer related patios located in industrial areas was extended from 10:00 pm to 11:00 pm. The rationale behind the extension being applied only to patios in industrial locations was a concern relating to proximity to residents.

On May 29, 2023, Council passed the following motion:

THAT Council direct staff to seek opportunities for all patio service hours to be extended to 11:00 p.m. as part of the City of New Westminster liquor licence review.

Due to staff resourcing challenges and additions to workplans, staff have been unable to advance the liquor licence review. This work is now being contemplated for 2025. In light of this, staff are recommending that a temporary policy be adopted for this summer that would permit liquor primary licenced patios located in the City’s commercial areas to remain open to 11 pm.

DISCUSSION

Street and Sidewalk Patio Bylaw No. 8318, 2022

The Street and Sidewalk Patio Bylaw is a set of rules that governs when a restaurant or bar can have outdoor seating on City property adjacent to their business. Additionally, if a business wants to serve alcohol on their outdoor patio, they require approval from both the City and the Provincial Liquor and Cannabis Regulation Branch (LCRB). Per the Street and Sidewalk Patio Bylaw, patios connected to a pub or brewery must close by 10:00 pm in commercial areas and 11:00 pm in industrial areas. The closing time for patios primarily serving food (and not alcohol) isn't specified, but businesses must ensure their patio doesn't make excessive noise after 10:00 pm, per the City’s Noise Bylaw.

Noise Bylaw No. 6520, 1999

The City’s Noise Bylaw sets limits for noise coming from properties. In active areas, like commercial zones, a certain noise level for night (10:00 pm onwards) is specified. During this time, noise from any property in these areas shall not exceed 55 decibels. This can be approximated to a normal conversation, an electric kettle boiling, a residential street or a radio playing music in the background. This leads to the expectation of residents for reasonable quiet after 10:00 pm. All patios must abide by the Noise Bylaw regardless of whether they are serving alcohol or not.

Bylaws staff have indicated that relatively few complaints have been received over the years with respect to noise on patios. Staff have worked closely with those establishments that have generated complaints to remedy the situation, on a case-by-base basis.

Types of Patios and Hours Policy & Bylaw – New Westminster

Patio Type	Private Property	Public Property (sidewalk/street)
Restaurant/café patio (food primary)	No limitations to patio operating hours provided the noise doesn't exceed 55 dBs after 10 pm. If serving liquor, the business also needs to follow the hours listed on their liquor licence.	No limitations to patio operating hours provided the noise doesn't exceed 55 dBs after 10 pm. If serving liquor, the business also needs to follow the hours listed on their liquor licence.
Pub/manufacturer patio (liquor primary)	No limitations to patio operating hours provided the noise doesn't exceed 55 dBs after 10 pm. The business also needs to follow the hours listed on their liquor licence.	Patios must close at 10pm in commercial areas and 11 pm in industrial areas with the Noise Bylaw still applying (e.g. noise past 10 pm doesn't exceed 55 dBs). The business also needs to follow the hours listed on their liquor licence.

Permitted Patio Hours in Surrounding Municipalities

As shown in the table below, patio closing times vary across municipalities in the region. Vancouver allows patios to stay open until 11:00 pm, with a pilot program permitting some businesses to apply for extended hours until 1:00 am if they've have generated no noise complaints in the past year. In Port Moody, patios close earlier on weekdays, shutting down at 9:00 pm from Sunday to Wednesday and at 10:00 pm from Thursday to Saturday, while in Burnaby, patios generally close at 10:00 pm unless specific permits or licence s allow for later times.

Municipality	Patio Closing Times
Vancouver	11 pm. Pilot program where businesses can apply to 1 am if no noise complaints in past 12 months and no restrictions on liquor licence. Can be revoked at anytime. Public and private patios are treated the same.
City North Vancouver	Service must end at 10pm and the patio area closed by 11 pm. Public and private patios are treated the same.
Burnaby	10 pm, unless otherwise indicated on business licence, patio permit and/or liquor licence.
Surrey	10 pm if within 100 metres of a residential area. Public and private patios are treated the same.
Coquitlam	Do not regulate hours of use, complaint based.
Port Moody	9 pm Sun-Wed and 10 pm Thurs-Sat. Public and private patios are treated the same.

Port Coquitlam	Nothing in bylaws limiting hours but would default to hours specified on liquor licence. Noise bylaw regulates no noise between 11 pm and 7 am. Public and private patios are treated in the same way.
Richmond	10 pm. Public and private patios are treated the same.

Liquor Control and Cannabis Branch (LCRB)

Changes to a liquor licence require approval from the Province through LCRB. These can be done as a temporary change or a permanent change. LCRB does not provide a timeframe for approving these changes, however certain factors can influence the turnaround time of their processing, e.g. support shown by a municipality for certain changes, workload of LCRB approving officers, and the compliance history of an applicant. Staff will work with LCRB to express the municipality’s desire to expedite applications given the relatively minor time change and temporary nature of the change.

NEXT STEPS

Based on the municipal scan, supportive comments from the City’s Economic Development Advisory Committee, the relatively short nature of the time extension, and recognizing the City’s desire to facilitate active commercial areas, staff recommend adopting a temporary policy to permit liquor primary patios to remain open until 11 pm. If endorsed, staff would contact businesses with patios to inform them of the change and direct them to the changes they may want to make for their operations and liquor licensing.

If the temporary policy approach is successful, staff would report back by the end of 2024, with appropriate proposed amendments to the patio program guidelines and bylaw.

FINANCIAL IMPLICATIONS

There are no financial implications to the City anticipated with respect to this temporary policy.

INTERDEPARTMENTAL LIAISON

This report was prepared with feedback from the Manager of Integrated Services.

OPTIONS

Three options are presented for Council’s consideration:

1. THAT Council direct staff to implement a temporary policy that permits liquor licence patios to operate until 11:00 pm, unless a later time has been previously indicated on their liquor licence, until November 1, 2024;
2. THAT Council direct staff to endorse the applications of establishments applying to the Liquor and Cannabis Regulation Branch for increased hours, in alignment with the temporary policy.

3. THAT Council provide staff with alternative direction.

Staff recommend options 1 and 2.

APPROVALS

This report was prepared by:
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This report was reviewed by:
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This report was approved by:
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